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10 Attorneys for Plaintiffs

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 JAMES
GILHOUSEN**

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

DECLARATION OF JAMES GILHOUSEN

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

5 2. I am General Manager of Able's Sporting, Inc. ("Able's"), a business
6 engaged in the retail sale of ammunition located in Huntsville, Texas, and Plaintiff in this
7 action.

8 3. Following the implementation of California's licensed ammunition vendor
9 processing requirements on January 1, 2018, nearly 75% of California based ammunition
10 vendors Able's had previously done business with informed Able's that they no longer
11 wished for Able's to ship ammunition to them for purposes of processing private party
12 ammunition sales. As a result, Able's sales (of which ammunition is a subset) to
13 California dropped approximately 95% compared to all of 2017.

14 4. It costs Able's on average \$25 to ship ammunition to a customer in
15 California. Following the implementation of California's licensed ammunition vendor
16 processing requirements on January 1, 2018, however, dozens of customer orders have
17 been returned to Able's because the customer was unable to process the transaction at a
18 California licensed ammunition vendor. The shipping fee incurred by Able's is doubled
19 as a result of such returns.

20 5. While Able's maintains a restocking fee policy that would normally cover
21 Able's shipping and handling costs for returned orders, customers routinely contact their
22 credit card companies to process a full refund of their purchase. Doing so automatically
23 returns the customer's payment from Able's. While Able's could challenge the full
24 refund, doing so costs \$500 for each challenged transaction. The only other alternative
25 available to Able's is to attempt collection of the restocking fee from the customer
26 directly. To date, Able's has been unable to collect this restocking fee from a single
27 customer.
28

7. Overall, California amounted to 14.2% of Able's retail sales (of which ammunition is a subset) in 2017. Following the implementation of California's licensed ammunition vendor processing requirements on January 1, 2018, California sales only amounted to approximately 0.7% of Able's retail sales in 2018.

8. Following the implementation of California's new ammunition background check requirements on July 1, 2019, no California customer has ordered ammunition from Able's.

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on July 22, 2019.


James Gilhousen
Declarant

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 JAMES GILHOUSEN

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.

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*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