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11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 KIM RHODE, et al.,

14 Plaintiffs,

15 v.

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

19 Defendant.

Case No.: 3:18-cv-00802-BEN-JLB

DECLARATION OF BILL ORTIZ

Hearing Date: August 19, 2019
Hearing Time: 10:30 a.m.
Courtroom: 5A
Judge: Hon. Roger T. Benitez

DECLARATION OF BILL ORTIZ

1
2 1. I, Bill Ortiz, make this declaration of my own personal knowledge and, if
3 called as a witness, I could and would testify competently to the truth of the matters set
4 forth herein.

5 2. I am Vice President of Compliance for Turner's Outdoorsman ("Turner's"),
6 whose corporate officers are located at Rancho Cucamonga, California.

7 3. Turner's was originally founded as Andrews Sporting Goods in 1971. Over
8 the 48 years it has been in business, Turner's has become one of the largest and most
9 well-recognized California licensed firearm dealers.

10 4. Currently, Turner's has 27 retail store locations in California, including
11 several in the San Diego County area, all of which are California licensed firearm dealers
12 engaging in the business of selling firearms and ammunition.

13 5. California Department of Justice ("DOJ") regulations require Turner's to
14 collect ammunition purchasers' personal information by swiping their driver's license or
15 identification card through a magnetic strip reader in order to populate the required fields
16 in the Dealer Record of Sale ("DROS") Entry System ("DES"). But in many cases, DES
17 fails to populate the customer's gender, hair color, eye color, height, weight, place of
18 birth, and telephone number. A Turner's employee must manually enter this information
19 into the system prior to submitting the transaction for a background check. DES will not
20 allow a transaction to be submitted without this information, regardless of the type of
21 background check being requested.

22 6. Use of a P.O. Box listed on the customer's ID will result in an error message
23 stating "a physical address must be entered by hand."

24 7. DOJ has instructed Turner's to, after submitting a customer's transaction for
25 DOJ approval, write down the 16-digit DROS number associated with the submission.
26 According to DOJ, Turner's must then, using this number, search all pending ammunition
27 transactions submitted by that Turner's location to check the status of the purchaser's
28 background check in order to proceed to the next step of the transaction process.

1 8. After locating the appropriate transaction in DES, Turner's can then assist
2 the customer in selecting which ammunition to purchase. But before Turner's can deliver
3 any ammunition to the customer, Turner's must first enter in DES the manufacture,
4 condition (new, reload, or used), caliber, and quantity of any ammunition the customer
5 intends to purchase. There are also additional fields DES makes option, which include
6 bullet type, bullet weight, usage type, casing, primer type, muzzle velocity, muzzle
7 energy, and cost per round. Once the required information has been entered, Turner's can
8 then select "deliver" in DES to generate the final document for the transaction. DOJ has
9 instructed Turner's to print this document, which will generate a separate page for each
10 type of ammunition associated with the transaction. If the customer purchases just one
11 box each of 3 different ammo types, a complete page is printed for each single line of
12 ammo delivered.

13 9. After printing the required pages, Turner's can then process the transaction
14 through its own point-of-sale system and charge the customer for the ammunition and fee
15 associated with the specific type of background check selected.

16 10. Setting aside any time necessary for DOJ to approve the transaction and
17 following comprehensive and time-consuming training provided by Turner's to its
18 employees, it takes on average 5-10 minutes to enter the information required into DES
19 for a transaction involving a single type of ammunition.

20 11. For a transaction involving more than one type of ammunition, it can take
21 anywhere between 10-20 minutes or more depending on the number of different types of
22 ammunition being purchased to enter the information required into DES.

23 12. In a few instances, the background check for a Standard Ammunition
24 Eligibility Check alone took between 10 and 45 minutes in addition to the time necessary
25 to enter the information required into DES.

26 13. Since the implementation of the new ammunition sales restrictions on July 1,
27 2019, on average approximately 18% of ammunition background checks conducted at
28 Turner's have been rejected by DOJ. The vast majority of those are deny/reject results via

1 the Standard Ammunition Eligibility Checks; less than 1% of those rejects occurred when
2 Turner's submitted Basic Ammunition Eligibility Checks.

3 14. Turner's generally experiences less than 1% of firearm background checks
4 being rejected by DOJ.

5 15. Since the implementation of the new ammunition sales restrictions on July 1,
6 2019, every Turner's location has been forced to turn away multiple potential customers
7 who, after learning of the new requirements to purchase ammunition, did not wish to
8 attempt an ammunition transaction. Reasons include the associated costs or their
9 uncertainty about whether they had either the necessary documentation to undergo a
10 background check or records on file with DOJ to obtain the required electronic approval.

11 16. Turner's has also been forced to turn away multiple potential customers who
12 had a "FEDERAL LIMITS APPLY" identification and did not have supplemental
13 documentation to establish proof of lawful U.S. presence.

14 17. Following the implementation of DOJ's emergency regulation requiring
15 anyone submitting a firearm or ammunition eligibility check using a "FEDERAL
16 LIMITS APPLY" identification to provide supplemental documentation establishing
17 proof of lawful U.S. presence, several Turner's employees have been delayed in
18 renewing their Certificate of Eligibility and in at least one case are unable to renew at all,
19 thereby preventing them from continuing their employment with Turner's upon the
20 expiration of their Certificate of Eligibility because California requires an employee who
21 handles ammunition to have one.

22 18. As a result of the new ammunition sales restrictions, DOJ appears to have
23 made several changes to DES that have negatively impacted firearm transactions. The
24 most recent version of DES, which was implemented with the new ammunition sales
25 restrictions on July 1, 2019, now appears to attempt matching a purchaser's Firearm
26 Safety Certificate ("FSC"), which must generally be provided for all firearm transactions,
27 with the purchaser's name as it appears in the pending DES transaction. Any variations
28

1 between the purchaser's name as it appears in the pending DES transaction and the
2 purchaser's name as it appears on their FSC will result in DES denying the transaction.

3 19. Since July 1, 2019, several attempted firearm transactions at Turner's have
4 been rejected through DES because the purchaser's name as it appears in the pending
5 DES transaction does not match the name as it appears on the purchaser's FSC. The
6 reason for this mismatch varies and can occur as result of the purchaser's suffix (Jr. or
7 Sr., for example) being unable to be correctly entered into both DES and FSC systems. It
8 may also be a result of the FSC instructor having difficulty entering a hyphenated name,
9 resulting in a DES rejection if the FSC name varies from the customer's legal name as
10 required in DES. DOJ has instructed Turner's to, for the time being, enter the purchaser's
11 suffix in the last name field of the pending DES transaction and/or other similar methods
12 when dealing with name discrepancies. Doing so, however, will likely result in future
13 issues for the customer who needs to rely on the DES record created with the transaction
14 (such as a future attempt at purchasing ammunition or applying for a Carry Concealed
15 Weapon license with the firearm purchased in this transaction).

16
17 I declare under penalty of perjury that the foregoing is true and correct. Executed
18 within the United States on 21 July, 2019.

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22 Bill Ortiz
23 Declarant
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CERTIFICATE OF SERVICE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Case Name: *Rhode, et al. v. Becerra*
Case No.: 3:18-cv-00802-JM-JMA

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, declare under penalty of perjury that I am a citizen of the United States over 18 years of age. My business address is 180 East Ocean Boulevard, Suite 200 Long Beach, CA 90802. I am not a party to the above-entitled action.

I have caused service of the following documents, described as:

DECLARATION OF BILL ORTIZ

on the following parties by electronically filing the foregoing on July 22, 2019, with the Clerk of the District Court using its ECF System, which electronically notifies them.

Nelson R. Richards
Deputy Attorney General
nelson.richards@doj.ca.gov
2550 Mariposa Mall, Room 5090
Fresno, CA 93721

*Attorneys for Defendant Attorney General
Xavier Becerra*

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 22, 2019, at Long Beach, CA.

s/ Laura Palmerin
Laura Palmerin