

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT
Form 7. Mediation Questionnaire**

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form07instructions.pdf>

9th Cir. Case Number(s) 20-55437

Case Name Kim Rhode; et al., v. Xavier Becerra, in his official capacity as Att

**Counsel submitting
this form** Nelson Richards

**Represented party/
parties** Defendant-Appellant Becerra

Briefly describe the dispute that gave rise to this lawsuit.

Plaintiffs, seven California residents, four out-of-state ammunition vendors, and the California Rifle & Pistol Association, assert various constitutional challenges, purportedly facial and as applied, to California's laws regulating the purchase and sale of ammunition. These laws were enacted by Proposition 63, as amended (Prop. 63). Among other things, the law requires that ammunition sales in California be conducted by licensed ammunition vendors in face-to-face transactions where the purchaser will be subject to a background check. In addition, ammunition may no longer be shipped directly to purchasers and residents may not directly import ammunition into the California. All shipments and importation by residents must go through a licensed ammunition vendor, where the purchaser or resident must appear in person and undergo a background check. Plaintiffs allege that these laws violate the Second Amendment and dormant Commerce Clause of the United States Constitution. The Attorney General contends that these laws regulate even handedly and permissibly advance the State's compelling interest in preventing violent felons and other persons prohibited by law from purchasing and possessing ammunition.

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Briefly describe the result below and the main issues on appeal.

Prop. 63's background-check requirement went into effect on July 1, 2019. Later that month, plaintiffs filed a motion for preliminary injunction. On April 23, 2020, the district court entered a preliminary injunction immediately enjoining enforcement of Prop. 63's background-check provisions for ammunition sales, provisions restricting direct shipment and importation of ammunition, and the provisions providing for penalties for violations of those laws. On April 24, 2020, the Attorney General filed an emergency motion under Rule 27-3 to stay the district court's order pending interlocutory appeal. ECF No. 3-1. That same day, this Court granted an administrative stay of the district court's order pending resolution of the Attorney General's motion. ECF No. 4.

The main issues on appeal will be whether the district court had jurisdiction over all the issues it ruled on and whether the district court did not follow the law when it entered the preliminary injunction. This includes whether the district court incorrectly determined that plaintiffs had established a likelihood of success on their Second Amendment and dormant Commerce Clause claims; whether the district court incorrectly held that plaintiffs would be irreparably harmed absent an injunction; and whether the district court incorrectly held that the balance of equities favored enjoining Prop. 63's ammunition provisions and was in the public interest.

Describe any proceedings remaining below or any related proceedings in other tribunals.

The case is still in the discovery stage in the district court. The Attorney General is not aware of any related proceedings in other tribunals.

Signature

Date

(use "s/[typed name]" to sign electronically-filed documents)

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 27, 2020, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

FORM 7. MEDIATION QUESTIONNAIRE

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 27, 2020, at Sacramento, California.

Nelson R. Richards

Declarant

/s/ *Nelson Richards*

Signature