

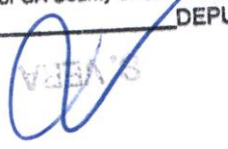
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Attorneys for Petitioners-Plaintiffs

FILED

MAR 22 2020

Clerk of the Court
Superior Court of CA County of Santa Clara
BY _____ DEPUTY


**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

20CV365840

LOKEY FIREARMS, a sole proprietorship;
FFLGUARD, LLC, a Delaware limited
liability company; and CALIFORNIA RIFLE
& PISTOL ASSOCIATION,
INCORPORATED, a California corporation,

Petitioners-Plaintiffs,

v.

COUNTY OF SANTA CLARA; SARA H.
CODY, M.D., in her official capacity as
Health Officer of the County of Santa Clara;
LAURIE SMITH, in her official capacity as
Sheriff of the County of Santa Clara; JEFF
ROSEN, in his official capacity as District
Attorney for the County of Santa Clara; and
DOES 1-25,

Respondents-Defendants.

Case No.:

**DECLARATION OF DAVID LOKEY IN
SUPPORT OF EX PARTE APPLICATION
TO STAY ENFORCEMENT OF SANTA
CLARA ORDER REQUIRING LICENSED
FIREARM DEALERS TO CLOSE OR
ALTERNATIVELY, FOR TEMPORARY
RESTRAINING ORDER AND ORDER TO
SHOW CAUSE**

Hearing Date: TBA
Hearing Time: TBA
Department: TBA

1 **DECLARATION OF DAVID LOKEY**

2 I, David Lokey, declare:

3 1. I am the General Manager of Lokey Firearms, one of the petitioners in this action.
4 I make this declaration of my own personal knowledge and, if called as a witness, I could and
5 would testify competently to the truth of the matters set forth herein.

6 2. Lokey Firearms is a sole proprietorship and California licensed firearms dealer
7 located in Morgan Hill, California.

8 3. In addition to having a license to sell and transfer firearms, Lokey Firearms holds a
9 secondhand dealer's license jointly approved and issued by the City of Morgan Hill and
10 California Department of Justice allowing Lokey Firearms to engage in activities that include
11 firearms taken in trade, taken in pawn, accepted for sale on consignment, or accepted for auction.

12 4. To lawfully transfer a firearm, a customer must complete ATF Form 4473 and
13 Lokey Firearms must submit a Dealer Record of Sale ("DROS") to the California Department of
14 Justice, Bureau of Firearms ("DOJ"), through a web-based application known as the DROS Entry
15 System ("DES"). Only when Lokey Firearms is notified in DES that the transaction has been
16 "approved" can Lokey Firearms then release the firearm to the customer. Assuming the customer
17 passes the required background check, California law also requires Lokey Firearms to hold the
18 firearm for at least 10-days following the submission of the transaction through DES.

19 5. To lawfully transfer ammunition, DOJ regulations require Lokey Firearms to
20 collect the customer's personal information and submit that information to DOJ using DES. As
21 with firearm transactions, only when Lokey Firearms is notified in DES that the transaction has
22 been "approved" can Lokey Firearms then release the ammunition to the customer.

23 6. On April 1, 2020, Lokey Firearms was ordered by the Office of the District
24 Attorney for the County of Santa Clara to close its business as a result of Santa Clara County's
25 public health order. In follow up communications with the Office of the District Attorney, Lokey
26 Firearms was informed that should it remain open for retail sales, Lokey Firearms may face civil
27 and/or criminal penalties.

28 7. As a result of the order received from Santa Clara County, Lokey Firearms closed

1 on April 1, 2020.

2 8. As of the date of this declaration, Lokey Firearms has approximately 26 DROS
3 transactions involving a firearm pending with DES. Many of these transactions have already been
4 "approved" and can legally be delivered to their respective customers. But because the County of
5 Santa Clara has ordered Lokey Firearms to cease all operations, these transactions cannot be
6 completed. In fact, 5 pending transactions have already expired due to the County of Santa Clara
7 ordering Lokey Firearms to cease operations.

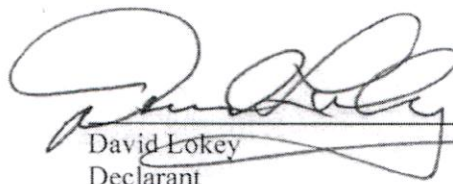
8 9. Once a transaction has been "approved" in DES, the customer must complete the
9 transaction within 30 days. Failure to complete the transaction will require the customer to
10 complete a new ATF 4473 Form and require Lokey Firearms to submit a new DROS transaction
11 through DES, effectively requiring the entire transfer process to start over.

12 10. On April 6, 2020, DOJ issued a notice in DES which states that DOJ employees
13 will continue to process firearm and ammunition transactions submitted through DES.

14 11. Lokey Firearms will suffer immediate threat of irreparable harm if forcibly
15 continued to cease all operations, including furloughing or terminating staff and having no choice
16 but to cease operations permanently.

17 I declare under penalty of perjury under the laws of the State of California that the
18 forgoing is true and correct.

19 Executed on April 12, 2020, at Morgan Hill, California.

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22 
23 David Lokey
24 Declarant

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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA
3 COUNTY OF SANTA CLARA

4 I, Laura Palmerin, am employed in the City of Long Beach, Los Angeles County,
5 California. I am over the age eighteen (18) years and am not a party to the within action. My
6 business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

7 On April 20, 2020, I served the foregoing document(s) described as

8 **DECLARATION OF DAVID LOKEY IN SUPPORT OF EX PARTE APPLICATION TO
9 STAY ENFORCEMENT OF SANTA CLARA ORDER REQUIRING LICENSED
10 FIREARM DEALERS TO CLOSE OR ALTERNATIVELY, FOR TEMPORARY
11 RESTRAINING ORDER AND ORDER TO SHOW CAUSE**

12 on the interested parties in this action by placing

13 the original
14 a true and correct copy

15 thereof by the following means, addressed as follows:

16 James R. Williams
17 Office of the County Counsel
18 County of Santa Clara
19 70 West Hedding Street
20 East Wing, 9th Floor
21 San Jose, CA 95110
22 Email: county.counsel@cco.sccgov.org
23 Email: james.williams@cco.sccgov.org

24 Jeff Rosen
25 District Attorney
26 Office of the District Attorney
27 County of Santa Clara
28 17275 Butterfield Blvd., Ste A
Morgan Hill, CA 95037
Email: jrosen@dao.sccgov.org

Adam J. Flores
Deputy District Attorney
Office of the District Attorney
County of Santa Clara
17275 Butterfield Blvd., Ste A
Morgan Hill, CA 95037
Email: aflores@dao.sccgov.org

Douglas M. Press
Melissa Kinyalocets
Jason Bussey
70 West Hedding Street
East Wing, 9th Floor
San Jose, CA 95110
Email: douglas.press@cco.sccgov.org
Email: melissa.kinyalocets@cco.sccgov.org
Email: jason.bussey@cco.sccgov.org

29 X (BY ELECTRONIC MAIL) As follows: I served a true and correct copy by electronic
30 transmission to the emails shown above. Said transmission was reported and completed
31 without error.

32 X (STATE) I declare under penalty of perjury under the laws of the State of California that
33 the foregoing is true and correct.

34 Executed on April 20, 2020, at Long Beach, California.

35 

36 _____
37 Laura Palmerin