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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

STEVEN RUPP, et al.,

Plaintiffs,

vs.

XAVIER BECERRA, in his official
capacity as Attorney General of the
State of California,

Defendant.

Case No.: 8:17-cv-00746-JLS-JDE

**DECLARATION OF SEAN A.
BRADY IN SUPPORT OF
PLAINTIFFS' REPLY TO
DEFENDANT'S OPPOSITION TO
PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT;
EXHIBITS 70-72**

Hearing Date: May 31, 2019
Hearing Time: 10:30 a.m.
Courtroom: 10A
Judge: Josephine L. Staton

DECLARATION OF SEAN A. BRADY

1
2 1. I am an attorney at the law firm Michel & Associates, P.C., attorneys of
3 record for plaintiffs in this action. I am licensed to practice law before the United
4 States Court for the Central District of California. I am also admitted to practice
5 before the Eastern, Northern, and Southern Districts of California, the courts of the
6 state of California, and the Ninth Circuit Court of Appeals. I have personal
7 knowledge of the facts set forth herein and, if called and sworn as a witness, could
8 and would testify competently thereto.

9 2. A true and correct copy of Professor William English's deposition
10 transcript is attached hereto as **Exhibit 70**.

11 3. A true and correct copy of John Donohue's deposition transcripts is
12 attached hereto as **Exhibit 71**.

13 4. A true and correct copy of Blake Graham's deposition transcripts is
14 attached hereto as **Exhibit 72**.

15 I declare under penalty of perjury that the foregoing is true and correct.
16 Executed within the United States on May 17, 2019.

17
18
19 s/ Sean A. Brady

20 Sean A. Brady

21 Declarant
22
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27
28

EXHIBIT 70

#6526
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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

STEVEN RUPP, et al.,)
Plaintiffs,)
vs.) 8:17-cv-00746-JLS-JDE
XAVIER BECERRA, in his)
official capacity as)
Attorney General of the)
State of California; et al.,)
Defendants.)

CERTIFIED COPY

DEPOSITION OF WILLIAM ENGLISH, Ph.D.

WASHINGTON, D.C.

DECEMBER 12, 2018

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REPORTED BY: JENNIFER M. O'CONNOR

FILE NO. AC0BB1A

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

- - -

STEVEN RUPP, et al.,)
Plaintiffs,)
vs.) 8:17-cv-00746-JLS-JDE
XAVIER BECERRA, in his)
official capacity as)
Attorney General of the)
State of California; et al.,)
Defendants.)

Deposition of WILLIAM ENGLISH, Ph.D.,
taken on behalf of Defendants at the Law Offices of
Cooper & Kirk, PLLC, 1523 New Hampshire Avenue,
N.W., Washington, D.C. at 9:01 a.m., Wednesday,
December 12, 2018, before Jennifer M. O'Connor, a
Notary Public in and for the District of Columbia.

A P P E A R A N C E S :

FOR THE PLAINTIFFS:

COOPER & KIRK, PLLC

BY: PETER A. PATTERSON, ESQ.

BY: NICOLE FRAZER REAVES, ESQ.

1523 New Hampshire Avenue, N.W.

Washington, D.C. 20036

(202) 220-9670

ppatterson@cooperkirk.com

FOR THE DEFENDANTS:

DEPARTMENT OF JUSTICE

BY: PETER H. CHANG, ESQ.

Office of the Attorney General

455 Golden Gate Avenue, Suite 11000

San Francisco, California 94102

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Peter.Chang@doj.ca.gov

1 rimfire rifles and not centerfire rifles, correct?

2 A It could, yes. Yes.

3 Q Doesn't it, or could it?

4 A So it could. It could. And again, you
5 could look at the manufacturers that Clossman and
6 Long list there and see whether the manufacturers on
7 that list in fact manufacturer AR-15 rifles that are
8 rimfire.

9 Q Do you know if Clossman and Long looked at
10 that?

11 A I don't believe they considered that
12 issue.

13 Q Okay, so --

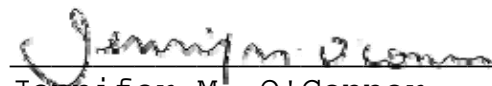
14 A One --

15 Q Please.

16 A I was going to say something -- I think
17 it's important to note, you think about rimfire
18 rifles is that from firearms law perspect -- from
19 the perspective of firearms law, the -- the lower is
20 what counts as the firearm, and you can take a lower
21 and depending on the upper you attach to it, the
22 bolt carrier attached to it, it could be either a

1 CERTIFICATE OF NOTARY PUBLIC

2 I, JENNIFER M. O'CONNOR, the officer before
3 whom the foregoing deposition was taken, do hereby
4 certify that the foregoing witness whose testimony
5 appears in the foregoing deposition was duly sworn
6 by me; that the testimony of said witness was
7 recorded by me and thereafter reduced to typewriting
8 by me; that said transcript is a true record of the
9 testimony given by said witness; that I am neither
10 Counsel for, related to, nor employed by any of the
11 parties to the action in which this proceeding was
12 called; and, furthermore, that I am not a relative
13 or employee of any attorney or Counsel employed by
14 the parties hereto, nor financially or otherwise
15 interested in the outcome of this action.

16
17 

18 Jennifer M. O'Connor
19 Notary Public in and for the
District of Columbia
My Commission Expires on February 14, 2020

20 (Signature not waived.)
21
22



AC0BB1A

JANUARY 2, 2018

LETTER TO DEPOSITION OFFICER/ERRATA SHEET

DEPOSITION OF:

WILLIAM ENGLISH, PH.D.

DATE OF DEPOSITION:

DECEMBER 12, 2018

CASE:

STEVEN RUPP, ET AL. VS. XAVIER BECERRA, ET AL.

THE FOLLOWING ARE THE CORRECTIONS WHICH I HAVE MADE TO MY TRANSCRIPT:

PAGE#	LINE#	CORRECTION	REASON FOR CORRECTION
See Attached Three Pages of Corrections			

Please sign your name and date it on the below line. As needed, use additional paper to note corrections, dating and signing each page. If you have no corrections, please write the word "None" above and sign, date, and return this page.

EXECUTED this 22 day of January, 2019,

at Washington, District of Columbia,
(City) (State)

[Signature]
(Signature)

Note that the reason for all corrections is transcription error.

- p. 7, line 4 should be "assault weapons **ban**"
- p. 7, line 12 should be "how widespread **the** ownership and use"
- p. 10, line 16 should be "Office of Law Enforcement Standards"
- p. 11, line 1 should be "And so I spent"
- p. 11, line 7 should be "of many years **of** past reports"
- p. 11, line 10 should be "to firearms and ballistics" (delete "the")
- p. 11, line 13 should be "So **for** my Ph.D. in"
- p. 11, line 18-19 should be "and then **what** you might think"
- p. 12, line 8-9 should be "was what **in the** social sciences is called methods. And so **for** methods"
- p. 27, line 2 should be "the method they used" (delete "to have")
- p. 27, line 19-20 should be "that require -- **or are required** for inferential statistics. **They** are simply"
- p. 28, line 15 "the recent PBR's" should be "**in recent years**"
- p. 30, line 14 should be "you're **counting**"
- p. 32, line 13 should be "**that** would only incline"
- p. 33, line 2 should be "**there** we call it"
- p. 33, line 4 should be "And so **at** Georgetown"
- p. 40, line 3 should be "not fine-**grained** enough"
- p. 40, line 15 should be "academic **like** myself"
- p. 48, line 19 should be "in empirical methods"
- p. 50, line 21 should be "and **shotgun** and **against** a number"
- p. 53, line 3-4 should be "if there's a source of **confusion** here"
- p. 53, line 11 should be "in fact higher, -- **then**, as a lower"
- p. 57, line 5 should be "check **when** you have a firearm -- you get a firearm"
- p. 60, line 10 should be "because **active** shooters are the type of people **inclined** to be buying handguns"
- p. 61, line 18 should be "they **verify that**, there's not"
- p. 63, line 18 should be "**It'd be minimal**, if at all"
- p. 67, line 3 should be "So 2.5 times 4 is **ten** million."
- p. 72, line 13 "I felt in" should be "**as mentioned**"
- p. 73, line 9 should be "where the users actually"
- p. 81, line 18, "maybe" should be "**yearly**"
- p. 87, line 6 should be "it's **the** case"
- p. 95, line 16 "controvertible" should be "**controversial**"
- p. 96, line 18-19 should be "an understanding **that** these are"
- p. 102, line 8 should be "with the rest of **this**"
- p. 104, line 19 should be "they're **identified by** their"
- p. 107, line 21 should be "just add, that **trend** is also"
- p. 108, line 15 should be "14.2 **million** sales"
- p. 112, line 7 should be "**eminently** plausible"
- p. 125, line 15 "parody" should be changed to "**parity**"
- p. 128, line 6 should be "full-**auto** version."
- p. 133, line 20 should be "bear at all **on** my analysis"

 1/22/2019

Note that the reason for all corrections is transcription error.

- p. 140, line 12 "aren't companies" should be "**are** companies"
- p. 143, line 22 "patronymically" should be "**paradigmatically**"
- p. 148, line 2 "not exclusive" should be "**or** exclusive"
- p. 154, line 4 "a recent interest -- inference" should be "a **reasonable** interest -- inference"
- p. 157, line 4 "over 2 and 3" should be "over 2 of 3"
- p. 160, line 19 "would be illegal in California" should be "would be **legal** in California"
- p. 163, line 22 "California in another state" should be "California **or** another state"
- p. 166, line 9-10 "modifications that were remove, features" "modifications **that would remove** features"
- p. 182, lines 17-18 "in order less" should be "**is an order** less"
- p. 192, line 9-10 "that's surprise -- straight up guess" should be " **that is a** straight up guess"
- p. 193, line 20 "the true findings" should be "the **two** findings"
- p. 212, line 13 "voting rights" should be "voting reports"
- p. 214, line 2 "that would be very good" should be "that wouldn't be very good"
- p. 218, line 2-3 "age 6 to 17 develop mental reasons, legal reasons they might" should be "age 6 to 17 -- **developmental** reasons, legal reasons -- they might"
- p. 218, line 9 "legal and governmental" should be "legal and **developmental**"
- p. 218, line 18 "legal and government reasons" should be "legal and **developmental** reasons"
- p. 220 line 6 "are you staying in your" should be "are you **sighting** in your"
- p. 226, line 8 "then having to identify them" should be "then, **having identified** them,"
- p. 226, line 18 "general popular survey" should be "general **population** survey"
- p. 227, line 1 "if there are any more" should be "if their **aims are**"
- p. 229, line 16 "have that revenue available" should be "have that **avenue** available"
- p. 230, line 11 "weigh" should be "**weight**"
- p. 233, line 12 "of 1" should be "**own** 1"
- p. 241, line 17 "having stopped longer" should be "having **a stock** go longer"
- p. 248, line 15-16 "target for threat" should be "target for **theft**"
- p. 248, line 22 "political valiance" should be "political **valence**"
- p. 250, line 3 "imminently plausible" should be "**eminently** plausible"
- p. 251, line 4 "due population weighting" should be "**do** population weighting"
- p. 252, line 19 "in news contexts" should be "in **new** contexts"
- p. 280, line 16-17 "going for majority support, going to the 30 percent" should be "going **from** majority support, going to **near** 30 percent"
- p. 281, line 1 "political valiance" should be "political **valance**"
- p. 283, line 5 omit the word "Five."
- p. 283, line 8-9 omit the word "Doug."
- p. 289, line 14 "post-has weighting" should be "post-**hoc** weighting"
- p. 293, line 13 "have been followed" should be "have been **lowered**"
- p. 296, line 11-12 "I find what you say ceteris paribus" should be "**we'd** find what you say, ceteris paribus"
- p. 301, line 5 "about 16.4 million individuals" should be "about **6.4** million individuals" (this is clear in my report, which he is citing).
- p. 302, line 7: "60 million" should be changed to "**16 million**"
- p. 309, line 5 should be "...Mother Jones," "Slate"...

2

 1/22/2019

Note that the reason for all corrections is transcription error.

p. 318, line 15 "John Watt" should be "John Lott"

p. 324, line 11 "outline finding" should be "outlier finding"

 1/22/2019

1 STATE OF Washington, District of Columbia
2 COUNTY OF Washington, District of Columbia
3
4
5
6

7 I, the undersigned, declare under penalty
8 of perjury that I have read the foregoing transcript,
9 and I have made any corrections, additions or
10 deletions that I was desirous of making; that the
11 foregoing is a true and correct transcript of
12 my testimony contained therein.

13 EXECUTED this 22 day of January,
14 2019, at Washington, District of Columbia
15 (City) (State)
16
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25


WILLIAM ENGLISH, Ph.D.

EXHIBIT 71

THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

RUPP, et al.,)
Plaintiffs,)
vs.) Case No.:
XAVIER BECERRA, in his) 8:17-cv-00746-JLS-JDE
official capacity as Attorney)
General of the State of)
California; et al.,)
Defendants.)
_____)

VIDEOTAPED DEPOSITION OF JOHN J. DONOHUE
San Francisco, California
Thursday, December 6, 2018
Volume 1

Reported by:
RACHEL FERRIER, CSR No. 6948
Job No. 3135713
PAGES 1 - 244

Page 1

THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

RUPP, et al.,)
Plaintiffs,)
vs.) Case No.:
XAVIER BECERRA, in his) 8:17-cv-00746-JLS-JDE
official capacity as Attorney)
General of the State of)
California; et al.,)
Defendants.)
_____)

VIDEOTAPED DEPOSITION OF JOHN J. DONOHUE,
VOLUME 1, taken on behalf of the Plaintiffs, at
Office of the Attorney General, 455 Golden Gate Avenue,
Site 11000, San Francisco, California, beginning at
10:12 a.m. and ending at 6:23 p.m. on Thursday,
December 6, 2018, before RACHEL FERRIER, Certified
Shorthand Reporter No. 6948.

1 APPEARANCES:

2

3 For Plaintiffs:

4 MICHEL & ASSOCIATES, PC

5 BY: SEAN A. BRADY

6 Attorney at Law

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8 Long Beach, CA 90802

9 562.216.4464

10 SBrady@michellawyers.com

11

12 For Defendants:

13 DEPARTMENT OF JUSTICE

14 OFFICE OF THE ATTORNEY GENERAL

15 BY: PETER H. CHANG

16 Deputy Attorney General

17 455 Golden Gate Avenue, Suite 11000

18 San Francisco, CA 94102-7020

19 415.510.3776

20 peter.chang@doj.ca.gov

21

22 Videographer:

23 VISUAL DISCOVERY

24

25

1	A	Mm-hmm.	05:47:43
2	Q	-- paragraph 17.	05:47:51
3	A	Yeah.	05:47:53
4	Q	So above this, to paraphrase -- and you are free	05:47:53
5		to, you know, point out any -- any specifics you want in	05:47:58
6		my characterization, but above this, you, essentially,	05:48:04
7		take issue with some of Professor English's statistics	05:48:06
8		on the prevalence of assault weapons -- rifles that	05:48:11
9		would meet the definition of "assault weapons" in the	05:48:18
10		American population.	05:48:20
11		Is that fair to say?	05:48:22
12	A	Yeah.	05:48:23
13	Q	And is it fair to say that, in paragraph 17, you	05:48:23
14		say that a more appropriate way to determine the	05:48:27
15		popularity of rifles meeting the definition of an	05:48:30
16		"assault weapon" is to look at California and the number	05:48:34
17		of assault rifles that have been registered in	05:48:40
18		California.	05:48:43
19		Is that -- am I correctly surmising your -- your	05:48:44
20		view?	05:48:50
21	A	Well, yeah, I mean, it was a more limited goal,	05:48:50
22		which was to say he's making conjectures based on data,	05:48:54
23		but at least for California, we have another independent	05:48:58
24		way to get a fix on how many of these assault rifles	05:49:02
25		there are, and, you know, it's a pretty small number in	05:49:07

1 California. 05:49:12

2 Q Of firearms that were registered as assault 05:49:12

3 rifles; correct? 05:49:16

4 A Yes. 05:49:16

5 Q And are you aware of any reasons why there 05:49:16

6 would -- why the registration number would not reflect 05:49:20

7 actual ownership? 05:49:24

8 A Sure. If -- if the gun is not registered, then 05:49:27

9 there will be a deviation. 05:49:32

10 Q But I'm saying, are you familiar with why, 05:49:33

11 particularly in California, registration would not 05:49:37

12 reflect actual ownership? 05:49:41

13 MR. CHANG: Objection; calls for speculation, 05:49:43

14 lacks foundation. 05:49:46

15 THE WITNESS: Yeah, I mean, certainly anything 05:49:49

16 that deviates from full registering of -- of, you know, 05:49:57

17 mandated registered guns will lead to a -- a deviation. 05:50:14

18 BY MR. BRADY: 05:50:21

19 Q So are you aware -- were you aware, in making 05:50:23

20 this determination, that people could simply remove 05:50:25

21 features from their rifle to make it no longer an 05:50:30

22 assault weapon to avoid registration? 05:50:33

23 A Sure. And, you know, if it's -- if it -- if it 05:50:35

24 doesn't become a mandated registered weapon, then it's 05:50:39

25 not going to be included in the calculations. 05:50:46

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1 Q And if people were able to easily remove features 05:50:50
2 to not have to register their rifle, that would impact 05:50:55
3 the number of rifles that were actually registered; 05:50:59
4 right? 05:51:04

5 A It could. 05:51:04

6 Q Okay. And the -- if people were not provided 05:51:10
7 notice that they needed to register their rifles, that 05:51:15
8 might impact that number of actual registered rifles as 05:51:20
9 well; right? 05:51:25

10 You buy a gun 20 years ago, 15 years ago, the law 05:51:28
11 changes, nobody sends you a happygram saying you have to 05:51:32
12 register your gun, you just have to be paying attention 05:51:37
13 to the changes in the law and the news. 05:51:40

14 A Well, yeah. 05:51:42

15 Q Is it possible that people did not have notice 05:51:43
16 that they needed to register their rifles? 05:51:45

17 MR. CHANG: Objection; lacks foundation, makes -- 05:51:49
18 misstates -- makes improper assumptions. 05:51:54

19 BY MR. BRADY: 05:51:57

20 Q Let's make it a hypothetical. 05:51:57

21 If -- if people did not get notice -- 05:52:00

22 A Yeah. 05:52:00

23 Q -- would that impact the number of rifles 05:52:02
24 registered? 05:52:04

25 A I mean, we -- we do start with the presumption 05:52:05

Page 217

1 that people know the law, but you are right. In some 05:52:08
2 cases, people just aren't aware of what the law is. 05:52:15
3 Q Especially when nobody sends them anything in the 05:52:19
4 mail saying you got to do this, like your car 05:52:23
5 registration or something? If you just had to guess 05:52:27
6 that you had to go register your car because they 05:52:29
7 changed the rule, you think -- how many people you think 05:52:31
8 would know to comply to go register their car? 05:52:33
9 MR. CHANG: Objection; calls for speculation. 05:52:36
10 MR. BRADY: Okay. Withdrawn. 05:52:38
11 Q And how many years has there been an assault 05:52:46
12 weapon ban in California of some kind, do you know? 05:52:48
13 A A long time. 05:52:51
14 Q So could the presence of an assault weapon ban 05:52:53
15 dissuade people who have otherwise acquired those guns 05:52:57
16 from acquiring them? 05:53:01
17 A Well, I hope so. That's what the ban is for; 05:53:02
18 right? 05:53:07
19 Q Precisely. 05:53:07
20 So would people -- couldn't there have been a 05:53:09
21 significant amount of people who removed their rifles 05:53:15
22 from the state prior to the law taking effect and having 05:53:18
23 to register them? 05:53:22
24 MR. CHANG: Objection; calls for speculation. 05:53:23
25 THE WITNESS: Yeah, I mean, this has been a 05:53:25

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1 banned weapon for some time, but, sure, people -- people 05:53:33
2 could take them out of the state if -- if they didn't 05:53:37
3 want to sell them or otherwise dispose of them. 05:53:41
4 BY MR. BRADY: 05:53:44
5 Q But isn't that the point, that there's been a ban 05:53:44
6 in California, and so to use California -- or let me 05:53:46
7 ask: Are you trying to use California to show national 05:53:51
8 rates of assault weapon ownership, or are you just 05:53:54
9 simply saying they are rare in California? 05:53:57
10 A Oh, yeah, I -- I -- I was trying to say that, for 05:53:59
11 purposes of this litigation, it is a relatively small 05:54:06
12 set of people that are, you know, in -- in possession of 05:54:11
13 these weapons. 05:54:17
14 Q In California? 05:54:17
15 A In California. 05:54:18
16 Q You weren't trying to make any comments about 05:54:19
17 national rates? 05:54:21
18 A No, not in -- not in that discussion. 05:54:23
19 Q Okay. Even with that pointed out, so if all 05:54:24
20 somebody had to do to not have to register their rifle 05:54:31
21 under the new law was to remove the barrel, which I can 05:54:35
22 tell you takes about four seconds, and leave it in two 05:54:40
23 pieces, do you think that it's possible that a 05:54:45
24 significant number of people simply did that? 05:54:49
25 A So -- 05:54:53

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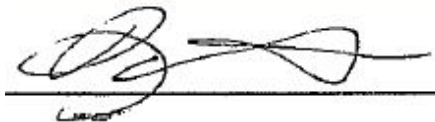
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2
3
4 I, the undersigned, a Certified Shorthand
5 Reporter of the State of California, do hereby certify:

6 That the foregoing proceedings were taken before
7 me at the time and place herein set forth; that any
8 witnesses in the foregoing proceedings, prior to
9 testifying, were placed under oath; that a verbatim
10 record of the proceedings was made by me using machine
11 shorthand which was thereafter transcribed under my
12 direction; further, that the foregoing is an accurate
13 transcription thereof.

14 I further certify that I am neither financially
15 interested in the action nor a relative or employee of
16 any attorney or any of the parties.

17 IN WITNESS WHEREOF, I have this date subscribed
18 my name.

19
20 Dated: December 24, 2018

21
22 
23

24 RACHEL FERRIER

25 CSR No. 6948

EXHIBIT 72

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

STEVEN RUPP, et al.,

Plaintiffs,

vs.

XAVIER BECERRA, in his official capacity as Attorney General of the State of California,

Defendant.

)

)

)

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) Case No.:

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DEPOSITION OF BLAKE GRAHAM

Sacramento, California

Wednesday, December 19, 2018

Volume I

Reported by:

Kaitlyn B. Houston, CSR No. 14170

Job No. 3135718

PAGES 1 - 223

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

STEVEN RUPP, et al.,

Plaintiffs,

vs.

XAVIER BECERRA, in his official
capacity as Attorney General of
the State of California,

Defendant.

Case No.:

8:17-cv-00746-JLS-JDE

Deposition of BLAKE GRAHAM, Volume I, taken on behalf of
Plaintiffs, at 1300 I Street, Sacramento, California,
beginning at 10:53 a.m. and ending at 5:57 p.m. on
Wednesday, December 19, 2018, before Kaitlyn B. Houston,
Certified Shorthand Reporter No. 14170.

1 APPEARANCES:

2 For Plaintiffs:

3 MICHEL & ASSOCIATES, P.C.

By: SEAN A. BRADY, ESQ.

4 180 East Ocean Boulevard, Suite 200

Long Beach, CA 90802

5 (562) 216-4444

sbrady@michellawyers.com

6
7 For Defendant:

8 ATTORNEY GENERAL OF THE STATE OF CALIFORNIA

By: PETER H. CHANG, ESQ.

9 455 Golden Gate Avenue, Suite 11000

San Francisco, CA 94102

10 (415) 510-3776

Peter.Chang@doj.ca.gov

11 --o0o--

1 to "common" and also as to the timing of the definition
2 of "assault weapons."

3 THE WITNESS: I'm still allowed to answer,
4 correct?

5 MR. CHANG: Please.

6 THE WITNESS: Just so I don't get ahead of
7 myself. So after all that back and forth, can you repeat
8 the question? Sorry.

9 MR. BRADY: Can you read it back?

10 (Whereupon the record was read back.)

11 MR. CHANG: Same objections.

12 THE WITNESS: Understood. Okay.

13 I can say that assault weapons were present to
14 some degree. Firearms were -- the generic term of
15 firearms would be the most common factor. Some of which
16 -- some of those firearms would have met the definition
17 of an assault weapon under 30510 because of the time in
18 early '99, that would have been the only game in town as
19 far as state law.

20 Later on in that period of time that you spoke
21 of, we had the three -- what are now called the 30515
22 generic characteristics sort of standards. At the time,
23 it was 12276 and 12276.1 in that window of time.

24 BY MR. BRADY:

25 Q. Would you say that rifles meeting the definition

1 of assault weapon under Penal Code Section 30515 now were
2 -- commonly come across in your investigations of violent
3 crime during the period of 1999 to 2002?

4 A. To some degree, yes.

5 Q. You also say as a special agent during that
6 period, you worked on various violations occurring at
7 California gun shows.

8 How many gun shows were you attending during
9 that period?

10 A. Good question. Probably somewhere in the
11 neighborhood of one a month. Maybe one every other
12 month. I had a particular region, so that's why it's a
13 little bit vague. I had from the San Jose area and then
14 some of the Bay area -- I'm sorry, the North Bay.
15 Depending on what gun shows were on calendar, it might
16 vary.

17 Q. Were rifles that meet the definition of assault
18 weapon prevalent at these gun shows?

19 A. In 1999, they would have been -- probably --
20 actually, in '99, we wouldn't have been doing a ton of
21 gun shows because the gun show stuff sort of picked up
22 probably late 2000 or 2001. So starting in 2000, there
23 was a registration window for the Category 3 or, at the
24 time, the 12276.1 identified weapons. So they were
25 controlled. There shouldn't have been a lot of them out

1 Q. Got it. Prior to the recent -- the most recent
2 change to the assault weapon act -- the Assault Weapon
3 Control Act, essentially making bullet-button rifles into
4 assault weapons, were you -- were bullet-button AR-15
5 rifles fairly prevalent at these gun shows?

6 A. Yes.

7 Q. Would -- what percentage -- or rather than
8 percentages, because that's kind of hard to do, I admit.
9 If you were to rank the most common firearms at these gun
10 shows going around looking at all the booths, you know,
11 your hunting shotguns or your bolt-action rifles,
12 handguns, AR platform rifles, what have you, what would
13 you think if you had to -- based on your experience, what
14 would you say is the most prevalent, most ubiquitous
15 firearm at these gun shows?

16 A. My answer is going to be based on Northern
17 California shows. I don't get to a lot of Southern
18 California shows. I'd say the most common two groups
19 that we would have seen since 2004 or '05 would have been
20 a semiautomatic handgun or probably an AR platform of
21 some kind.

22 Q. Okay.

23 A. And when I say the platform, it might just be a
24 lower receiver sitting there. Because you'll see
25 sometimes dozens of those available for sale, and then at

1 reasons? Do you find yourself in gun stores often?

2 A. For a noncriminal investigation, meaning; or
3 what do you mean?

4 Q. In any capacity. Whether it's professional or
5 personal, do you find yourself in gun stores frequently?

6 A. Yes. Yes, I do.

7 Q. Okay. The same one or two, or various ones?

8 A. Various.

9 Q. Okay. And prior to this change in the law,
10 change in the definition of assault weapon to include
11 bullet-button rifles, at those gun stores that you
12 frequented, were AR-15 platform rifles, non-assault
13 weapons at that time, bullet-button rifles, prevalent at
14 those gun stores?

15 A. Yes.

16 Q. Would you say it would be more likely than not
17 that if you were to go into a random gun store, there
18 would be AR platform rifles?

19 MR. CHANG: Objection. Calls for speculation.

20 BY MR. BRADY:

21 Q. At that time?

22 MR. CHANG: Same objection.

23 THE WITNESS: When you say "at that time" --

24 BY MR. BRADY:

25 Q. Just so we're clear -- because I'm going to ask

1 you in a second -- maybe there's a not a distinction --
2 or let me ask you now. Let me rephrase. Sorry.

3 The -- at that time, I was referring to prior to
4 the new law changing. So when bullet-button rifles could
5 be sold with all the other features, okay?

6 Now, right, it's changed so that you have -- you
7 have to have a bullet button and no features, right?
8 Or -- or no bullet button and no features?

9 A. So -- yeah. After Senate Bill 880 or Assembly
10 Bill 1135, as soon as that changed, there was a shift in
11 the marketplace as far as what -- how weapons could be
12 configured if it was an AR platform and some of the other
13 platforms, too.

14 There are still AR platform weapons being sold
15 in California. I would say if you go to a corporate
16 store -- Big 5 or maybe some of the other chains --
17 you're less likely to see the AR platforms unless it's
18 maybe like a .22 version or something. Turners, which is
19 down south, I think you're more likely to -- you're not
20 more likely. But there's a greater chance than a Big 5
21 that you're going to see a centerfire version of some
22 kind down there.

23 The -- I would say, like, the mom-and-pop kind
24 of stuff where there's one or two dealerships owned by
25 the same person or couple of people, that's where you're

1 going to find the prevalent -- the prevalence of the AR
2 family, if you will.

3 Q. And that's still happening today post SB880
4 you're talking about?

5 A. Yes.

6 Q. And now, prior to SB880, were there more or less
7 AR platform rifles than there are now in these gun stores
8 you frequent?

9 A. I would say towards the end of 2016, there was a
10 huge surge. So I don't know if that was a true -- or if
11 you just notice, that's a spike. The numbers that -- of
12 the guns in the stores now, I would say overall, all gun
13 sales have dipped a little bit. I'm not sure by what
14 percentage, but I'm just hearing people talk around the
15 office. There's less DROSeS happening right now -- maybe
16 10 percent less or something like that -- than before
17 that spike. Late 2016.

18 So we might be back at a time where maybe we're
19 mirroring the numbers from 2014, 2015 possibly, and I
20 haven't done a -- any kind of analysis on, like,
21 large-sale DROS numbers or anything like that, but
22 typically we notice that handguns are about 50 percent of
23 the sales and long guns are about 50 percent of the
24 sales. AR platforms are typically rifles. And over a
25 long period of time, those 50/50 numbers have held true.

1 I don't know what's -- what we're on pace for this year,
2 though, for example.

3 Q. Okay. But prior to SB880, is it fair to say
4 that you would see AR platform rifles at gun stores
5 frequently?

6 A. Yes.

7 Q. Moving onto paragraph 8 of your report. So we
8 already talked about gun shows. You said you've attended
9 at least 40.

10 Would it be less than 100?

11 A. Honestly, I stopped counting after about 40. No
12 one really asks me, "Hey. How many have you been to?"
13 At some point doing some mental math in my career, I came
14 up with, oh, at least 40 at some point, and then I just
15 didn't see any reason to keep counting after that.

16 As far as 100 or less, it could be close to
17 the -- to that number, maybe. Close to 100.

18 Q. So let's -- actually, before we go on to your
19 training, I want to ask you about back in paragraph 6,
20 you talk about what you're doing today. You're
21 investigating the illegal trafficking of firearms,
22 manufacturing of assault weapons.

23 Do you do any investigation of the violent use
24 of firearms?

25 A. Are you speaking about like do I work involved

1 was released from the weapon. The more recent ones -- up
2 until the end of 2016, it would have been the
3 bullet-button guns or perhaps somebody had made a weapon
4 that was a featureless weapon. So it still had a
5 push-button style release, but it didn't have other
6 features.

7 Those guns that were sold in California up until
8 the end of 2016 -- to get some of those features legally,
9 you had to have, effectively, the bullet button, which
10 was -- I don't know. There were thousands of those sold.

11 BY MR. BRADY:

12 Q. Thousands? How many thousands do you think?

13 A. I don't know. I'm just guessing annually, there
14 were probably thousands sold, but I don't know what the
15 numbers are. Our system isn't that sophisticated to tell
16 us, like, the magazine style release. It doesn't ask the
17 dealer to send that data to us. Like, I couldn't be
18 accurate. All I can say is about half the guns we sell
19 are long guns, and about half are handguns. It would
20 require a lot of detailed sort of data mining within our
21 AFS system that I've never done.

22 Q. Okay. So -- but correct me if I'm wrong, but
23 you indicated that there were Colt AR platform rifles
24 that met the Category 3 definition, correct? That were
25 sold in California?

1 know. But there's going to be two or three maybe ARs
2 with bullet buttons on them, and then there's going to be
3 probably an equal amount of unfinished guns that they
4 just didn't get time to build or whatever happened.

5 You know, our accounts, when we report what we
6 seize, we count those as long guns because that's
7 typically what ends up happening with the lower
8 receivers. That's the way they're DROS'd as well when
9 there's DROS activity.

10 Q. But if Professor English is omitting all guns
11 built up from lowers, then he is potentially leaving out
12 a significant number of potentially tens of thousands of
13 rifles from his count, right?

14 A. Possibly.

15 MR. CHANG: Objection. Asked and answered.

16 (Pause on the record.)

17 BY MR. BRADY:

18 Q. Speaking of numbers of AR platform rifles in the
19 hands of the public, are you familiar with how many
20 AR-platform rifles are owned by Californians and when --
21 harkening back to the beginning of this wonderful day
22 when we started the deposition, we had the exchange about
23 AR-platform rifles, what it means.

24 What it means here, just to be clear, is whether
25 it's an assault weapon or not an assault weapon, if it's

1 I, BLAKE GRAHAM, do hereby declare under penalty
2 of perjury that I have read the foregoing transcript,
3 that I have made any corrections as appear noted, in ink,
4 initialed by me, or attached hereto; that my testimony as
5 contained herein, as corrected, is true and correct.

6
7
8 EXECUTED this 7th day of February, 2019, at
9 Sacramento, CA.
(City) (State)

10
11
12
13 

14 BLAKE GRAHAM

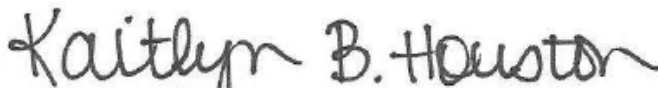
VOLUME I

1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California do hereby certify:
3 That the foregoing proceedings were taken before me at
4 the time and place herein set forth; that any witnesses
5 in the foregoing proceedings, prior to testifying, were
6 duly sworn; that a verbatim record of the proceedings was
7 made by me using machine shorthand which was thereafter
8 transcribed under my direction; that the foregoing
9 transcript is an accurate transcription thereof.

10 I further certify I am neither financially
11 interested in the action nor a relative or employee of
12 any attorney or any of the parties.

13 IN WITNESS WHEREOF, I have this date subscribed
14 my name.

15
16 Dated: January 11, 2019
17

18 
19

KAITLYN B. HOUSTON

20 CSR No. 14170
21
22
23
24
25

CERTIFICATE OF SERVICE
IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

Case Name: *Rupp, et al. v. Becerra*
Case No.: 8:17-cv-00746-JLS-JDE

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

I am not a party to the above-entitled action. I have caused service of:

**DECLARATION OF SEAN A. BRADY IN SUPPORT OF
PLAINTIFFS' REPLY TO DEFENDANT'S OPPOSITION TO
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT; EXHIBITS 70-72**

on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

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I declare under penalty of perjury that the foregoing is true and correct.

Executed May 17, 2019.

s/ Laura Palmerin
Laura Palmerin