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Everytown for Gun Safety Support
Fund

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

MOTION BY EVERYTOWN FOR
GUN SAFETY SUPPORT FUND
FOR LEAVE TO FILE *AMICUS*
CURIAE BRIEF IN SUPPORT OF
DEFENDANT'S OPPOSITION TO
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION

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

1 Everytown for Gun Safety Support Fund (“Everytown”) respectfully moves
 2 for leave to file an *amicus curiae* brief in the above-captioned matter. Plaintiffs and
 3 Defendant have been notified of Everytown’s request to file an *amicus curiae* brief,
 4 and all parties consent to Everytown’s request, which is being filed prior to the
 5 Plaintiffs’ August 12, 2019 filing deadline for their Reply Brief to Defendant’s
 6 Opposition. (ECF No. 32-1).

7 Amicus curiae Everytown for Gun Safety Support Fund is the education,
 8 research, and litigation arm of Everytown for Gun Safety, the nation’s largest gun-
 9 violence-prevention organization. Everytown has over five million supporters across
 10 all fifty states, including tens of thousands in California. It was founded in 2014 as
 11 the combined effort of Mayors Against Illegal Guns, a national, bipartisan coalition
 12 of mayors combating illegal guns and gun trafficking, and Moms Demand Action for
 13 Gun Sense in America, an organization formed after twenty children and six adults
 14 were murdered by a gunman with an AR-15 rifle in an elementary school in
 15 Newtown, Connecticut. The mayors of more than fifty California cities are members
 16 of Mayors Against Illegal Guns. Everytown also includes a large network of gun-
 17 violence survivors who are empowered to share their stories and advocate for
 18 responsible gun laws.

19 The Ninth Circuit and California District Courts have “broad discretion to
 20 appoint amici curiae.” *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982)
 21 *abrogated on other grounds by Rainwater v. McGinness*, 559 F. App’x 635, 635 (9th
 22 Cir. 2014); *see also Duronslet v. Cty. of Los Angeles*, No. 2:16-cv-08933-
 23 ODW(PLAx), 2017 WL 5643144, *1 (C.D. Cal. Jan. 23, 2017). Courts “frequently
 24 welcome amicus briefs from nonparties concerning legal issues that have potential
 25 ramifications beyond the parties directly involved or if the amicus has unique
 26 information or perspective that can help the court beyond the help that the lawyers
 27 for the parties are able to provide.” *Safari Club Int’l v. Harris*, No. 2:14-cv-01856-
 28 GEB-AC, 2015 WL 1255491, at *1 (E.D. Cal. Jan. 14, 2015) (citation omitted).

1 “Even when a party is very well represented, an amicus may provide important
 2 assistance to the court.” *Duronslet*, at *1 (quoting *Neonatology Assocs., P.A. v.*
 3 *C.I.R.*, 293 F.3d 128, 132 (3d Cir. 2002)).

4 Over the past several years, Everytown has devoted substantial resources to
 5 researching historical firearms legislation that can provide this Court with important
 6 context directly relevant to the California statute at issue. Indeed, Everytown has
 7 drawn on its expertise to file briefs in numerous Second Amendment cases, offering
 8 historical and doctrinal analysis that might otherwise be overlooked. *See, e.g.*,
 9 *Libertarian Party of Erie Cty. v. Cuomo*, No. 18-0386-cv (2d Cir.); *Colo. Outfitters*
 10 *Ass’n v. Hickenlooper*, No. 14-1290 (10th Cir.); *Silvester v. Harris*, No. 14-16840
 11 (9th Cir.).

12 The proposed amicus brief provides an account of the American tradition of
 13 regulating the commercial sales of firearms, as well as a tradition of record-keeping
 14 requirements for firearm sellers. This includes approximately a century of
 15 restrictions enacted shortly after semi-automatic weapons capable of firing a large
 16 number of rounds without reloading became widely available in the commercial
 17 market. The brief documents the extensive historical support for firearms
 18 regulations and thus provides foundational support for the long-held view that such
 19 laws pass constitutional muster. The historical information in this brief bears on the
 20 Court’s first step in its analysis of the Second Amendment claim on Plaintiffs’
 21 Motion for Preliminary Injunction.

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1 Given the relevance of this history and research to the question before the
2 Court, Everytown respectfully requests that the Court grant leave to file the
3 accompanying *amicus curiae* brief in support of Defendant's Opposition to
4 Plaintiffs' Motion for Preliminary Injunction.

5 Dated: August 9, 2019

Respectfully submitted,

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7 By: /s/ Matthew J. Tako

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