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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

KIM RHODE, et al.,

Plaintiffs,

v.

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

Defendant.

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

**DECLARATION OF DAVID
BURWELL**

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

DECLARATION OF DAVID BURWELL

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

5 2. I am the owner of Norco Armory (“Norco”), a California licensed firearms
6 dealer located in Norco, California.

7 3. California Department of Justice (“DOJ”) regulations require Norco to
8 collect a customer’s personal information by swiping the customer’s driver’s license or
9 identification card through a magnetic strip reader in order to populate the required fields
10 in DES. But in every instance, DES does not populate the customer’s gender, hair color,
11 eye color, height, weight, place of birth, and telephone number. Instead, Norco must
12 manually enter this information into the system prior to submitting the transaction. DES
13 will not allow a transaction to be submitted without this information, regardless of the
14 type of background check being submitted.

15 4. Setting aside the required manual entry of information, use of a P.O. Box
16 listed on the customer’s ID will result in an error message stating “a physical address
17 must be entered by hand.” California law and DOJ regulations, however, do not allow
18 Norco to manually edit a customer’s address as reflected on their driver’s license or
19 identification.

20 5. DOJ recommends that, after submitting a customer’s transaction for DOJ
21 approval, Norco write down the 16-digit DROS number associated with the submission.
22 Norco must then search all submitted ammunition transactions using this number to
23 check the status or proceed to the next step of the transaction process.

24 6. After locating the appropriate transaction, Norco can then assist the
25 customer in selecting which ammunition to purchase. But before Norco can deliver any
26 ammunition to the customer, Norco must first enter the manufacture, condition, caliber,
27 and quantity of any ammunition the customer intends to purchase into DES. Norco can
28 then select “deliver” in DES to generate the final document for the transaction. DOJ has

1 instructed Norco to print this document, which will generate separate pages for each type
2 of ammunition associated with the transaction.

3 7. After printing the required pages, Norco can then process the transaction
4 through its own point-of-sale system and charge the customer for the ammunition and fee
5 associated with the type of background check.

6 8. Setting aside any time necessary for DOJ to approve the transaction, it takes
7 on average 15-25 minutes to enter the information required into DES for a transaction
8 involving more than one type of ammunition.


9 9. Since the implementation of the new ammunition sales restrictions on July 1,
10 2019, approximately 10% of attempted ammunition transactions have been rejected for
11 reasons unknown to Norco.

12 10. Since the implementation of the new ammunition sales restrictions on July 1,
13 2019, Norco has been forced to turn away multiple potential customers who, after
14 learning of the new requirements to purchase ammunition, did not wish to engage or
15 attempt an ammunition transaction for various reasons. Reasons for this loss in potential
16 business include the potential costs to customers or that the customer was unsure if they
17 had either the necessary documentation or appropriate records on file with DOJ to obtain
18 the required electronic approval. Approximately 1/3 of Norco's potential customers have
19 decided to not engage in an ammunition transaction because they lacked the necessary
20 identification required pursuant to DOJ's emergency regulation requiring federally
21 complaint identification for all firearm and ammunition eligibility checks.

22 11. Norco does not have the resources to hire additional employees to process
23 ammunition transactions. But having more than 2 or 3 customers at a time would require
24 additional employees to properly assist and service their needs as a result of the new
25 ammunition sales restrictions.

26 12. I fear that the new ammunition sales restrictions will prevent Norco from
27 being able to maintain a profitable ammunition sales business moving forward.
28

1 I declare under penalty of perjury that the foregoing is true and correct. Executed
2 within the United States on 17TH DAY OF JULY, 2019.
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6 David Burwell
7 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 DAVID BURWELL

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
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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