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9
10 **UNITED STATES DISTRICT COURT**
FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 ADAM BRANDY, an individual;
12 DAEMION GARR, an individual;
13 DG2A ENTERPRISES INC., d.b.a.
14 GUN WORLD; SECOND
15 AMENDMENT FOUNDATION;
16 CALIFORNIA GUN RIGHTS
17 FOUNDATION; NATIONAL RIFLE
18 ASSOCIATION OF AMERICA; and
19 FIREARMS POLICY COALITION,
20 INC.,

21 Plaintiffs,

22 vs.

23 ALEX VILLANUEVA, in his official
24 capacity as Sheriff of Los Angeles
25 County, California, and in his capacity as
26 the Director of Emergency Operations;
27 GAVIN NEWSOM, in his official
28 capacity as Governor and Commander in
Chief of the State of California; SONIA
Y. ANGELL, in her official capacity as
California Public Health Officer;
BARBARA FERRER, in her official

Case No.

**COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF**

1 capacity as Director of Los Angeles
2 County Department Of Public Health;
3 and COUNTY OF LOS ANGELES,

4 Defendants.

5
6 Plaintiffs Adam Brandy, *et al.* (“Plaintiffs”), by and through counsel of record,
7
8 bring this complaint for injunctive and declaratory relief against the named
9 Defendants, and allege as follows:

10
11 **INTRODUCTION**

12 1. In California, individuals are required to purchase and transfer firearms
13 and ammunition through state and federally licensed dealers or face serious criminal
14 penalties.

15
16 2. Subjective political opinions are irrelevant to this truth: State and
17 federal firearms licensees are essential businesses that provide access to
18 constitutionally protected rights. Full stop. Californians cannot exercise their Second
19 Amendment right to keep and bear arms without such businesses.

20
21 3. Shuttering access to arms necessarily shuts the Constitutional right
22 to those arms. By forcing California’s duly licensed, essential businesses to close or
23 eliminate key services for the general public, California authorities are foreclosing
24 the only lawful means to buy, sell, and transfer firearms and ammunition available
25 to typical, law-abiding Californians. Such a de facto prohibition on the right to keep
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1 and bear arms is categorically unconstitutional under the Second Amendment.

2 4. The circumstances posed by the Novel Coronavirus (“COVID-19”)
3 outbreak are noteworthy, but do not excuse unlawful government infringements
4 upon freedom. In fact, the importance of maintaining the ongoing activities of
5 essential businesses for the safety, health, and welfare of Californians makes
6 Plaintiffs’ point: the need for enhanced safety during uncertain times is precisely
7 when Plaintiffs and their members must be able to exercise their fundamental rights
8 to keep and bear arms.
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12 5. The governmental infringements at issue are only compounding the
13 very dangers they purportedly seek to mitigate. In this context, firearm and
14 ammunition retailers arguably provide the most essential business function possible
15 by enabling Californians to lawfully defend themselves, their loved ones and their
16 property.
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19 6. The various Orders that have been put in place by the Governor of the
20 State of California, the California Department of Public Health, the Los Angeles
21 County of Public Health, and the Los Angeles County Sheriff are unconstitutionally
22 vague, arbitrary and capricious, and violate the Second and Fourteenth Amendment
23 rights of Plaintiffs and similarly situated Californians.
24
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26 7. State and local agency and county policies may not, legislatively or
27 though mere fiat, as here, enact and/or enforce a suspension or deprivation of
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1 constitutional liberties during a time of crisis. And they certainly may not use a
2 public health crisis as political cover to impose bans and restrictions on rights they
3 do not like. Their Orders, policies, and practices that do so much be immediately
4 restrained and enjoined to protect the fundamental rights of law-abiding
5 Californians.
6

7
8 **PARTIES**

9
10 *Individual Plaintiffs*

11 8. Plaintiff Adam Brandy is a natural person, a citizen of the United States,
12 and a resident of the County of Los Angeles, California. Plaintiff Brandy is not
13 prohibited from possessing or acquiring arms, including firearms and ammunition,
14 under state and federal law. Plaintiff Brandy is concerned about his safety and the
15 safety of his family, wants to exercise his rights and acquire arms, including firearms,
16 ammunition, magazines, and appurtenances, and would do so, but for the reasonable
17 and imminent fear of criminal prosecution under Defendants' laws, policies, orders,
18 practices, customs, and enforcement.
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22 9. Plaintiff Daemion Garr is a natural person, a citizen of the United
23 States, and a resident of the County of Los Angeles, California. Plaintiff Garr is not
24 prohibited from possessing or acquiring arms, including firearms and ammunition,
25 under state and federal law. Plaintiff Garr is the owner and operator of DG2A
26 Enterprises Inc., d.b.a. Gun World ("Gun World") in Burbank, California. Plaintiff
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1 Garr is concerned about his safety and the safety of his customers and the public. On
2 behalf of himself and his customers, Plaintiff Garr would sell and transfer arms,
3 including firearms, ammunition, magazines, and appurtenances, and would do so,
4 but for the reasonable and imminent fear of criminal prosecution and loss of his
5 license under Defendants' laws, policies, orders, practices, customs, and
6 enforcement thereof.
7

9
10 *Retailer Plaintiff*

11 10. Plaintiff DG2A Enterprises Inc., d.b.a. Gun World, is a limited liability
12 corporation and holds federal, state, and local licenses to conduct the sales of arms,
13 including firearms, ammunition, magazines, and appurtenances, in Burbank,
14 California. Plaintiff Gun World is concerned about its safety and the safety of its
15 customers and the public. On behalf of itself and its customers, Plaintiff Gun World
16 would sell and transfer arms, including firearms, ammunition, magazines, and
17 appurtenances, and would do so, but for the reasonable and imminent fear of criminal
18 prosecution and loss of its license under Defendants' laws, policies, orders, practices,
19 customs, and enforcement thereof.
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23 *Institutional Plaintiffs*

24 11. Plaintiff Second Amendment Foundation, Inc. ("SAF") is a nonprofit
25 educational foundation incorporated under the laws of Washington with its principal
26 place of business in Bellevue, Washington. SAF seeks to preserve the effectiveness
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1 of the Second Amendment through education, research, publishing, and legal action
2 programs focused on the Constitutional right to possess firearms, and the
3 consequences of gun control. SAF has over 650,000 members and supporters
4 nationwide, including thousands of members in California. SAF brings this action
5 on behalf of itself and its members. Individual Plaintiffs and Retailer Plaintiff are,
6 each and every one, members of SAF.
7

9 12. Plaintiff California Gun Rights Foundation (“CGF”) is a nonprofit
10 foundation incorporated under the laws of California with its principal place of
11 business in Sacramento, California. CGF serves its members, supporters, and the
12 public through educational, cultural, and judicial efforts to defend and advance
13 Second Amendment and related rights. CGF has thousands of members and
14 supporters in California, including in Los Angeles County and Individual and
15 Retailer Plaintiffs herein. The interpretation and enforcement of the Second
16 Amendment directly impacts CGF’s organizational interests, as well as the rights of
17 CGF’s members and supporters. CGF has expended and diverted resources, and
18 adversely and directly harmed, because of Defendants’ laws, policies, practices, and
19 customs challenged herein. CGF brings this action on behalf of itself, its members,
20 supporters who possess all the indicia of membership, and similarly situated
21 members of the public. Individual Plaintiffs and Retailer Plaintiff are, each and every
22 one, members of FPC.
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1 13. Plaintiff the National Rifle Association of America (“NRA”) is a
2 nonprofit corporation organized under the laws of the State of New York with its
3 principal place of business in Fairfax, Virginia. The NRA is America’s leading
4 provider of gun-safety and marksmanship education for civilians and law
5 enforcement. It is also an important defender of the Second Amendment to the
6 United States Constitution. The NRA has over five million members, and its
7 programs reach millions more. NRA’s members reside both outside and within the
8 State of California, including in Los Angeles County, California. NRA represents its
9 members and supporters and brings this action on behalf of itself, its members,
10 supporters who possess all the indicia of membership, and similarly situated
11 members of the public. NRA has expended and diverted resources, and adversely
12 and directly harmed, because of Defendants’ laws, policies, orders, practices, and
13 customs challenged herein.
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19 14. Plaintiff Firearms Policy Coalition, Inc. (“FPC”) is a non-profit
20 organization incorporated under the laws of Delaware with a place of business in
21 Sacramento, California. The purposes of FPC include defending and promoting the
22 People’s rights, especially but not limited to First and Second Amendment rights,
23 advancing individual liberty, and restoring freedom. FPC serves its members and the
24 public through legislative advocacy, grassroots advocacy, litigation and legal efforts,
25 research, education, outreach, and other programs. FPC’s members reside both
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1 outside and within the State of California, including in Los Angeles County,
2 California. FPC represents its members and supporters — who include gun owners,
3 individuals who wish to acquire firearms and ammunition, licensed California
4 firearm retailers, and others — and brings this action on behalf of itself, its members,
5 supporters who possess all the indicia of membership, and similarly situated
6 members of the public. FPC has expended and diverted resources, and adversely and
7 directly harmed, because of Defendants’ laws, policies, orders, practices, and
8 customs challenged herein. Individual Plaintiffs and Retailer Plaintiff are, each and
9 every one, members of FPC.
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13 *State Defendants*

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15 15. Defendant Gavin Newsom is the current Governor and Commander-in-
16 Chief of the State of California, and responsible for executing and administering
17 California’s laws, orders, customs, practices, and policies at issue in this lawsuit.
18 Defendant Newsom is sued in his official capacity. Defendant Newsom issued
19 Executive Order N-33-20, and prior orders proclaiming a state of emergency to exist
20 in California due to the threat of COVID-19.
21

22
23 16. Defendant Sonia Y. Angell is the California Public Health Officer.
24 Defendant Angell is the head of the California Department of Public Health
25 (“CDPH”). The CDPH is the State department responsible for public health in
26 California and a subdivision of the California Health and Human Services Agency
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1 (“CHHSA”). It enforces some of the laws in the California Health and Safety Codes,
2 including those at issue herein. Defendant Angell is sued in her official capacity.
3

4 *Local Defendants*

5 17. Defendant Alex Villanueva is sued in his official capacity as Sheriff of
6 Los Angeles County and head of Defendant Los Angeles County Sheriff’s
7 Department, and in his capacity as the Director of Emergency Operations.
8

9 18. Defendant Barbara Ferrer is sued in her official capacity as Director of
10 the Los Angeles County Department of Public Health, a department of Defendant
11 County of Los Angeles.
12

13 19. Defendant County of Los Angeles, California is a local governmental
14 entity organized under the Constitution and laws of the State of California,
15 possessing legal personhood within the meaning of 42 U.S.C. § 1983. The County is
16 responsible for executing and administering its laws, orders, customs, practices, and
17 policies at issue in this lawsuit.
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20 **JURISDICTION AND VENUE**

21 20. This Court has jurisdiction over all claims for relief pursuant to 28
22 U.S.C. §§ 1331, 1343, 2201, and 2202, and 42 U.S.C. §§ 1983 and 1988, as this
23 action seeks to redress the deprivation under color of the laws, statutes, ordinances,
24 regulations, customs, and usages of the State of California, of the rights, privileges
25 or immunities secured by the United States Constitution.
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1 21. Venue lies in this Court under 28 U.S.C. § 1391, as the events giving
2 rise to Plaintiffs’ causes of action arose or exist in this District in which the action is
3 brought. Venue is also proper under 28 U.S.C. § 1391, as the venue rules of this State
4 specifically permit this action to be filed in Los Angeles, since Defendants maintain
5 offices within this District; Cal. Code of Civ. Pro. § 401(1).
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8 **PERTINENT CONSTITUTIONAL PROVISIONS**

9 22. The Second Amendment to the United States Constitution provides:

10 A well-regulated Militia being necessary to the security of
11 a free State, the right of the people to keep and bear Arms
12 shall not be infringed.
13

14 23. The Second Amendment “guarantee[s] the individual right to possess
15 and carry weapons in case of confrontation.” *District of Columbia v. Heller*, 554
16 U.S. 570, 592 (2008). And it “elevates above all other interests the right of law-
17 abiding, responsible citizens to use arms in defense of hearth and home.” *Id* at 635.
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20 24. The Second Amendment is fully applicable to the States through the
21 Fourteenth Amendment’s Due Process and Privileges or Immunities Clauses.
22 *McDonald v. City of Chicago*, 561 U.S. 742, 750 (2010); *id.* at 805 (Thomas, J.,
23 concurring).
24

25 25. The Fourteenth Amendment to the United States Constitution provides
26 in pertinent part:
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1 No state shall make or enforce any law which shall abridge
2 the privileges or immunities of citizens of the United
3 States; nor shall any state deprive any person of life,
4 liberty, or property, without due process of law; nor deny
5 to any person within its jurisdiction the equal protection of
6 the laws.

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PERTINENT STATUTES AND REGULATIONS

9

10 26. Effective March 19, 2020, Governor Gavin Newsom signed Executive
11 Order N-33-20,¹ directing all individuals living in California to “stay home or at their
12 place of residence except as needed to maintain continuity of operations of the
13 federal critical infrastructure sectors.” This Order is in place until further notice. The
14 Order states that the Governor “may designate additional sectors” but does not
15 identify any other sectors or provide definitions or clarity on the scope and extent of
16 such sectors. Further, the Order provides that Californians working in critical
17 infrastructure sectors may continue their work because of the importance of these
18 sectors to Californians’ health and well-being. The Order states that Californians
19 must nonetheless have access to “necessities” but the term is not fully defined. It
20 provides that when “people need to leave their homes or places of residence, whether
21 to obtain or perform” critical infrastructure, or “to otherwise facilitate authorized
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28 ¹Executive Department, State of California, Executive Order N-33-20,
<https://covid19.ca.gov/img/Executive-Order-N-33-20.pdf>.

1 necessary activities,” should practice social distancing. The Order does not define
2 what is meant by “authorized necessary activities.” The Order “shall be enforceable
3 pursuant to California law, including, but not limited to, Government Code section
4 8665.”
5

6
7 27. Government Code section 8665 states:

8 Any person who violates any of the provisions of this
9 chapter or who refuses or willfully neglects to obey any
10 lawful order or regulation promulgated or issued as
11 provided in this chapter, shall be guilty of a misdemeanor
12 and, upon conviction thereof, shall be punishable by a fine
13 of not to exceed one thousand dollars (\$1,000) or by
imprisonment for not to exceed six months or by both such
fine and imprisonment.

14 28. On March 19, 2020, the County of Los Angeles Department of Public
15 Health, through its Health Officer, issued an Order titled, “Safer at Home Order for
16 Control of COVID-19,” which addressed, among other things, the “Closure of Non-
17 Essential Businesses and Areas.” This Order clarifies that it does not prohibit any
18 individual or family from “shopping at Essential Businesses” provided social
19 distancing is practiced “to the extent practicable.” Without doubt, however, the
20 Order “requires all ... non-essential businesses to close” and do so “immediately.”
21 The Order’s reach extends to “all cities in Los Angeles County (except Pasadena and
22 Long Beach). Further, the order states that “[v]iolation of this Order is a
23 misdemeanor punishable by imprisonment, fine, or both under California Health and
24 Section Code 120295 *et seq.*”
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1 29. Health & Safety Code section 120295 states:

2 Any person who violates Section 120130 or any section in
3 Chapter 3 (commencing with Section 120175, but
4 excluding Section 120195), is guilty of a misdemeanor,
5 punishable by a fine of not less than fifty dollars (\$50) nor
6 more than one thousand dollars (\$1,000), or by
7 imprisonment for a term of not more than 90 days, or by
8 both. He or she is guilty of a separate offense for each day
9 that the violation continued.

10 30. “Non-Essential Retail Businesses” are defined as “retail establishments
11 that provide goods and services to the public that do not come within the definition
12 of Essential Businesses set forth in Paragraph 13 of this Order.” Paragraph 13 defines
13 “Essential Businesses.” “Essential Businesses” are ... other establishments engaged
14 in the retail sale of ...household consumer products ... and this includes “stores that
15 sell ... other ... products necessary to maintaining the safety ... and essential
16 operation of residences.” Other “Essential Businesses” encompass”

17
18 (h) ... other service providers who provide services to maintain the
19 safety... and essential operation to properties and other Essential
20 Businesses.

21 ...

22 (q) Businesses that provide parts and service for Essential
23 Infrastructure;

24 ...

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1 (u) Military/Defense Contractors/FFRDC (Federally Funded Research
2 and Development Centers)”²

3 31. On March 26, 2020, Defendant Sheriff Villanueva, through the Los
4 Angeles County Sheriff twitter account, released an image of his March 26, 2020
5 Order stating, “[b]y order of the Sheriff of Los Angeles County, gun and ammunition
6 stores are not considered essential businesses and must close to the general public,
7 in Compliance with Executive Order-N-33-20 and County of Los Angeles Safer at
8 Home Order for Control of COVID-19.”³
9
10

11
12 **STATEMENT OF FACTS**

13 32. Individuals have a right to buy, sell, and transfer arms, including but
14 not limited to, firearms, ammunition, magazines, and required appurtenances.
15

16 33. On March 4, 2020, Defendant Newsom proclaimed a State of
17 Emergency as a result of COVID-19.
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19 34. On March 19, 2020, Governor Gavin Newsom signed Executive Order
20 N-33-20 identifying operations of the federal critical infrastructure sectors, as
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25 _____
26 ² [http://file.lacounty.gov/SDSInter/lac/1070029_COVID-](http://file.lacounty.gov/SDSInter/lac/1070029_COVID-19_SaferAtHome_HealthOfficerOrder_20200319_Signed.pdf)
27 [19_SaferAtHome_HealthOfficerOrder_20200319_Signed.pdf](http://file.lacounty.gov/SDSInter/lac/1070029_COVID-19_SaferAtHome_HealthOfficerOrder_20200319_Signed.pdf).

28 ³ <https://twitter.com/LACoSheriff/status/1243237017049128961/photo/1>.

1 outlined at [https://www.cisa.gov/identifying-critical-infrastructure-during-covid-](https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19)
2 19.⁴

3
4 35. On or about March 19, 2020, Defendant Angell issued an Order of the
5 State Public Health Officer, “order[ing] all individuals living in the State of
6 California to stay home or at their place of residence.”⁵

7
8 36. Defendant Angell’s Order provided exceptions for 16 “critical
9 infrastructure sectors” identified by the federal government, which were permitted
10 to remain open due to their importance to Californians’ health and well-being. These
11 sectors “are considered so vital to the United States that their incapacitation or
12 destruction would have a debilitating effect on security, economic security, public
13 health or safety, or any combination thereof.”

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16 37. Defendant Angell’s Order also reserved to Defendant Angell the
17 authority to “designate additional sectors as critical in order to protect the health and
18 well-being of all Californians.”

19
20 38. An express purpose of Defendant Angell’s order is to “establish
21 consistency across the state.”

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25 ⁴ Executive Department, State of California, Executive Order N-33-20,
26 <https://covid19.ca.gov/img/Executive-Order-N-33-20.pdf>.

27 ⁵ Order of the State Public Health Officer, Mar. 19, 2020,
28 [https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/
COVID-19/Health%20Order%203.19.2020.pdf](https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Health%20Order%203.19.2020.pdf).

1 39. On or about March 19, 2020, Defendant Newsom issued Executive
2 Order N-33-20, directing all residents “to immediately heed the current State public
3 health directives.”⁶ Defendant Newsom’s Executive Order included the full text of
4 Defendant Angell’s Order of the State Public Health Officer.
5

6 40. On or about March 22, 2020, in accordance with Defendant Newsom’s
7 Executive Order N-33-20 and her own Order of the State Public Health Officer,
8 Defendant Angell designated a list of “Essential Critical Infrastructure Workers.”⁷
9

10 41. On or about March 24, 2020, in accordance with Defendant Newsom’s
11 Executive Order N-33-20, Los Angeles County Sheriff, and Director of Emergency
12 Operations Alex Villanueva declared all firearms retailers in the County of Los
13 Angeles to be “non-essential.”
14

15 42. Also on or about March 24, 2020, in accordance with Defendant
16 Newsom’s Executive Order N-33-20, the San Diego Sheriff declared that firearm
17 retailers “valuable public service” during the coronavirus pandemic and will be
18 allowed to remain open. Sheriff Gore stated that licensed gun stores help maintain
19 public safety by ensuring that buyers submit to a ten-day waiting period and pass a
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25 ⁶ Executive Order N-33-20, Mar. 19, 2020,
26 <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf>.

27 ⁷ Essential Critical Infrastructure Workers, Mar. 22, 2020,
28 <https://covid19.ca.gov/img/EssentialCriticalInfrastructureWorkers.pdf>.

1 state license check. Sheriff Gore also warned that gun buyers could turn to the “black
2 market” for illegal weapons if they can’t buy them legally at licensed stores.⁸

3
4 43. Defendant Sheriff Villanueva “told FOX 11 he’s adding 1,300 deputies
5 to patrol, doubling the current amount, and in an effort to prevent the spread of the
6 coronavirus in jail, he has released 10% of the inmate population from county
7 jails...”⁹

8
9 44. On or about March 25, 2020, Sheriff Villanueva announced that the
10 *enforcement* of the closure of firearm retailers was temporarily suspended; pending
11 a decision on their classification as non-essential by Gov. Newsom.¹⁰

12
13 45. On or about March 25, 2020, Governor Newsom issued a public
14 statement that County Sheriffs had the discretion to determine the essential nature of
15 firearms retailers in the state of California.
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21 ⁸ NBC San Diego, “Sheriff Will Not Close San Diego County Gun Stores,”
22 <https://www.nbcsandiego.com/news/investigations/sheriff-will-not-close-san-diego-county-gun-stores/2292399/>.

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24 ⁹ FOX 11 Los Angeles, “LA County Sheriff orders gun stores to close; adds 1,300
25 deputies to patrol,” <https://www.foxla.com/news/la-county-sheriff-orders-gun-stores-to-close-adds-1300-deputies-to-patrol>.

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27 ¹⁰ NBC Los Angeles, “LA County Sheriff Reverses Decision on Closing Gun
28 Shops,” <https://www.nbclosangeles.com/news/local/coronavirus-covid-19-los-angeles-county-sheriff-gun-shops-second-amendment/2334792/>.

1 46. Subsequently, on March 26, 2020, Sheriff Villanueva reversed his
2 position and stated that firearms retailers are now considered “non-essential” and
3 “must close to the general public, in compliance with the Executive Order N-33-20
4 and the County of Los Angeles Safer at Home Order for Control of COVID-19.”¹¹
5

6 47. Sheriff Villanueva’s Order specified that licensed firearm retailers shall
7 be permitted to sell ammunition to “security guard companies” and those who “have
8 already lawfully purchased a firearm, possess a valid California Firearms Safety
9 Certificate (CFS), and simply need to take possession of their firearm.
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12 48. Plaintiff Brandy purchased his first firearm on March 18, 2020. He is
13 eligible to pick up his firearm from Oak Tree Gun Club on March 28, 2020. Under
14 Sheriff Villanueva’s current Order, Plaintiff Brandy will be able to take possession
15 of his firearm. However, Plaintiff Brandy is now unable to purchase any ammunition
16 for his firearm or able to purchase an additional firearm due to Sheriff Villanueva’s
17 most recent Order prohibiting firearm and ammunition sales in Los Angeles County.
18 Plaintiff Brandy does not own or possess any ammunition, and is prohibited from
19 purchasing ammunition except through a license ammunition vender under
20 California law. See California Penal Code sections 30352, 30370. Thus, Plaintiff
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27 ¹¹ WTRF.com, “Déjà vu: LA County Sheriff Closes Gun Shops Again,”
28 <https://www.wtrf.com/news/national/deja-vu-la-county-sheriff-closes-gun-shops-again/>.

1 Brandy is prohibited from exercising his Second Amendment right to protect himself
2 and his family.

3
4 49. Plaintiff Daemion Garr and Gun World have been forced to shutdown,
5 reopen, and shutdown again due to the extremely vague nature of the Governor
6 Newsom's Executive Order and the flip-flopping nature of Sheriff Villanueva's
7 position on the essential nature of firearms retailers. This forced shutdown has
8 prevented Plaintiffs Garr and Gun World from providing necessary services and
9 products to ensure the fundamental rights of their customers and the customers
10 safety. Plaintiff Garr and Gun World business and activities of selling firearms are
11 lawful and necessary for the safety and welfare of the public. Plaintiff Garr's
12 business and activities of selling firearms to the general public are protected by the
13 United States Constitution, by the laws of the State of California, and authorized
14 under the State and County Orders.

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19 50. Cities within the jurisdiction of Los Angeles County Sheriff's Order
20 have admitted to the confusion of the Governor's Executive Order and Sheriff
21 Villanueva's changing positions on the essential nature of firearm retailers. The City
22 of Burbank issued the following statement on March 25, 2020 regarding gun stores:
23

24
25 There has been confusion on certain categories of essential businesses,
26 including gun shows. The County has clarified gun shops are essential
27 businesses under the Safer at Home Order, which aligns with the
28 Governor's stay at home executive order, and may remain open. Unfortunately, the Sheriff added to the confusion yesterday when he announced gun shops should be closed, but last night he reversed

1 himself. The City is under the jurisdiction of Los Angeles County
2 Public Health for purposes of the pandemic, and as such the City
3 follows their orders.¹²

4 51. Plaintiffs, as well as those similarly situated, seek to exercise their
5 Second Amendment right to defend themselves and their families, especially in times
6 of crisis such as this. The extremely vague nature of the Governor's Executive Order,
7 the County of Los Angeles Public Health Order, and Sheriff Villanueva's Orders
8 have only served to confuse those wishing to ensure their safety and subjected
9 Plaintiffs and those similarly situated to criminal liability for violation of said orders.
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12 52. As to all claims made in a representative capacity herein, there are
13 common questions of law and fact that substantially affect the rights, duties, and
14 liabilities of many similarly-situated California residents and visitors who knowingly
15 or unknowingly are subject to the California statutes, regulations, policies, practices,
16 and customs in question. The relief sought in this action is declaratory and injunctive
17 in nature, and the action involves matters of substantial public interest.
18 Considerations of necessity, convenience, and justice justify relief to individual and
19 institutional Plaintiffs in a representative capacity. Further, to the extent it becomes
20 necessary or appropriate, the institutional Plaintiffs are uniquely able to
21 communicate with and provide notice to their thousands of California members and
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28 ¹² Burbank Police COVID-19 Updates, <https://www.burbankpd.org/covid19/>.

1 constituents who are or would be party to any identifiable class of individuals for
2 whose benefit this Court may grant such relief.
3

4 **DECLARATORY JUDGMENT ALLEGATIONS**

5 53. There is an actual and present controversy between the
6 parties. Plaintiffs contend that Executive Order N-33-20, Safer at Home Order For
7 Control of COVID-19, the Los Angeles County Sheriff's March 26, 2020 Order, and
8 Defendants' policies, practices, and customs, infringe on Plaintiffs' rights by
9 prohibiting Plaintiffs and other law-abiding individuals from, *inter alia*, keeping,
10 bearing, buying, selling, transferring, possessing, and/or transporting arms. Plaintiffs
11 desire a judicial declaration that Executive Order N-33-20, Safer at Home Order For
12 Control of COVID-19, the Los Angeles County Sheriff's March 26, 2020 Order and
13 Defendants' policies, practices, and customs violate Plaintiffs' constitutional rights.
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18 **INJUNCTIVE RELIEF ALLEGATIONS**

19 54. Plaintiffs are presently and continuously injured by Defendants'
20 enforcement of Executive Order N-33-20, Safer at Home Order For Control of
21 COVID-19, the Los Angeles County Sheriff's March 26, 2020 Order, and
22 Defendants' policies, practices, and customs, insofar as those provisions violate
23 Plaintiffs' rights under the Due Process, Second and Fourteenth Amendments by
24 prohibiting the lawful acquisition, sale, transfer, transport, use, and ownership of
25 constitutionally protected arms.
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1 55. If not enjoined by this Court, Defendants will continue to enforce
2 Executive Order N-33-20, Safer at Home Order For Control of COVID-19, the Los
3 Angeles County Sheriff's March 26, 2020 Order and Defendants' policies, practices,
4 and customs in derogation of the constitutional rights of Plaintiffs and similarly
5 situated law-abiding people.
6

7
8 56. Plaintiffs have no plain, speedy, and adequate remedy at law. Except
9 for the economic damages to Retailer Plaintiffs, damages are indeterminate or
10 unascertainable and, in any event, would not fully redress any harm suffered by
11 Plaintiffs because they are unable to engage in constitutionally protected activity.
12

13
14 **COUNT ONE**
15 **DEPRIVATION OF CIVIL RIGHTS**
16 **42 U.S.C. § 1983**
17 **(Right to Keep and Bear Arms)**

18 57. Plaintiffs incorporate herein by reference paragraphs 1 through 56 as if
19 fully set forth herein.

20 58. There is an actual and present controversy between the parties.
21

22 59. Executive Order N-33-20, Safer at Home Order For Control of COVID-
23 19, the Los Angeles County Sheriff's March 26, 2020 Order and Defendants'
24 policies, practices, and customs prohibit law-abiding individuals from purchasing
25 firearms and ammunition for the purpose of protecting themselves and their families
26 (or for any other purpose). Independently and collectively, these acts stand as a bar
27
28

1 on firearms acquisition and ownership and amount to a categorical ban on and
2 infringement of the right to keep and bear arms and the privileges and immunities of
3
4 citizenship.

5 60. State and local governments do not have the power to categorically
6 prohibit the keeping and bearing of arms by law-abiding people, nor to close off the
7
8 channels of access by which people lawfully obtain and transfer firearms and
9
10 ammunition.

11 61. Defendants' directives in Executive Order N-33-20, Safer at Home
12 Order For Control of COVID-19, and the Los Angeles County Sheriff's March 26,
13
14 2020 Order amount to a ban on purchasing and transferring firearms and
15
16 ammunition. As a result, those law-abiding citizens who wish to comply with state
17
18 laws, by submitting to, e.g., background checks, waiting period laws, in-person
19 transfers and safety tests and demonstrations, are foreclosed from acquiring firearms
20 and ammunition legally.

21 62. Defendants' policies, laws, acts, and omissions are untailed and
22
23 irrational, and expressly allow some goods retailers to continue operating but prevent
24
25 Retailer Plaintiff and others similarly situated from operating and selling their goods
26
27 to their customers and members of the public, including Individual Plaintiffs and
28
Institutional Plaintiffs' members, violating Plaintiffs' rights.

1 63. Defendants' policies, practices, customs and enforcement of Executive
2 Order N-33-20, Los Angeles County Safer at Home Order For Control of COVID-
3
4 19, and the Los Angeles County Sheriff's March 26, 2020 Order independently
5 stands as a ban on purchasing and transferring firearms and ammunition.

6 64. Individual and Retailer Plaintiffs reasonably fear that Defendants will
7
8 enforce against them Executive Order N-33-20, Los Angeles County Safer at Home
9 Order for Control of COVID-19, the Los Angeles County Sheriff's March 26, 2020
10 Order and Defendants' related policies, practices, and customs.

11 65. Institutional Plaintiffs reasonably fear that Defendants will enforce
12
13 against their members, including Individual and Retailer Plaintiff and similarly
14
15 situated persons, the challenged laws, policies, practices, and customs.

16 66. Defendants' laws and ongoing enforcement and threats of enforcement
17
18 of Executive Order N-33-20, Safer at Home Order For Control of COVID-19, the
19 Los Angeles County Sheriff's March 26, 2020 Order against the Plaintiffs and/or the
20 Plaintiffs' members, as well as their ongoing customs, polices, and/or practices of
21
22 Executive Order N-33-20, Los Angeles County Safer at Home Order For Control of
23 COVID-19, and the Los Angeles County Sheriff's March 26, 2020 Order, violate
24
25 the Second and Fourteenth Amendments.

26 67. Defendants' laws and ongoing enforcement and threats of enforcement
27
28 of Executive Order N-33-20, Safer at Home Order For Control of COVID-19, the

1 Los Angeles County Sheriff’s March 26, 2020 Order against the Plaintiffs and/or the
2 Plaintiffs’ members, as well as their ongoing policy or practice of Executive Order
3
4 N-33-20, Safer at Home Order For Control of COVID-19, the Los Angeles County
5 Sheriff’s March 26, 2020 Order, prevents the Plaintiffs, Plaintiffs’ members, and
6
7 those similarly situated from exercising their rights, including the purchase, sale, and
8
9 transfer of constitutionally protected arms including but not limited to firearms,
10
11 ammunition, magazines, and appurtenances, thus causing injury and damage that is
12
13 actionable under 42 U.S.C. § 1983.

12
13 **COUNT TWO**
14 **42 U.S.C. § 1983**
15 **(Due Process / Vagueness)**

15 68. Plaintiffs incorporate herein by reference paragraphs 1 through 67 as if
16
17 fully set forth herein.

18 69. Plaintiffs are comprised of individuals, firearms retailers, and
19
20 institutional entities who desire to shop, purchase, transfer and sell firearms,
21
22 including ammunition, magazines, and appurtenances, but are precluded from doing
23
24 so — without fear of criminal prosecution — as a direct result of the unlawful, vague,
25
26 and unduly overbroad laws, orders, policies, practices, customs, and enforcement
27
28 issued by Defendants in this case. Retailer Plaintiff, and other similarly-situated
29
30 retailers, should be deemed “Essential Businesses” exempted from the mandates
31
32 under the subject Orders.

1 70. For example, Paragraph 13(a) of the County’s “Safer at Home” Order
2 encompasses “Essential Businesses” including “establishments engaged in the retail
3 sale of ... other household consumer products ... [including] stores that sell ...
4 products necessary to maintaining the safety ... and essential operation of
5 residences.” Paragraph 13(h) includes “Essential Businesses” such as “other service
6 providers who provide services to maintain the safety ... and essential operation of
7 properties and other Essential Businesses.” Paragraph 13(n) encompasses businesses
8 that “supply other Essential Businesses with the support or supplies necessary to
9 operate.” Paragraph 13(o) protects “businesses that ship ... goods ... to residences,
10 Essential Businesses[.]”
11
12
13
14

15 71. Retailer Plaintiff, and others similarly situated, are firearms dealers
16 supplying retail sales and services for self-defense and law enforcement (itself an
17 essential service). These sales include items like firearms, ammunition, accessories,
18 appurtenances, survival gear, and other consumer products both at retail and on-line
19 (including shipping). The services include those that are mandated by state law to
20 effect firearm transfers, such as the initiation of background checks, administration
21 and collection of personal identifying data (including fingerprints), administration of
22 waiting period laws, administration of firearm safety tests and safe handling
23 demonstrations, all of which must be conducted in person pursuant to state law.
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1 72. These same Plaintiffs fall within the above “Essential Businesses”
2 definitions because they are establishments engaged in the retail sale of household
3 consumer products necessary for maintaining the safety of its residents, including
4 the sale or transfer of pistols, rifles, shotguns, ammunitions, accessories, and
5 components necessary for the defense of their home, selves, and defense of others.
6 They are service providers who provide products such as firearms, ammunition, and
7 servicing of same that are needed to maintain the safety and essential operation of
8 residences (home and personal defense) and other essential businesses. They are
9 businesses that ship goods to residences and essential businesses.
10
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13 73. However, the subject Orders do not define critical terms; they
14 encompass protected and non-protected actions; they omit definitions of key terms;
15 they operate as complete bans; they do not require specific intent to commit an
16 unlawful act; and they permit and encourage arbitrary and erratic arrests and
17 convictions with too much discretion committed to law enforcement. This breadth
18 and built-in vagueness run afoul of the due process clause because the subject Orders
19 fail to give adequate guidance to those who would be law-abiding, to advise them of
20 the nature of the offense with which they may be charged, or to guide courts in trying
21 those who are accused of violating such Orders. Plaintiffs, including retailers and
22 consumers, cannot be required to guess at the meaning of such Orders. As a direct
23 result, such Orders must be invalidated on their face and as applied.
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1 and purchase of firearms and ammunition during declared states of
2 emergency violates the Second and Fourteenth Amendments;

3
4 IV. A preliminary and permanent injunction restraining Defendants and
5 their officers, agents, servants, employees, and all persons in concert or
6 participation with them who receive notice of the injunction, from
7 enforcing Executive Order N-33-20, Los Angeles County Safer at
8 Home Order For Control of COVID-19, the Los Angeles County
9 Sheriff's March 26, 2020 Order, and Defendants' policies, practices,
10 and customs that individually and/or collectively prohibit the purchase
11 and sale of firearms and ammunition;

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15 V. An injunction directing Defendants and their officers, agents, servants,
16 employees, and all persons in concert or participation with them who
17 receive notice of the injunction, to cease and desist enacting or
18 enforcing any Order or declaration that firearm and ammunition
19 retailers are not an essential business, or, in the alternative, an
20 injunction preventing Defendants from enforcing their laws, policies,
21 practices, and customs that prevent individuals from buying and selling
22 arms in accordance with State and federal laws;

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26 VI. Nominal damages against Local Defendants;

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1 VII. All other and further relief, including injunctive relief, against
2 Defendants as necessary to effectuate the Court's judgment, or as the
3 Court otherwise deems just and equitable; and,
4

5 VIII. Attorney's fees and costs pursuant to 42 U.S.C. § 1988 and any other
6 applicable law.
7

8 Respectfully submitted this 27th day of March 2020.
9

10 **SEILER EPSTEIN LLP**

11
12 */s/ George Lee* _____
13 George M. Lee

14 Attorney for Plaintiffs
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