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Attorneys for Plaintiffs

**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

**PLAINTIFFS' NOTICE OF MOTION  
AND MOTION FOR PRELIMINARY  
INJUNCTION**

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

[Filed concurrently with Memorandum of  
Points and Authorities, Request for  
Judicial Notice, Declarations Sean A.  
Brady, Richard Travis, James Gilhousen,  
Dan Wolgin, Denise Welvang, Scott  
Lindemuth, Bill Ortiz, David Burwell,  
Chris Puehse, Travis Morgan, Ethan  
Bartel, Myra Lowder, Daniel Gray,  
Christina McNab, and George Dodd]

1 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on August 19, 2019 at 10:30 a.m. in Courtroom 5A  
 3 of above-captioned court, located at 221 West Broadway, San Diego, California 92101,  
 4 Plaintiffs Kim Rhode, Gary Brennan, Cory Henry, Edward Johnson, Scott Lindemuth,  
 5 Richard Ricks, Denise Welvang, Able's Sporting, Inc., a Texas corporation, AMDEP  
 6 Holdings, LLC, a Florida limited liability company d/b/a Ammunition Depot, R&S  
 7 Firearms, Inc., an Arizona corporation d/b/a Sam's Shooters' Emporium, and California  
 8 Rifle & Pistol Association, Incorporated, a California corporation ("Plaintiffs"), through  
 9 their counsel, will move for a preliminary injunction under rule 65(a) of the Federal  
 10 Rules of Civil Procedure. Specifically, Plaintiffs will seek an order temporarily enjoining  
 11 Defendant Xavier Becerra, in his official capacity as Attorney General of the State of  
 12 California, and his agents, servants, employees, and those working in active concert with  
 13 him, from enforcing or giving effect to California Penal Code sections 30312(a),  
 14 30312(b), 30370, and 30352(a-d) during the pendency of this action.

15 Plaintiffs bring this motion because sections 30312(a), 30312(b), 30314(a), 30370,  
 16 and 30352(a-d) violate the Second Amendment right to acquire and possess ammunition  
 17 by placing undue and unjustified barriers to the exercise that right and California Penal  
 18 Code sections 30312(b) and 30314(a) also violate the Commerce Clause by regulating  
 19 extraterritorially and in a discriminatory fashion against non-California commerce.  
 20 Unless this Court orders the requested preliminary relief, Defendant Becerra will  
 21 continue to enforce sections 30312(a), 30312(b), 30370, and 30352(a-d), and irreparable  
 22 injury will continue to result to the Plaintiffs as described in the memorandum of points  
 23 and authorities filed simultaneously herewith.

24 This motion is based on this notice, the memorandum of points and authorities  
 25 filed in support, the supporting declarations of Richard Travis, James Gilhousen, Dan  
 26 Wolgin, Denise Welvang, Scott Lindemuth, Bill Ortiz, David Burwell, Chris Puehse,  
 27 Travis Morgan, Ethan Bartel, Myra Lowder, Daniel Gray, Christina McNab, and George  
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1 Dodd, as well as any exhibits attached thereto. This motion is also based on the pleadings  
2 and records already on file, and on any further matters the Court deems appropriate.  
3

4 Dated: July 22, 2019

**MICHEL & ASSOCIATES, P.C.**

5  
6 s/ Sean A. Brady

7 Sean A. Brady

8 Email: sbrady@michellawyers.com

9 Attorneys for Plaintiffs  
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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:

**PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR PRELIMINARY  
INJUNCTION**

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