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C.D. Michel – SBN 144258  
Sean A. Brady – SBN 262007  
Matthew D. Cubeiro – SBN 291519  
MICHEL & ASSOCIATES, P.C.  
180 E. Ocean Blvd., Suite 200  
Long Beach, CA 90802  
Telephone: (562) 216-4444  
Facsimile: (562) 216-4445  
Email: [cmichel@michellawyers.com](mailto:cmichel@michellawyers.com)

Attorneys for Petitioners-Plaintiffs

FILED BY FA

**FILED**  
APR 22 2020

APR 29 2020  
Superior Court of CA County of Santa Clara  
BY \_\_\_\_\_ DEPUTY  
S. VERA'S

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

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.: **20CV365840**

**DECLARATION OF SEAN A. BRADY 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 SEAN A. BRADY**

2 I, Sean A. Brady, declare:

3 1. I am an attorney licensed to practice law before the courts of the State of  
4 California. I am an associate attorney of the law firm Michel & Associates, P. C., attorneys of  
5 record for Petitioners-Plaintiffs in this action. I have personal knowledge of the facts set forth  
6 herein and, if called and sworn as a witness, could and would testify competently thereto.

7 2. Attached here as Exhibit A is a true and correct copy of a SFGate News article  
8 titled *Gov. Gavin Newsom says state won't issue guidance on whether gun stores are essential*  
9 *businesses*, posted on March 25, 2020.

10 3. Pursuant to California Rule of Court 3.1204, on April 16, 2020, I gave notice of  
11 this ex parte to County Counsel of Santa Clara James R. Williams, District Attorney Jeff Rosen,  
12 and Deputy District Attorney Adam J. Flores via email at [county.counsel@cco.sccgov.org](mailto:county.counsel@cco.sccgov.org),  
13 [jrosen@dao.sccgov.org](mailto:jrosen@dao.sccgov.org), and [aflores@dao.sccgov.org](mailto:aflores@dao.sccgov.org).

14 4. On April 16, 2020, I was informed by Douglas M. Press, Assistant County  
15 Counsel, that the County of Santa Clara would be opposing the ex parte application.

16 5. A true and correct copy of the email correspondence is attached here as Exhibit B.

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

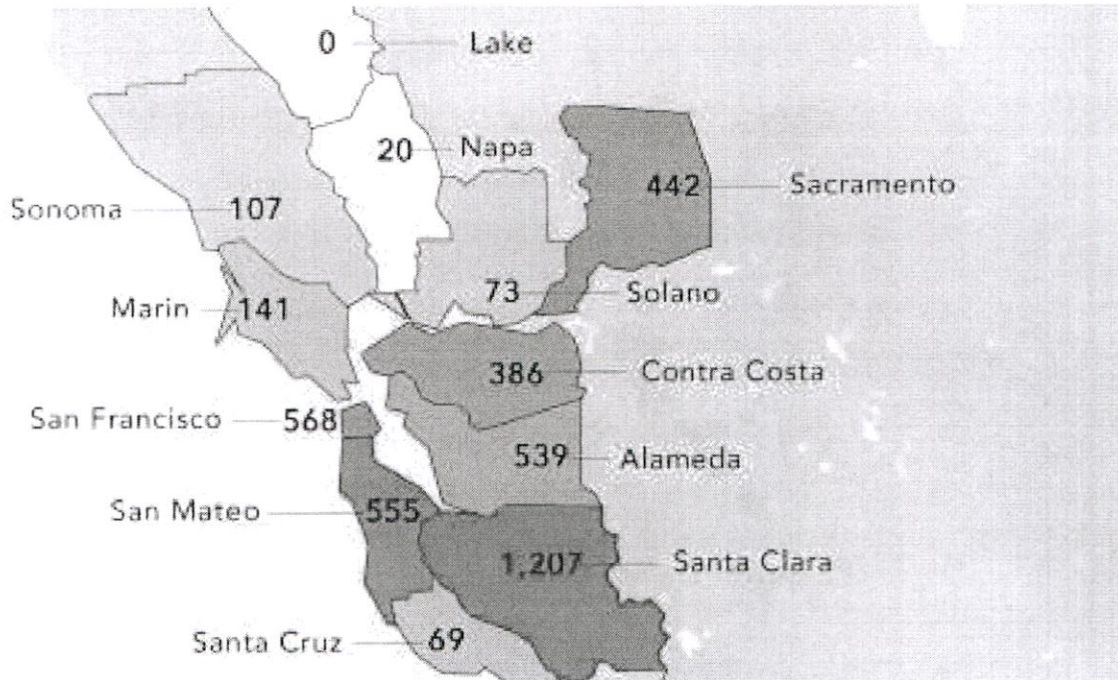
19 Executed on April 20, 2020, at Huntington Beach, California.

20  
21 

22 \_\_\_\_\_  
23 Sean A. Brady  
24 Declarant

# **EXHIBIT A**

FULL CORONAVIRUS COVERAGE



More COVID-19 cases and deaths in Bay Area over weekend 10:03 AM

10:30 AM Why do so many 'essential' workers get paid so little?

Trump's coronavirus commentary bolsters attack ads

Trump touts unproven drug, blocks Fauci from question about it

Southern Calif. county orders all residents to wear masks

SF's Palace of Fine Arts will be temporary homeless shelter

SFGATE <https://www.sfgate.com/politics/article/Gavin-Newsom-gun-store-closures-Second-Amendment-15157244.php>

## Gov. Gavin Newsom says state won't issue guidance on whether gun stores are essential businesses

By Eric Ting, SFGATE Published 3:37 pm PDT, Wednesday, March 25, 2020

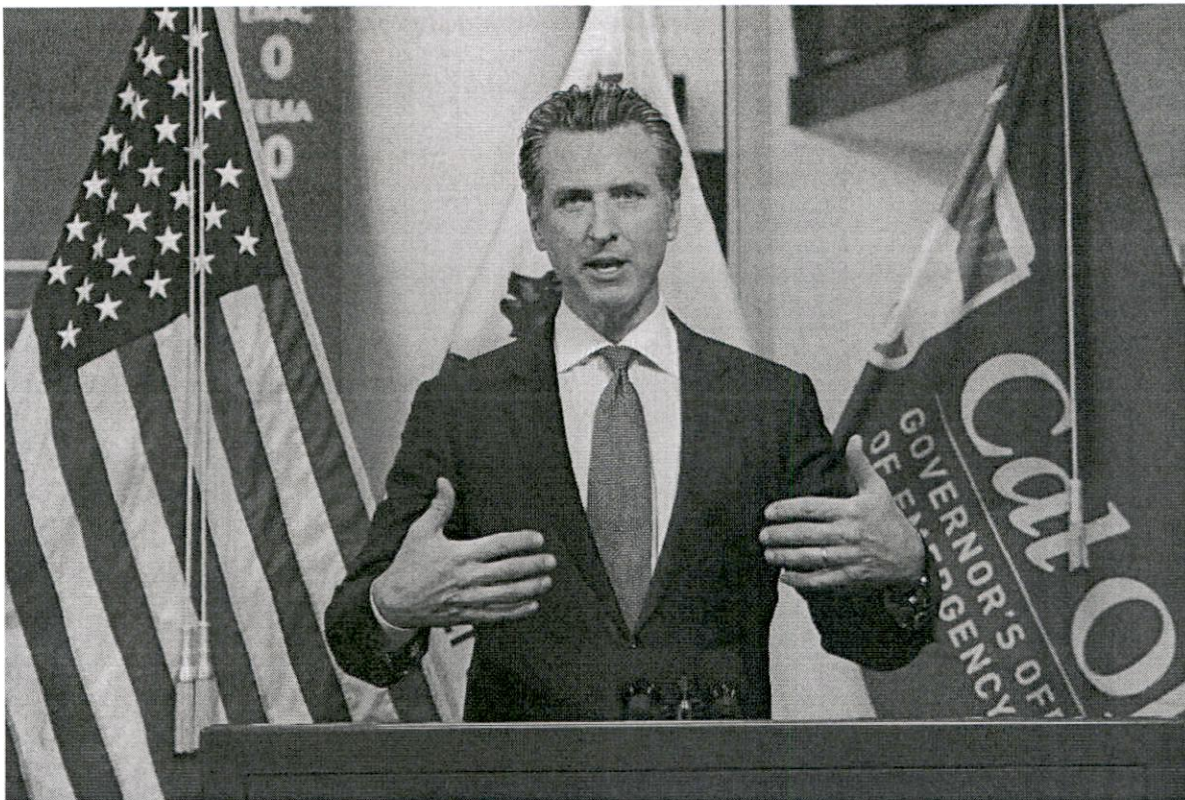


IMAGE 1 OF 64

Gov. Gavin Newsom updates the state's response to the coronavirus at the Governor's Office of Emergency Services in Rancho Cordova, Calif., Monday, March 23, 2020

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California Gov. Gavin Newsom will not offer official guidance on whether gun stores can be classified as essential businesses and remain open during the state's shelter-in-place order.

Newsom was asked about the issue after Los Angeles County reversed course on a move to close gun stores amid the spread of coronavirus in the region and the county's shelter-in-place order. L.A. County Sheriff Alex Villanueva initially ordered the closing of gun stores, but legal counsel for the county determined gun stores are essential businesses and must remain open. Villanueva then rescinded the order.

During his Wednesday press conference, Newsom was asked whether the state would issue an official guidance for localities to follow, but Newsom said no guidance would be coming.

"I believe in people's right to bear arms and I believe people are exercising that right," Newsom said of reports of increased sales at gun stores. "But I'll defer to the sheriff in this instance, and I'll defer to sheriffs in their respective jurisdictions for that clarification."

Many have questioned whether the forced closure of gun stores runs afoul of the U.S. Constitution's Second Amendment and Supreme Court precedent.

The U.S. Supreme Court held in *District of Columbia v. Heller* (2008) that the Second Amendment guarantees an individual the right to bear arms for self-defense purposes, and multiple groups stated they would bring legal challenges against localities closing gun stores. These groups argue that forcing gun stores to close would violate an individual's right to seek means of self-defense during a crisis.

"There are far more important things that the sheriff can be doing than sending uniformed officers to gun stores telling them they're going to be shut down by force," said Sam Paredes, executive director of Gun Owners of California. "We've got lots of stories from people who said, 'I'd never thought I'd own a firearm, and now I want them more than anything in the world.'"

The full text of the Los Angeles County legal opinion that held gun stores were essential businesses was not released to the public.

*The Associated Press contributed to this report.*

#### **MORE CORONAVIRUS COVERAGE:**

*Sign up for 'The Daily' newsletter for the latest on coronavirus [here](#).*

- What you need to know about Bay Area shelter in place orders due to coronavirus
- 'I cry every morning': Delfina owner heartbroken over closing restaurants, laying off workers
- Boba Guys founder on what it's like to fire 400 people, shutter 17 locations in a single day
- UC San Francisco accepting mask donations
- 'Mom, what's happening to our city?': My apocalyptic bike ride on Valencia with my son
- Legendary SF concert venue Slim's to close
- 401-room W Hotel San Francisco temporarily closes due to lack of demand
- Can you leave your county if a shelter-in-place order is in effect in the Bay Area?
- Can you ride your bike in counties with shelter-in-place orders?
- 'Quarantine shaming': People navigate new social norms

- How 'flatten the curve' works in the coronavirus pandemic
- How a mild case of the novel coronavirus can quickly turn deadly
- Study shows how easily coronavirus can potentially spread
- The two most common symptoms in coronavirus patients
- Does smoking/vaping put you at a higher risk of coronavirus?
- How coronavirus compares to epidemics of the past
- The worst myths and misinformation about coronavirus
- Out of hand sanitizer? Here's how to make your own
- Are children at a lower risk for coronavirus complications?
- Are the elderly at a greater risk for coronavirus complications?
- Why Taiwan's COVID-19 death rate is shockingly low

*Eric Ting is an SFGATE digital reporter. Email: [eric.ting@sfgate.com](mailto:eric.ting@sfgate.com) | Twitter: [@\\_ericting](https://twitter.com/_ericting)*

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**HEARST**

# **EXHIBIT B**



## Laura Palmerin

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**From:** Sean Brady  
**Sent:** Thursday, April 16, 2020 4:29 PM  
**To:** county.counsel@cco.sccgov.org; james.williams@cco.sccgov.org; aflores@dao.sccgov.org; jrosen@dao.sccgov.org  
**Cc:** Laura Palmerin  
**Subject:** Lokey Firearms, et al. v. County of Santa Clara, et al.  
**Importance:** High

Dear Counsel,


Plaintiffs-Petitioners in the above titled matter will be filing an Ex Parte Application seeking an order staying enforcement of the County of Santa Clara's policy requiring gun stores to close indefinitely in light of the COVID-19 emergency, and prohibiting Defendants-Respondents County of Santa Clara, Health Officer Sara H. Cody, M.D., Sheriff Laurie Smith, and District Attorney James R. Williams, their employees, agents, and persons acting with them on their behalf (collectively "Defendants" or "Respondents" or "the County"), from enforcing said policy during the pendency of this action. Alternatively, Plaintiffs-Petitioners will be applying for a temporary restraining order immediately enjoining and prohibiting Defendants their employees, agents, and persons acting with them on their behalf, from enforcing the County's policy requiring gun stores to close indefinitely in light of the COVID-19 emergency. Plaintiffs-Petitioners also request that the Court issue an Order to Show Cause, affording Defendants-Respondents the opportunity to appear and show cause why a preliminary injunction should not issue restraining and enjoining them from enforcing said policy for the remainder of this litigation.

The Ex Parte Application will be submitted to the Court by 10:00am on Friday April 17, 2020 and the hearing date, if any, will be provided to us by the Santa Clara Superior Court after the documents are reviewed. Our office will let you know as soon as a hearing date is set.

Please let me know as soon as possible if you intend to file an opposition or if I should be directing this correspondence to someone else so that we can relay your response to the Court by 10:00am on Friday April 17, 2020.

Please contact me with any questions or concerns.

Regards,

<p><b>Sean Brady</b> Attorney</p>  <p><b>MICHEL &amp; ASSOCIATES, P.C.</b> Attorneys at Law</p> <p>Environmental · Land Use · Firearms · Employment Law Civil Litigation · Criminal Defense</p>	<p>Direct: (562) 216-4464 Main: (562) 216-4444 Fax: (562) 216-4445 Email: <a href="mailto:SBrady@michellawyers.com">SBrady@michellawyers.com</a> Web: <a href="http://www.michellawyers.com">www.michellawyers.com</a></p> <p>180 E. Ocean Blvd. Suite 200 Long Beach, CA 90802</p>
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This e-mail is confidential and is legally privileged. If you have received it in error, you are on notice of its status. Please notify us immediately by reply e-mail and then delete this message from your system. Please do not copy it or use it for any purposes, or disclose its contents to any other person. To do so could violate state and Federal privacy laws. Thank you for your cooperation. Please contact Michel & Associates, PC at (562) 216-4444 if you need assistance.

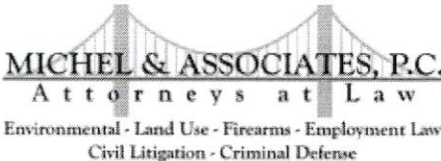
## Laura Palmerin

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**From:** Sean Brady  
**Sent:** Thursday, April 16, 2020 4:31 PM  
**To:** county.counsel@cco.sccgov.org; james.williams@cco.sccgov.org; aflores@dao.sccgov.org;  
jrosen@dao.sccgov.org  
**Cc:** Laura Palmerin  
**Subject:** RE: Lokey Firearms, et al. v. County of Santa Clara, et al.

I apologize, I just noticed that Mr. Williams was mentioned as a defendant in our below notice. That should say District Attorney Jeffrey Rosen.

Sorry for any confusion.

<p><b>Sean Brady</b> Attorney</p>  <p><b>MICHEL &amp; ASSOCIATES, P.C.</b> Attorneys at Law Environmental - Land Use - Firearms - Employment Law Civil Litigation - Criminal Defense</p>	<p>Direct: (562) 216-4464 Main: (562) 216-4444 Fax: (562) 216-4445 Email: <a href="mailto:SBrady@michellawyers.com">SBrady@michellawyers.com</a> Web: <a href="http://www.michellawyers.com">www.michellawyers.com</a></p> <p>180 E. Ocean Blvd. Suite 200 Long Beach, CA 90802</p>
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This e-mail is confidential and is legally privileged. If you have received it in error, you are on notice of its status. Please notify us immediately by reply e-mail and then delete this message from your system. Please do not copy it or use it for any purposes, or disclose its contents to any other person. To do so could violate state and Federal privacy laws. Thank you for your cooperation. Please contact Michel & Associates, PC at (562) 216-4444 if you need assistance.

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 SEAN A. BRADY IN SUPPORT OF EX PARTE APPLICATION  
9 TO 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](mailto:county.counsel@cco.sccgov.org)  
23 Email: [james.williams@cco.sccgov.org](mailto: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](mailto: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](mailto: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](mailto:douglas.press@cco.sccgov.org)  
Email: [melissa.kinyalocets@cco.sccgov.org](mailto:melissa.kinyalocets@cco.sccgov.org)  
Email: [jason.bussey@cco.sccgov.org](mailto: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.

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