

1 C.D. Michel (SBN 144258)
Anna M. Barvir (SBN 268728)
2 Tiffany D. Chevront (SBN 317144)
MICHEL & ASSOCIATES, P.C.
3 180 E. Ocean Blvd., Ste. 200
Long Beach, CA 90802
4 Telephone: (562) 216-4444
Fax: (562) 216-4445
5 Email: cmichel@michellawyers.com

*Attorneys for Plaintiffs B & L Productions, Inc., Barry Bardack, Ronald J. Diaz, Sr.,
6 John Dupree, Christopher Irick, Lawrence Walsh, Maximum Wholesale, Inc.,
California Rifle & Pistol Association, Incorporated, South Bay Rod and Gun Club,
7 Inc.*

8 Donald Kilmer (SBN 179986)
Law Offices of Donald Kilmer, APC
9 1645 Willow Street Suite 150
San Jose, CA 95125
10 Telephone: (408) 264-8489
Fax: (408) 264-8487
11 Email: Don@DKLawOffice.com

Attorney for Plaintiff Second Amendment Foundation

12
13 **IN THE UNITED STATES DISTRICT COURT**
14 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

15 B & L PRODUCTIONS, INC., d/b/a
CROSSROADS OF THE WEST, et al.,

16 Plaintiffs,

17 v.

18 22nd DISTRICT AGRICULTURAL
ASSOCIATION, et al.,

19 Defendants.
20
21
22

CASE NO.: 3:19-cv-00134-CAB-NLS

**REPLY TO DEFENDANT’S
OPPOSITION TO PLAINTIFFS’
MOTION FOR LEAVE TO FILE
SUPPLEMENTAL COMPLAINT**

Date: May 1, 2020
Judge: Hon. Cathy Ann Bencivengo

PER CHAMBERS RULES, NO ORAL
ARGUMENT UNLESS SEPARATELY
ORDERED BY THE COURT.

Action Filed: January 21, 2019

1 **INTRODUCTION**

2 The District does not dispute that Plaintiffs’ proposed supplemental complaint
3 seeks to address events occurring after the filing of their original complaint. Nor does
4 the District dispute that the additional claims Plaintiffs assert in their supplemental
5 complaint based on those new facts raise the same constitutional issues and injuries at
6 issue in Plaintiffs’ original complaint. Instead, the District opposes Plaintiffs’ motion
7 *only if* it meets one of two conditions. Because the motion meets neither condition,
8 the District does not oppose it. The Court should therefore grant Plaintiffs’ Motion.

9 But even if the District did oppose it, the Court should still grant the motion.
10 For, as explained in Plaintiffs’ moving papers and further discussed below, requests
11 to supplement should be liberally granted, Plaintiffs’ proposed supplemental
12 complaint meets the standard for supplementation, and the District will suffer no
13 undue prejudice if leave is granted.

14 **ARGUMENT**

15 **I. Plaintiffs’ Supplemental Complaint Does Not Allege that the District**
16 **Played Any Role in the Passage of AB 893**

17 The District is apparently concerned that Plaintiffs’ argument that its gun show
18 moratorium and Assembly Bill 893 are “part of the same unconstitutional scheme to
19 end gun shows” may be construed as including the District in a conspiracy with state
20 actors in achieving that end. Def.’s Opp’n Mot. Leave Suppl. Compl. (“Opp’n”) at 2,
21 ECF No. 41. But, as the District itself notes “neither the original complaint nor the
22 proposed supplemental complaint contains any factual allegations that the District
23 took steps to support AB 893.” *Id.*

24 Plaintiffs affirm that their supplemental complaint does not allege that the
25 District played a role in the passage of AB 893 or that it actively conspired with state
26 actors to adopt AB 893. In fact, Plaintiffs’ supplemental complaint does not assert
27 any conspiracy claim regarding AB 893 at all. Nor do Plaintiffs have any present
28 information or belief that the District had anything to do with AB 893’s passage.

1 Unless Plaintiffs learn in discovery concerning their supplemental claims that the
2 District was part of a conspiracy with state actors to injure them, Plaintiffs have no
3 intention to raise such an argument. They certainly do not do so for purposes of the
4 instant motion. Rather, Plaintiffs are merely arguing that the District is a necessary
5 defendant in their challenge to AB 893 because AB 893 creates a criminal statute that
6 the District is tasked with enforcing on the property that it manages. Pls.’ Mot. Leave
7 Suppl. Compl. (“Mot.”) at 8-9, ECF No. 40. Plaintiffs anticipate the District playing a
8 limited role in the continued litigation, beyond being subject to the ultimate relief
9 Plaintiffs hope to achieve in the form of an injunction on AB 893’s enforcement.

10 **II. Plaintiffs’ Supplemental Complaint Will Not Prejudice the District by**
11 **Preventing it from Resolving All Claims Asserted Against It in Their**
12 **Original Complaint**

12 Like the District, Plaintiffs are “not aware of anything in the proposed
13 supplemental complaint that would prevent the District from entering into a
14 settlement agreement to resolve the claims that correspond to those asserted against it
15 in the original complaint.” Opp’n at 3. Indeed, as the District notes, “the Parties have
16 achieved an agreement in principle and are currently taking all steps necessary to
17 finalize and execute a settlement agreement resolving all claims set forth in the
18 original complaint (ECF No. 1).” Opp’n at 1-2.

19 Plaintiffs do not seek to relitigate any factual matter at issue with the District’s
20 gun show moratorium. Nor do Plaintiffs seek to “expand the nature and scope of the
21 [current] litigation.” Opp’n at 3. To the contrary, Plaintiffs merely seek to challenge
22 the State’s new law that causes them the same injury on the very same property and
23 raises the same constitutional questions as the District’s gun show moratorium. As
24 explained, the District is included in the continued litigation because it is a necessary
25 party. Settlement of the current claims will thus streamline, rather than expand
26 Plaintiffs’ claims against the District. It certainly will not delay or increase the costs
27 of resolving the current claims, as the District understandably wishes to avoid. *Id.*
28 That is assuming the Parties’ settlement is finalized, which is not in doubt at this

1 time. But, if settlement does fall through for some reason, the District will not be
2 prejudiced by having to continue defending against Plaintiffs' original claims,
3 whether the supplemental claims are litigated at the same time or not. The District
4 makes no argument to the contrary.

5 **CONCLUSION**

6 Because leave to file a supplemental complaint should be liberally granted,
7 because Plaintiffs' proposed supplemental complaint meets the requirements for such
8 leave, and because the District does not truly oppose Plaintiffs' Motion, the Court
9 should exercise its broad discretion to grant Plaintiffs' Motion for Leave to File
10 Supplemental Complaint.

11
12 Dated: April 24, 2020

MICHEL & ASSOCIATES, P.C.

s/ Anna M. Barvir

Anna M. Barvir

Attorneys for Plaintiffs

Email: abarvir@michellawyers.com

CERTIFICATE OF SERVICE
IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Case Name: *B & L Productions, Inc., et al. v. 22nd District Agricultural Association, et al.*

Case No.: 3:19-cv-00134 CAB (NLS)

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

I am not a party to the above-entitled action. I have caused service of:

**REPLY TO DEFENDANT’S OPPOSITION TO PLAINTIFFS’ MOTION
FOR LEAVE TO FILE SUPPLEMENTAL COMPLAINT**

on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Xavier Becerra
Attorney General of California
P. Patty Li
Deputy Attorney General
E-mail: patty.li@doj.ca.gov
Natasha Saggar Sheth
Deputy Attorney General
E-mail: natasha.sheth@doj.ca.gov
Chad A. Stegeman
Deputy Attorney General
E-mail: chad.stegeman@doj.ca.gov
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Attorneys for Defendants

I declare under penalty of perjury that the foregoing is true and correct.

Executed April 24, 2020.

s/ Laura Palmerin
Laura Palmerin