

No. 20-55437

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

KIM RHODE; GARY BRENNAN; CORY HENRY; EDWARD JOHNSON; SCOTT
LINDEMUTH; RICHARD RICKS; DENISE WELVANG; ABLE'S SPORTING, INC., A TEXAS
CORPORATION; AMDEP HOLDINGS, LLC, A FLORIDA LIMITED LIABILITY COMPANY
D/B/A AMMUNITION DEPOT; R & S FIREARMS, INC., AN ARIZONA CORPORATION
D/B/A/ SAM'S SHOOTERS EMPORIUM; AND CALIFORNIA RIFLE & PISTOL
ASSOCIATION, INCORPORATED, A CALIFORNIA CORPORATION,
Plaintiffs-Appellees,

V.

XAVIER BECERRA, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL OF THE STATE
OF CALIFORNIA,
Defendant-Appellant.

**On Appeal from the United States District Court
for the Southern District of California**
No. 18-cv-00802-BEN-JLB
The Honorable Roger T. Benitez, Judge

**DECLARATION OF NELSON R. RICHARDS IN SUPPRORT OF
EMERGENCY MOTION UNDER CIRCUIT RULE 27-3
TO STAY PRELIMINARY INJUNCTION ORDER PENDING APPEAL
(FED. R. APP. P. 8(A)(2); CIRCUIT RULE 27-3)**

IMMEDIATE RELIEF REQUESTED

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April 24, 2020

DECLARATION OF NELSON R. RICHARDS

I, Nelson R. Richards, declare:

1. I am a Deputy Attorney General with the California Department of Justice and serve as counsel to Defendant Xavier Becerra, in his official capacity as Attorney General of the State of California, in the above-captioned matter. I make this declaration in support of Defendants' Emergency Motion under Circuit Rule 27-3 to Stay Preliminary Injunction Order Pending Appeal, for which immediate relief is requested. Except as otherwise stated herein, I have personal knowledge of the facts set forth in this declaration and, if called as a witness, could and would testify competently as to those facts.

2. On July 22, 2019, plaintiffs filed a Motion for Preliminary Injunction, ECF No. 32, seeking to enjoin the Attorney General, his agents, employees, and those working in active concert with him from enforcing California Penal Code sections 30312(a), 30312(b), 30314(a), 30370, and 30352(a)-(d). A true and correct copy of that document is attached to this declaration as **Exhibit 1**.

3. In connection with their motion, plaintiffs submitted the Declaration of Denise Welvang, ECF No. 32-6. A true and correct copy of that document is attached to this declaration as **Exhibit 2**.

4. In connection with their motion, plaintiffs submitted the Declaration of Scott Lindemuth, ECF No. 32-7. A true and correct copy of that document is attached to this declaration as **Exhibit 3**.

5. In connection with their motion, plaintiffs submitted the Declaration of George Dodd, ECF No. 32-16. A true and correct copy of that document is attached to this declaration as **Exhibit 4**.

6. In connection with their motion, plaintiffs submitted the Declaration of Edward Allen Johnson, ECF No. 46-2. A true and correct copy of that document is attached to this declaration as **Exhibit 5**.

7. In connection with their motion, plaintiffs submitted the Declaration of Nandu Ionescu, ECF No. 46-2. A true and correct copy of that document is attached to this declaration as **Exhibit 6**.

8. On August 5, 2019, the Attorney General filed an Opposition to Plaintiffs' Motion for Preliminary Injunction, ECF No. 46-4. A true and correct copy of that document is attached to this declaration as **Exhibit 7**.

9. In connection with his opposition, the Attorney General submitted the Declaration of Mayra G. Morales in Support of Defendant Xavier Becerra's Opposition to Plaintiffs' Motion for Preliminary Injunction, ECF No. 34-1. A true and correct copy of that document is attached to this declaration as **Exhibit 8**.

10. At the district court's request, the Attorney General submitted the Third Supplemental Declaration of Mayra G. Morales in Support of Defendant Xavier Becerra's Opposition to Plaintiffs' Motion for Preliminary Injunction, ECF No. 53. A true and correct copy of that document is attached to this declaration as **Exhibit 9**.

11. On April 23, 2020, the district court issued an Order Granting Plaintiffs' Motion for Preliminary Injunction, ECF No. 60. A true and correct copy of that document is attached to this declaration as **Exhibit 10**.

12. On April 24, 2020, the Attorney General filed a Motion to Stay Order Granting Preliminary Injunction to Allow for Interlocutory Appeal, ECF No. 61. A true and correct copy of that document is attached to this declaration as **Exhibit 11**.

13. On April 24, 2020, the district court issued Order Denying Ex Parte Motion for Stay, ECF No. 62. A true and correct copy of that document is attached to this declaration as **Exhibit 12**.

14. On April 23, 2020, I became aware of a tweet by plaintiff Ammunition Depot regarding the district court's decision granting plaintiffs' motion for preliminary injunction. I was unable to capture the image accompanying the tweet. A true and correct screen shot of the tweet, minus the accompanying image, is attached to this declaration as **Exhibit 13**. I obtained this

document from <https://twitter.com/AmmunitionDepot/status/1253465990400270336> (last visited April 24, 2020).

15. On April 12, 2019, KQED's California Report published an article titled "Gun Groups: More than a Million High-Capacity Magazines Flooded California During Weeklong Suspension." I obtained a copy of that article from KQED's website at <https://www.kqed.org/news/11740000/gun-groups-more-than-a-million-high-capacity-magazines-flooded-california-during-weeklong-suspension-of-ban> (last visited April 24, 2020). A true and copy of that article is attached to this declaration as **Exhibit 14**.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April 24, 2020 at Sacramento, California.

/s/ Nelson Richards

Nelson Richards

CERTIFICATE OF SERVICE

Case Name: **Rhode, Kim, et al. v. Xavier
Becerra, et al. [APPEAL 9th
Cir.]**

No. **20-55437**

I hereby certify that on April 24, 2020, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**DECLARATION OF NELSON R. RICHARDS IN SUPPORT OF EMERGENCY
MOTION UNDER CIRCUIT RULE 27-3 TO STAY PRELIMINARY INJUNCTION
ORDER PENDING APPEAL**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 24, 2020, at Sacramento, California.

Tracie L. Campbell

Declarant

/s/ Tracie Campbell

Signature