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14 **UNITED STATES DISTRICT COURT**
15 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

16 LANA RAE RENNA, an individual;
17 DANIELLE JAYMES, an individual;
18 HANNAH SPOUSTA, an individual;
19 LAURA SCHWARTZ, an individual;
20 MICHAEL SCHWARTZ, an individual;
21 RICHARD BAILEY, an individual;
22 JOHN KLIER, an individual; JUSTIN
23 SMITH, an individual; JOHN
24 PHILLIPS, an individual; PWGG, L.P., a
25 California Limited Partnership;
26 CHERYL PRINCE, an individual;
27 DARIN PRINCE, an individual; NORTH
28 COUNTY SHOOTING CENTER, INC.,
a California Corporation; RYAN
PETERSON, an individual;
GUNFIGHTER TACTICAL, LLC, a
California Limited Liability Company;
FIREARMS POLICY COALITION,
INC.; SAN DIEGO COUNTY GUN
OWNERS PAC; CITIZENS

Case No. '20CV2190 DMS DEB

**COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF**

1 COMMITTEE FOR THE RIGHT TO
2 KEEP AND BEAR ARMS; and
3 SECOND AMENDMENT
FOUNDATION,

4 Plaintiffs,

5 vs.

6 XAVIER BECERRA, in his official
7 capacity as Attorney General of
8 California; and LUIS LOPEZ, in his
9 official capacity as Director of the
10 Department of Justice Bureau of
Firearms,

11 Defendants.

12
13 Plaintiffs Lana Rae Renna, Danielle Jaymes, Hannah Spousta, Laura
14 Schwartz, Michael Schwartz, Richard Bailey, John Klier, Justin Smith, John
15 Phillips, PWGG, L.P., Cheryl Prince, Darin Prince, North County Shooting Center,
16 Inc., Ryan Peterson, Gunfighter Tactical, LLC, Firearms Policy Coalition, Inc., San
17 Diego County Gun Owners PAC, Citizens Committee for the Right to Keep and Bear
18 Arms, and Second Amendment Foundation (collectively “Plaintiffs”), by and
19 through counsel of record, bring this complaint for injunctive and declaratory relief
20 against the named Defendants, and allege as follows:
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23

24 **INTRODUCTION**

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26 1. This case, as in *Duncan v. Becerra*, S.D.Cal. no. 3:17-cv-01017- BEN-
27 JLB, and the closely-related *Miller, et al., v. Becerra*, S.D.Cal. no. 19-cv-1537-BEN
28

1 (JLB), is a challenge to the State of California’s ban on the sale and personal
2 construction of constitutionally protected arms in common use for lawful purposes.
3

4 2. “In *Heller*, the U.S. Supreme Court provided a simple Second
5 Amendment test in crystal clear language. It is a test that anyone can understand.
6 The right to keep and bear arms is a right enjoyed by law-abiding citizens to have
7 arms that are not unusual in common use for lawful purposes like self-defense.”
8 *Duncan v. Becerra*, 366 F. Supp. 3d 1131, 1142 (S.D. Cal. 2019) (internal quotations
9 omitted) (citing *District of Columbia v. Heller*, 554 U.S. 570, 624, 128 S.Ct. 2783,
10 171 L.Ed.2d 637 (2008)).
11
12

13 3. The State of California’s “unsafe handgun” statutes, Cal. Penal Code
14 §§ 31900, et seq. and 32000, et seq., personal manufacturing ban statute at Penal
15 Code § 29182(e)(2), and Defendants’ regulations, policies, and practices enforcing
16 the State’s regulatory scheme (collectively hereinafter referred to as “California’s
17 Handgun Ban”), individually and collectively prevent ordinary law-abiding citizens
18 who are not prohibited from possessing or acquiring firearms from purchasing
19 categorically protected handguns that are in common use for self-defense and other
20 lawful purposes, and further prevent licensed retailers from selling such handguns to
21 typical law-abiding individuals, and thus violate the Second and Fourteenth
22 Amendments to the United States Constitution.
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27 4. This case is a good faith effort to address California’s Handgun Ban as
28

1 it has been recently amended and to change the state of the law as required to
2 conform it to the Constitution’s text, and as the Supreme Court established in *District*
3 *of Columbia v. Heller*, 554 U.S. 570 (2008), *McDonald v. City of Chicago*, 561 U.S.
4 742 (2010), and *Caetano v. Massachusetts*, 136 S. Ct. 1027 (2016).
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8 **PARTIES**

9 5. Plaintiff Lana Rae Renna is a natural person and a citizen of the State
10 of California, residing in San Diego County, California.
11

12 6. Plaintiff Danielle Jaymes is a natural person and a citizen of the State
13 of California, residing in San Diego County, California.
14

15 7. Plaintiff Hannah Spousta is a natural person and a citizen of the State
16 of California, residing in San Diego County, California.
17

18 8. Plaintiff Justin Smith is a natural person and a citizen of the State of
19 California, residing in San Diego County, California.

20 9. Plaintiff Richard Bailey is a natural person and a citizen of the State of
21 California, residing in Coronado, California.
22

23 10. Plaintiff John Klier is a natural person and a citizen of the State of
24 California, residing in San Diego County, California.
25

26 11. Plaintiff Michael Schwartz (“M. Schwartz”) is a natural person and a
27 citizen of the State of California, residing in San Diego County, California.
28

1 12. Plaintiff Laura Schwartz (“L. Schwartz”) is a natural person and a
2 citizen of the State of California, residing in San Diego County, California.

3
4 13. Plaintiff John Phillips is a natural person and a citizen of the State of
5 California, residing in San Diego County, California.

6
7 14. Plaintiff PWGG, L.P. (“PWG”), a California limited partnership doing
8 business as “Poway Weapons & Gear” and “PWG Range,” is a licensed firearms
9 retailer, shooting range, and training facility in the City of Poway, within San Diego
10 County, California.

11
12 15. Plaintiff Cheryl Prince (“C. Prince”) is a natural person and a citizen of
13 the State of California, residing in San Diego County, California.

14
15 16. Plaintiff Darin Prince (“D. Prince”) is a natural person and a citizen of
16 the State of California, residing in San Diego County, California.

17
18 17. Plaintiff North County Shooting Center, Inc. (“NCSC”), a California
19 corporation, is a licensed firearms retailer, shooting range, and training facility, in
20 the City of San Marcos, within San Diego County, California.

21
22 18. Plaintiff Ryan Peterson is a natural person and a citizen of the State of
23 California, residing in San Diego County, California.

24
25 19. Plaintiff Gunfighter Tactical, LLC (“GT”), a California limited liability
26 corporation doing business as “Gunfighter Tactical,” is a federally and state-licensed
27 firearms retailer in the City of San Diego, California.
28

1 20. Plaintiff Firearms Policy Coalition, Inc. (“FPC”) is a nonprofit
2 organization incorporated under the laws of Delaware with a place of business in
3 California. The purposes of FPC include defending and promoting the People’s
4 rights—especially but not limited to First and Second Amendment rights—
5 advancing individual liberty and restoring freedom. FPC serves its members and the
6 public through legislative advocacy, grassroots advocacy, litigation and legal efforts,
7 research, education, outreach, and other programs. FPC has members in the State of
8 California, including in San Diego County. FPC represents its members and
9 supporters—who include individual gun owners and other law-abiding persons who
10 wish to acquire handguns unlawful for sale to them under California’s Handgun Ban,
11 licensed California firearm retailers, shooting ranges, trainers and educators, and
12 others—and brings this action on behalf of itself, its members, supporters who
13 possess all the indicia of membership, and similarly situated members of the public.
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19 21. Plaintiff San Diego County Gun Owners PAC (“SDCGO”) is a local
20 political organization whose purpose is to protect and advance the Second
21 Amendment rights of residents of San Diego County, California, through their
22 efforts to support and elect local and state representatives who support the Second
23 Amendment right to keep and bear arms. SDCGO’s membership and donors consist
24 of Second Amendment supporters, people who own guns for self-defense and sport,
25 firearms dealers, shooting ranges, and elected officials who want to restore and
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27
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1 protect the right to keep and bear arms in California. The interests that SDCGO seeks
2 to protect in this lawsuit are germane to the organization’s purposes, and, therefore,
3
4 SDCGO sues on its own behalf and on behalf of its members and supporters.

5 22. Plaintiff Citizens Committee for the Right to Keep and Bear Arms
6 (“CCRKBA”) is a nonprofit organization incorporated under the laws of Washington
7
8 with its principal place of business in Bellevue, Washington. CCRKBA is dedicated
9 to promoting the benefits of the right to bear arms. CCRKBA has members and
10 supporters nationwide, including thousands of members in California and in the
11 County of San Diego, California. CCRKBA brings this action on behalf of itself, its
12 members, supporters who possess all the indicia of membership, and similarly
13 situated members of the public.
14

15
16 23. Plaintiff Second Amendment Foundation (“SAF”) is a nonprofit
17 educational foundation incorporated under the laws of Washington with its principal
18 place of business in Bellevue, Washington. SAF seeks to preserve the effectiveness
19 of the Second Amendment through education, research, publishing, and legal action
20 programs focused on the Constitutional right to possess firearms, and the
21 consequences of gun control. SAF has over 650,000 members and supporters
22 nationwide, including thousands of members in California and in the County of San
23 Diego, California. SAF brings this action on behalf of itself, its members, supporters
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1 who possess all the indicia of membership, and similarly situated members of the
2 public.¹

3
4 24. Defendant Xavier Becerra is the Attorney General of the State of
5 California, and is sued herein in his official capacity. Under Article 5, § 13 of the
6 California Constitution, Attorney General Becerra is the “chief law officer of the
7 State,” with a duty “to see that the laws of the state are uniformly and adequately
8 enforced.” Defendant Becerra is the head of the California Department of Justice
9 (“DOJ”). Defendant Becerra’s DOJ and its Bureau of Firearms regulate and enforce
10 state law related to the sales, transfer, possession, and ownership of firearms. The
11 Attorney General and DOJ maintain an office in San Diego, California.

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14
15 25. Defendant Luis Lopez is the Director of the DOJ’s Bureau of Firearms.
16 On information and belief, Defendant Lopez reports to Attorney General Becerra,
17 and he is responsible for the various operations of the Bureau of Firearms, including
18 the implementation and enforcement of the statutes, regulations and policies
19 regarding firearm and ammunition sales, possession, transfers. Defendant Lopez is
20 sued in his official capacity.
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26
27 ¹ Collectively, the individual Plaintiffs are referred to as “Individual Plaintiffs,”
28 Plaintiffs PWG, NCSC, and GT are referred to as “Retailer Plaintiffs,” and Plaintiffs
FPC, SDCGO, CCRKBA, and SAF are referred to as “Institutional Plaintiffs.”

1 **JURISDICTION AND VENUE**

2 26. This Court has jurisdiction over all claims for relief pursuant to 28
3 U.S.C. §§ 1331, 1343, 2201, and 2202, and 42 U.S.C. §§ 1983 and 1988, as this
4 action seeks to redress the deprivation under color of the laws, statutes, ordinances,
5 regulations, customs, and usages of the State of California, of the rights, privileges,
6 or immunities secured by the United States Constitution.
7

8
9 27. Venue lies in this Court under 28 U.S.C. § 1391, as the events giving
10 rise to Plaintiffs’ causes of action arose or exist in this District in which the action is
11 brought. Further, the venue rules of this State specifically would permit this action
12 to be filed in San Diego, since the Attorney General and California Department of
13 Justice maintain an office within this District; Cal. Code of Civ. Pro. § 401(1).
14
15

16 **STATEMENT OF FACTS**

17 *California’s Regulatory Scheme and Handgun Ban*

18
19 28. In California, individuals are required to purchase and transfer firearms
20 and ammunition through state and federally licensed dealers, like Retailer Plaintiffs,
21 in face-to-face transactions, or face serious criminal penalties.
22

23 29. Because of an onerous and burdensome regulatory scheme designed to
24 deny and chill the exercise of fundamental, individual rights, people in California
25 cannot exercise their Second Amendment right to keep and bear arms without going
26 in person to retailers that must comply with the State’s regulatory scheme on pain of
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28

1 criminal liability—a misdemeanor at a minimum, Cal. Pen. Code, § 19.4 (providing
2 that, unless otherwise specified, a violation of a criminal statute constitutes a
3 misdemeanor)—as well as loss of their licenses to do business.

4
5 30. “Where neither party to [a] [firearm] transaction holds a dealer’s license
6 issued pursuant to Sections 26700 to 26915, inclusive, the parties to the transaction
7 shall complete the sale, loan, or transfer of that firearm through a licensed firearms
8 dealer pursuant to Chapter 5 (commencing with Section 28050).” Penal Code §
9
10 27545.

11
12 31. A license to transact in firearms “is subject to forfeiture for a breach of
13 any of the prohibitions and requirements of [Article 2, Penal Code §§ 26800 –
14 26915]” (with some exceptions that do not apply in the instant matter). Penal Code
15 § 26800.
16

17
18 32. Penal Code § 28220(a) states: “Upon submission of firearm purchaser
19 information, the Department of Justice shall examine its records, as well as those
20 records that it is authorized to request from the State Department of State Hospitals
21 pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine
22 if the purchaser is a person described in subdivision (a) of Section 27535, or is
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1 prohibited by state or federal law from possessing, receiving, owning, or purchasing
2 a firearm.”²

3
4 33. Defendants’ Department of Justice participates in the National Instant
5 Criminal Background Check System (NICS). Penal Code § 28220(a).

6
7 34. A “Certificate of Eligibility” (“COE”) “means a certificate which states
8 that the Department has checked its records and the records available to the
9 Department in the National Instant Criminal Background Check System and
10 determined that the applicant is not prohibited from acquiring or possessing firearms
11 pursuant to Penal Code sections 18205, 29800, 29805, 29815 through 29825, and
12 29900, or Welfare and Institutions Code sections 8100 and 8103, or Title 18, sections
13 921 and 922 of the United States Code, or Title 27, Part 478.32 of the Code of
14 Federal Regulations at the time the check was performed and which ensures that a
15 person who handles, sells, delivers, or has under his or her custody or control any
16 ammunition, is eligible to do so pursuant to Penal Code section 30347.” 11 CCR §
17 4031(d). *See also* Penal Code § 26710 and 11 CCR § 4030, et seq.

18
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22 35. “The initial COE application process includes a firearms eligibility
23 criminal background check and issuance of a certificate, which is valid for one year.

24
25
26
27 ² The DOJ’s multi-step, acronym-heavy background check process for firearms is
28 reviewed in detail in *Silvester v. Harris*, 41 F.Supp.3d 927, 947–952 (E.D. Cal. 2014).

1 Thereafter, the COE must be renewed annually. A COE can be revoked, at anytime,
2 if the COE holder becomes prohibited from owning/possessing firearms and
3 ammunition.” See Defendants’ website at [https://oag.ca.gov/firearms/cert-](https://oag.ca.gov/firearms/cert-eligibility)
4 [eligibility](https://oag.ca.gov/firearms/cert-eligibility).
5

6
7 36. On information and belief, a COE issued by Defendants’ Department
8 of Justice Bureau of Firearms places the certificate holder in their “Rap Back” file,
9 which would notify them immediately should the certificate holder be arrested or
10 otherwise prohibited from purchasing or possessing firearms.
11

12 37. California’s Handgun Ban, Cal. Penal Code §§ 31900, et seq. and
13 32000, et seq., and Defendants’ regulations, policies, and practices enforcing the
14 State’s “unsafe handgun” regulatory scheme, individually and collectively prevent
15 individuals, like and including Plaintiffs, Plaintiffs’ members and supporters, and
16 others similarly situated to them, who are not prohibited from possessing or
17 acquiring firearms, from purchasing handguns that are categorically in common use
18 for self-defense and other lawful purposes, and thus violate the Second and
19 Fourteenth Amendments to the United States Constitution.
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23 38. “A person in [California] who manufactures or causes to be
24 manufactured, imports into the state for sale, keeps for sale, offers or exposes for
25 sale, gives, or lends an unsafe handgun shall be punished by imprisonment in a
26 county jail not exceeding one year.” Cal. Penal Code § 32000.
27
28

1 39. Defendants’ California Department of Justice compiles, publishes, and
2 maintains “a roster listing all of the handguns that have been tested by a certified
3 testing laboratory, have been determined not to be unsafe handguns, and may be sold
4 in this state pursuant to this part.” Cal. Penal Code § 32015.
5

6 40. Defendants’ Roster of Handguns Certified for Sale is available on
7 Defendants’ website at <https://oag.ca.gov/firearms/certified-handguns/search>. On
8 that web page, in a section captioned “IMPORTANT INFORMATION” (Figure 1,
9 below), Defendants state that “Aftermarket changes or modifications made to certain
10 single shot pistols (i.e. changing upper receivers, connecting gas tubes) may be
11 considered manufacturing these pistols into assault weapons. See California Penal
12 Code section 30515, subdivision (a)(1), for a list of assault weapon characteristics.
13 The purchaser could be in violation of Penal Code section 30600, prohibiting the
14 manufacture of assault weapons, and Penal Code section 30605(a), prohibiting the
15 possession of unregistered assault weapons.”
16
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20 41. Defendants’ same website also states that “Alterations of a single shot
21 pistol (i.e. changing upper receivers, connecting gas tubes) may also be considered
22 manufacturing an unsafe handgun. See California Penal Code sections 31900-31910
23 for the definition of unsafe handguns and 32000(a) for more information on illegal
24 acts involving unsafe handguns.” *Id.*
25
26
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28

FIGURE 1

IMPORTANT INFORMATION:

- All handguns listed are approved with or without night sights.
- Aftermarket changes or modifications made to certain single shot pistols (i.e. changing upper receivers, connecting gas tubes) may be considered manufacturing these pistols into assault weapons. See California Penal Code section 30515, subdivision (a)(1), for a list of assault weapon characteristics. The purchaser could be in violation of Penal Code section 30600, prohibiting the manufacture of assault weapons, and Penal Code section 30605(a), prohibiting the possession of unregistered assault weapons.
- Alterations of a single shot pistol (i.e. changing upper receivers, connecting gas tubes) may also be considered manufacturing an unsafe handgun. See California Penal Code sections 31900-31910 for the definition of unsafe handguns and 32000(a) for more information on illegal acts involving unsafe handguns.

42. As of November 8, 2020, there are only “830 handguns found”—*total*, of all makes, models, and permutations—on Defendants’ Roster of handguns available for sale to law-abiding citizens not exempt from California’s Handgun Ban.

43. And of those, on information and belief, “about one-third of the Roster's total listings are comprised of makes and models that do not offer consumers substantive and material choices in the physical attributes, function, or performance of a handgun relative to another listing (i.e., a base model).” *See, e.g., California's Handgun Roster: How big is it, really?*, online at <https://www.firearmspolicy.org/california-handgun-roster> (showing the results of a

1 detailed analysis of the Roster conducted by Plaintiff Firearms Policy Coalition as
2 well as Firearms Policy Foundation as of January 30, 2019).

3
4 44. Additional information on the Roster of Certified Handguns can be
5 found in Defendants’ regulations at California Code of Regulations, title 11, section
6 4070.

7
8 45. On information and belief, Defendants’ Roster of handguns available
9 for sale to law-abiding citizens not exempt from California’s Handgun Ban is a small
10 fraction of the total number of commercially available handgun makes and models,
11 all of which are constitutionally protected arms in common use for lawful purposes
12 currently available for sale throughout all or the vast majority of the United States.

13
14 46. Defendants’ have also published a document entitled “Legal
15 Requirements for Self-made Firearms,” available online at
16 <https://oag.ca.gov/system/files/attachments/press-docs/consumer-alert.pdf>, which
17
18 states in pertinent part that “If you intend to manufacture or assemble your own
19 firearm—including through the use of 3D printing—you must ensure that the firearm
20 is legal to possess or manufacture in California.”
21

22
23 47. Defendant’s “Legal Requirements for Self-made Firearms” publication
24 further states that, “Additionally, California law generally prohibits the manufacture
25 of unsafe handguns. A self-manufactured handgun must meet certain design features
26 under state law. A self-manufactured semiautomatic handgun, even if temporarily
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28

1 altered for single-shot firing, must include safety and security features, including:
2 The firearm must incorporate a manually-operated safety device. The firearm must
3 meet California’s drop safety requirements. The firearm must be able to imprint
4 certain identifying information on two locations on each cartridge case when fired.”
5
6 (Bullets and line breaks omitted.)
7

8 48. Under Penal Code § 29180, et seq., the State of California’s statutes
9 regulating the personal construction of home-built firearms, “manufacturing” or
10 “assembling” a firearm “means to fabricate or construct a firearm, or to fit together
11 the component parts of a firearm to construct a firearm.”
12

13 49. While Penal Code § 29182 generally provides that law-abiding
14 individuals in California may apply to Defendants’ and their Department of Justice
15 permission to personally build their own otherwise-lawful firearms (*see* Penal Code
16 § 29182(e)(1)), and the Department “shall grant applications in the form of serial
17 numbers pursuant to Section 23910 to[] persons who wish to manufacture or
18 assemble firearms pursuant to subdivision (b) of Section 29180,” Penal Code §
19 29182(a)(1), the regulatory scheme “does not authorize a person, on or after July 1,
20 2018, to manufacture or assemble an unsafe handgun, as defined in Section 31910.”
21
22 Penal Code § 29182(e)(2).
23
24
25

26 50. Since the “unsafe handgun” regulatory scheme last faced a legal
27 challenge in *Pena v. Lindley*, 898 F.3d 969 (9th Cir. 2018) (cert. denied June 15,
28

1 2020 *sub nom. Pena v. Horan*), wherein the Ninth Circuit, effectively applying
2 rational basis, upheld a prior version of the laws challenged herein, the State of
3 California’s legislature recently enacted an expansive amendment to California’s
4 Handgun Ban in Assembly Bill No. 2847 (2019 – 2020 Reg. Sess.) (“AB 2847”) that
5 makes it ever more onerous, *inter alia*, by requiring the Defendants’ Department of
6 Justice to remove three firearms from the Roster that are not compliant with its
7 current requirements for every single new firearm added to the roster. In essence,
8 under California’s Handgun Ban, the Roster of available handgun makes and models
9 will be reduced three times for each new model added to the Roster.³

13
14 51. AB 2847 further provides an exemption from the typical rulemaking
15 process for “emergency regulations pursuant to the Administrative Procedure Act
16 (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of
17 the Government Code) to implement this act.” AB 2847, Sec. 3.(a).

19 52. AB 2847 takes effect on January 1, 2021, and the “[e]mergency
20 regulations adopted pursuant to this section shall be effective ... until July 1, 2022,
21

23 ³ See also Alexei Koseff, “Bullet-tracing bill by [California Assembly-member]
24 David Chiu aims to force issue on gunmakers,” San Francisco Chronicle (March
25 16, 2020), at [https://www.sfchronicle.com/politics/article/Assemblyman-Chiu-
26 pushes-firearms-industry-to-15132278.php](https://www.sfchronicle.com/politics/article/Assemblyman-Chiu-pushes-firearms-industry-to-15132278.php), and Alexei Koseff, “[California
27 Governor] Newsom signs bill that compels gunmakers to adopt bullet-tracing
28 technology,” San Francisco Chronicle (Sept. 29, 2020), at
[https://www.sfchronicle.com/politics/article/Newsom-signs-bill-that-compels-
gunmakers-to-adopt-15607657.php](https://www.sfchronicle.com/politics/article/Newsom-signs-bill-that-compels-gunmakers-to-adopt-15607657.php).

1 or until the adoption of regulations by the Attorney General through the regular
2 rulemaking process, whichever comes first.” AB 2847, Sec. 3(b).

3
4 53. California’s Handgun Ban, as amended by AB 2847, not only forces
5 and requires the Defendants’ Roster to continue to shrink into oblivion, but, on
6 information and belief, even minor changes to manufacturing processes, materials,
7 and suppliers will cause a previously-certified handgun to be removed from the
8 Roster by Defendants under the State’s laws and Defendants’ policies and
9 enforcement practices.
10

11
12 54. Worse, certified handgun models are removed from the Roster by
13 Defendants if the manufacturer does not pay an annual fee to maintain the model on
14 the Defendants’ Roster. Penal Code § 32015(b)(2).

15
16 55. Handguns that have passed California’s tests and were certified by
17 Defendants do not become “unsafe” because the manufacturer does not pay an
18 annual fee.
19

20
21 56. Handguns that do not have one or all of the “safety” devices as required
22 under California’s Handgun Ban are in common use for lawful purposes throughout
23 the United States.

24
25 57. Handguns that do not have chamber load indicators are in common use
26 for lawful purposes throughout the United States.
27
28

1 58. Handguns that do not have magazine disconnect mechanisms are in
2 common use for lawful purposes throughout the United States.

3
4 59. Handguns that do not have “microstamping” technology are in common
5 use for lawful purposes throughout the United States.

6
7 60. Any of the attributes, systems, and “safety” devices required under
8 California’s Handgun Ban can fail or be altered or removed by a handgun’s
9 possessor.

10
11 61. The attributes, systems, and “safety” devices required under
12 California’s Handgun Ban are not sufficient to guarantee a handgun’s safe use.

13
14 62. The attributes, systems, and “safety” devices required under
15 California’s Handgun Ban cannot replace safe and responsible gun handling.

16
17 63. Micro-stamping technology is not a safety device and does not support
18 any law enforcement purpose.

19 64. On information and belief, as of November 8, 2020, there are no
20 commercially available semiautomatic handguns manufactured in the United States
21 that have the microstamping technology required under California’s Handgun Ban.

22
23 65. Sturm, Ruger & Co., Inc. (“Ruger”) is “one of the nation's leading
24 manufacturers of rugged, reliable firearms for the commercial sporting market. With
25 products made in America, Ruger offers consumers almost 800 variations of more
26 than 40 product lines. For more than 70 years, Ruger has been a model of corporate
27
28

1 and community responsibility.” Ruger states on its website at
2 <https://ruger.com/service/faqs.html> (in the “FAQS” section under the drop-down
3 menu for “California Residents”):
4

5 Q. Why are Ruger® pistols that used to be available in
6 California no longer on the Roster?

7 [Answer] Pistols that appeared on the California Roster of
8 Handguns Certified for Sale ("Roster") were tested and
9 approved pursuant to the regulations in effect at that time.
10 However, the California Department of Justice (CADOJ)
11 requires us to submit firearms for re-testing if we make any
12 change to the design, however small. If we change the
13 weight, dimensions, or materials of a part, then that is a
14 change that CADOJ says requires re-testing. As part of
15 Ruger's program of continuous improvement, we routinely
16 make changes and enhancements to our products. Any
17 firearm that is re-tested must now incorporate
18 microstamping technology (described in another FAQ).
19 As this is not feasible, we cannot resubmit any pistols after
20 we have made a change, and the pistol is dropped from the
21 Roster by operation of law.

22 Q. Why are there so few Ruger® pistols offered on the
23 roster in California?

24 [Answer] We at Ruger are committed to our customers in
25 California. The problem is the microstamping requirement
26 (described in another FAQ) in California. Because the
27 California microstamping law is impossible to comply
28 with, no new Ruger® pistols (or any other manufacturer's,
for that matter) have been added to the California Roster
of Handguns Certified for Sale since the law became
effective in 2013.

Q. What is microstamping?

1 [Answer] Microstamping is a patented process that micro-
2 laser engraves the firearm's make, model and serial
3 number on the tip of the gun's firing pin so that, in theory,
4 it imprints the information on discharged cartridge cases.
5 California's law requires that any pistol added to the roster
6 includes microstamping technology that imprints this
7 information in two locations on discharged cartridge cases.
8 The technology does not work. An independent, peer-
9 reviewed study published in the professional scholarly
10 journal for forensic firearms examiners proved that the
11 concept of microstamping is unreliable and does not
12 function as the patent holder claims. It can be easily
13 defeated in mere seconds using common household tools.
14 Criminals could also simply switch the engraved firing pin
15 to a readily available unmarked spare part, thereby
16 circumventing the process. To date, no firearms have been
17 made by any manufacturer that utilizes this unproven
18 technology. Please note that we continue to work with the
19 National Shooting Sports Foundation (NSSF) to support
20 their efforts to overturn the California microstamping law.

21 66. On information and belief, as of November 8, 2020, there are no
22 commercially available semiautomatic handguns manufactured in the United States
23 that meet all of the requirements under California's Handgun Ban.

24 67. California law requires that handgun purchasers successfully complete
25 a test, pay a fee, and acquire a valid FSC before they purchase and take possession
26 of any firearm, including handguns. Penal Code § 31610, et seq. *See also* 11 CCR §
27 4250, et seq., and Defendants' website at <https://oag.ca.gov/firearms/fscfaqs>.

28 68. Defendants' publicly available Firearms Safety Certificate ("FSC")
Study Guide, a document published by the Office of the Attorney General and
California Department of Justice Bureau of Firearms, Defendants' Spanish-language

1 version of the FSC Study Guide, and Defendants’ FSC “MANUAL for California
2 Firearms Dealers and DOJ Certified Instructors” are available on Defendants’
3 website at <https://oag.ca.gov/firearms/fsc>.
4

5 69. In their publicly available FSC Study Guide, Defendants state, in red
6 type, “**REMEMBER: Ignorance and carelessness can result in firearm accidents.**
7 **Basic gun safety rules must be applied ALL OF THE TIME.**” (Color and
8 capitalization in original.)
9

10 70. In the Defendants’ publicly available FSC Study Guide, in the first
11 section of Chapter 1 captioned “THE SIX BASIC GUN SAFETY RULES,” the
12 Guide states: “There are six basic gun safety rules for gun owners to understand and
13 practice at all times: 1. Treat all guns as if they are loaded. 2. Keep the gun pointed
14 in the safest possible direction. 3. Keep your finger off the trigger until you are ready
15 to shoot. 4. Know your target, its surroundings, and beyond. 5. Know how to
16 properly operate your gun. 6. Store your gun safely and securely to prevent
17 unauthorized use. Guns and ammunition should be stored separately.” (Line breaks
18 removed.)
19
20
21

22 71. Under common rules of firearm safety, and within the knowledge
23 required for the State’s FSC and safe handling demonstration, is the fundamental
24 rule that all firearms must always be treated as though they are loaded.
25
26
27
28

1 72. It is irresponsible and unsafe to rely on “safety” devices required under
2 California’s Handgun Ban.

3
4 73. Additionally, Defendants’ require firearm purchasers, the retailer, and
5 the DOJ Certified Instructor licensed and permitted to proctor the test, to conduct,
6 successfully pass, and certify in a “Safe Handling Affidavit” (online at
7 <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/hscaff.pdf>) signed under
8 penalty of perjury, that the purchaser or transferee “performed the safe handling
9 demonstration as required in California Penal Code sections 26850, 26853, 26856,
10 26859, pr 26860, as applicable, with the firearm (or one of the same make and model)
11 referenced” on the Dealer’s Record of Sale (DROS) number associated with the
12 purchase or transfer.
13
14
15

16 74. The State’s interest in handgun safety could be advanced by producing,
17 providing, and encouraging education, training, and public outreach on firearm
18 safety, storage, and use.

19
20 75. Notwithstanding the general prohibition against ordinary law abiding
21 citizens acquiring handguns categorically in common use for self-defense and other
22 lawful purposes under California’s Handgun Ban, Defendants’ ban has consistently
23 exempted all motion picture, television, and video producers, individuals
24 participating in entertainment events, actors, and all employees and agents of any
25 entity involved the production of such entertainment, Pen. Code, § 32110(h), without
26
27
28

1 any demonstrated or other conceivably legitimate basis for favoring this subset of
2 individuals and entities over the millions of ordinary law-abiding citizens seeking to
3 exercise their fundamental, individual right to keep and bear the same arms.
4

5 ***The Plaintiffs and How California’s Handgun Ban Impacts Them***

6 76. Plaintiff Renna is not prohibited under state or federal law from
7 possessing, receiving, owning, or purchasing a firearm.
8

9 77. Plaintiff Renna is a member and supporter of Plaintiffs FPC, SDCGO,
10 CCRKBA, and SAF.
11

12 78. But for California’s Handgun Ban and Defendants’ active enforcement
13 thereof, Plaintiff Renna would purchase a Smith & Wesson M&P® 380 SHIELD™
14 EZ® for self-defense and other lawful purposes, including for self-defense,
15 particularly but not exclusively because she is a woman of small stature.
16

17 79. On the website for the Smith & Wesson M&P® 380 SHIELD™ EZ®,
18 online at <https://www.smith-wesson.com/firearms/mp-380-shield-ez-0>, it states that
19 the firearms is “Built for personal protection and every-day carry, the M&P380
20 Shield EZ is chambered in 380 Auto and is designed to be easy to use, featuring an
21 easy-to-rack slide, easy-to-load magazine, and easy-to-clean design. Built for
22 personal and home protection, the innovative M&P380 Shield EZ pistol is the latest
23 addition to the M&P M2.0 family and provides an easy-to-use protection option for
24 both first-time shooters and experienced handgunners alike.”
25
26
27
28

1 80. Plaintiff Renna has a severed tendon in her right thumb that severely
2 limits her hand strength, and the Smith & Wesson M&P® 380 SHIELD™ EZ® is
3 specifically designed for those with limited hand strength.
4

5 81. The Smith & Wesson M&P® 380 SHIELD™ EZ® that Plaintiff Renna
6 wishes to purchase is a handgun that is categorically in common use for self-defense
7 and other lawful purposes and widely sold and possessed outside of California.
8 However, it is excluded from Defendants’ roster.
9

10 82. Because the handgun that Plaintiff Renna seeks to purchase for lawful
11 purposes is currently excluded from Defendants’ Roster of purportedly “safe”
12 handguns, California’s Handgun Ban bars her from purchasing and taking
13 possession of it from a licensed retailer, who are likewise prohibited from selling it
14 to her on pain of criminal sanction.
15

16 83. Plaintiff Spousta is not prohibited under state or federal law from
17 possessing, receiving, owning, or purchasing a firearm.
18

19 84. Plaintiff Spousta possesses a valid COE issued by the Defendants’
20 Department of Justice Bureau of Firearms.
21

22 85. Plaintiff Spousta is a member and supporter of Plaintiffs FPC, SDCGO,
23 CCRKBA, and SAF.
24

25 86. But for California’s Handgun Ban and Defendants’ active enforcement
26 thereof, Plaintiff Spousta would purchase for self-defense and other lawful purposes
27
28

1 a Springfield Armory Hellcat, Sig 365, CZ Scorpion, HK SP5, and/or Sig MPX, all
2 of which are handguns in common use for self-defense and other lawful purposes
3
4 and widely sold and possessed outside of California.

5 87. Because the handguns that Plaintiff Spousta would purchase for lawful
6 purposes are currently excluded from Defendants' roster of purportedly "safe"
7
8 handguns, California's Handgun Ban bars her from purchasing and taking
9 possession of them from a licensed retailer, who are likewise prohibited from selling
10 them to her on pain of criminal sanction.
11

12 88. Plaintiff Jaymes is not prohibited under state or federal law from
13 possessing, receiving, owning, or purchasing a firearm.
14

15 89. Plaintiff Jaymes possesses a valid COE issued by the Defendants'
16 Department of Justice Bureau of Firearms.
17

18 90. Plaintiff Jaymes is a member and supporter of Plaintiffs FPC, SDCGO,
19 CCRKBA, and SAF.
20

21 91. But for California's Handgun Ban and Defendants' active enforcement
22 thereof, Plaintiff Jaymes would purchase for self-defense and other lawful purposes
23 a Sig 365, G43X, Glock 19 Gen5, Sig P320, and/or Nighthawk Lady Hawk, all of
24 which are handguns in common use for self-defense and other lawful purposes and
25 widely sold and possessed outside of California.
26
27
28

1 92. Because the handguns that Plaintiff Jaymes seeks to purchase for lawful
2 purposes are currently excluded from Defendants’ Roster of purportedly “not
3 unsafe” handguns, California’s Handgun Ban bars her from purchasing and taking
4 possession of them from a licensed retailer, who are likewise prohibited from selling
5 them to her on pain of criminal sanction.
6
7

8 93. Plaintiff Laura Schwartz is not prohibited under state or federal law
9 from possessing, receiving, owning, or purchasing a firearm.
10

11 94. Plaintiff L. Schwartz holds an active license to carry a concealed
12 weapon (“CCW”) issued by her county sheriff, after proving “good cause” and
13 “good moral character” to her licensing authority, successfully completing a course
14 of training on the law and firearms proficiency under § 26165, and passing an
15 extensive Live Scan-based background check and placement into the State’s system
16 for monitoring law enforcement contact, arrests, and criminal convictions (“Rap
17 Back”).
18
19

20 95. Plaintiff Laura Schwartz is a member and supporter of Plaintiffs FPC,
21 SDCGO, CCRKBA, and SAF.
22

23 96. But for California’s Handgun Ban and Defendants’ active enforcement
24 thereof, Plaintiff Laura Schwartz would purchase for self-defense and other lawful
25 purposes a Glock 19 Gen5 and/or Springfield Armory Hellcat, which are both
26
27
28

1 handguns in common use for self-defense and lawful purposes and widely sold and
2 possessed outside of California.

3
4 97. Because the handguns that Plaintiff Laura Schwartz seeks to purchase
5 for lawful purposes are currently excluded from Defendants’ roster of purportedly
6 “safe” handguns, California’s Handgun Ban bars her from purchasing and taking
7 possession of such handguns from a licensed retailer, who are likewise prohibited
8 from selling them to her on pain of criminal sanction.

9
10
11 98. Plaintiff M. Schwartz is not prohibited under state or federal law from
12 possessing, receiving, owning, or purchasing a firearm.

13
14 99. Plaintiff M. Schwartz holds an active license to carry a concealed
15 weapon (“CCW”) issued by his county sheriff, after proving “good cause” and “good
16 moral character” to his licensing authority, successfully completing a course of
17 training on the law and firearms proficiency under § 26165, and passing an extensive
18 Live Scan-based background check and placement into the State’s system for
19 monitoring law enforcement contact, arrests, and criminal convictions (“Rap Back”).
20
21

22 100. Plaintiff M. Schwartz is the Executive Director of Plaintiff San Diego
23 County Gun Owners PAC.

24
25 101. Plaintiff M. Schwartz is a member and supporter of Plaintiffs FPC,
26 SDCGO, CCRKBA, and SAF.

1 102. But for California’s Handgun Ban and Defendants’ active enforcement
2 thereof, Plaintiff M. Schwartz would purchase for self-defense and other lawful
3 purposes a Glock 19 Gen5 and/or Springfield Armory Hellcat, which are both
4 handguns in common use for self-defense and other lawful purposes and widely sold
5 and possessed outside of California.
6
7

8 103. Plaintiff M. Schwartz would also like to self-build a handgun based on
9 a common, commercially available platform compatible with the Glock 43 design,
10 such as the “SS80” available from GlockStore.com, a retailer of products based at
11 4770 Ruffner Street in San Diego, California, at [https://www.glockstore.com/SS80-](https://www.glockstore.com/SS80-M-Model)
12 [M-Model](https://www.glockstore.com/SS80-M-Model), for self-defense and other lawful purposes, including sport, but cannot
13 because California’s Handgun Ban and Defendants’ enforcement thereof bars him
14 from doing so under pain of criminal sanction.
15
16
17

18 104. Because the handguns that Plaintiff M. Schwartz seeks to purchase and
19 self-manufacture and assemble for lawful purposes are currently excluded from
20 Defendants’ roster of purportedly “safe” handguns, California’s Handgun Ban bars
21 him from purchasing and taking possession of them from a licensed retailer, who are
22 likewise prohibited from selling it to him on pain of criminal sanction, and further
23 bars him from “manufacturing” or “assembling” them.
24
25

26 105. Plaintiff Bailey is not prohibited under state or federal law from
27 possessing, receiving, owning, or purchasing a firearm.
28

1 106. Plaintiff Bailey is the elected Mayor of Coronado, California.

2 107. Plaintiff Bailey is a member and supporter of Plaintiffs FPC, SDCGO,
3
4 CCRKBA, and SAF.

5 108. But for California’s Handgun Ban and Defendants’ active enforcement
6
7 thereof, Plaintiff Bailey would purchase for self-defense and other lawful purposes
8 a Glock 19 Gen5, a handgun which is in common use for self-defense and other
9
10 lawful purposes, widely sold and possessed outside of California.

11 109. Because the handgun that Plaintiff Bailey seeks to purchase for these
12
13 constitutionally protected purposes is currently excluded from Defendants’ Roster
14
15 of purportedly “not unsafe” handguns, California’s Handgun Ban bars him from
16
17 purchasing and taking possession of such handguns from a licensed retailer, who are
18
19 likewise prohibited from selling them to him on pain of criminal sanction.

20 110. Plaintiff Klier is not prohibited under state or federal law from
21
22 possessing, receiving, owning, or purchasing a firearm.

23 111. Plaintiff Klier is a veteran of the Navy, having been disabled and
24
25 honorably discharged after serving in Iraq as a “Seabee” member of the United States
26
27 Naval Construction Battalions.

28 112. Plaintiff Klier is a trained and respected firearms instructor who owns
and operates Active Shooter Defense School (“ASDS”), which “employs the best
instructors in the industry,” with “former [Navy] SEALs, Rangers, engineers, SWAT

1 officers, combatives instructors and current top performing competitive shooters on
2 staff to ensure students master each technique being taught.” ASDS’s “mission is to
3 provide the most up to date tactical weapons training available to the public, law
4 enforcement and military.” *See* “Meet our Team” on ASDS’s website at
5 <https://asdschool.com/asds-instructors>.
6
7

8 113. Plaintiff Klier is a member and supporter of Plaintiffs FPC, SDCGO,
9 CCRKBA, and SAF.

10 114. But for California’s Handgun Ban and Defendants’ active enforcement
11 thereof, Plaintiff Klier would purchase for self-defense and other lawful purposes a
12 Glock 19 Gen5, a handgun which is in common use for lawful purposes and widely
13 sold and possessed outside of California.
14

15 115. Because the handgun that Plaintiff Klier seeks to purchase for lawful
16 purposes is currently excluded from Defendants’ Roster of purportedly “not unsafe”
17 handguns, California’s Handgun Ban bars him from purchasing and taking
18 possession of such handguns from a licensed retailer, who are likewise prohibited
19 from selling them to him on pain of criminal sanction.
20
21

22 116. Plaintiff Justin Smith is not prohibited under state or federal law from
23 possessing, receiving, owning, or purchasing a firearm.
24

25 117. Plaintiff Smith is a member and supporter of Plaintiffs FPC, SDCGO,
26 CCRKBA, and SAF.
27
28

1 118. But for California’s Handgun Ban and Defendants’ active enforcement
2 thereof, Plaintiff Justin Smith would purchase for self-defense and other lawful
3 purposes a CZ P10, Walther Q5 SF, and/or Glock 19 Gen4 or Gen5, all of which are
4 handguns in common use for self-defense and other lawful purposes and widely sold
5 and possessed outside of California.
6
7

8 119. Because the handguns that Plaintiff Smith seeks to purchase for lawful
9 purposes are currently excluded from Defendants’ Roster of purportedly “not
10 unsafe” handguns, California’s Handgun Ban bars him from purchasing and taking
11 possession of such handguns from a licensed retailer, who are likewise prohibited
12 from selling them to him on pain of criminal sanction.
13
14

15 120. Plaintiff Phillips is the President of Plaintiff PWGG, L.P. (“PWG”), a
16 proprietor of the business, and the individual licensee associated with the dealership
17 and range facility, including by and through the Defendants and their Bureau of
18 Firearms.
19

20 121. Plaintiff Phillips is not prohibited under state or federal law from
21 possessing, receiving, owning, or purchasing a firearm.
22

23 122. Plaintiff Phillips possesses a current COE issued by the Defendants’
24 Department of Justice Bureau of Firearms.
25

26 123. Plaintiff Phillips holds an active license to carry a concealed weapon
27 (“CCW”) issued by his county sheriff, after proving “good cause” and “good moral
28

1 character” to his licensing authority, successfully completing a course of training on
2 the law and firearms proficiency under § 26165, and passing an extensive Live Scan-
3 based background check and placement into the State’s system for monitoring law
4 enforcement contact, arrests, and criminal convictions (“Rap Back”).

5
6 124. Plaintiff Phillips is also a trained firearms instructor.

7
8 125. Plaintiff Phillips is a member and supporter of Plaintiffs FPC, SDCGO,
9 CCRKBA, and SAF.

10
11 126. But for California’s Handgun Ban and Defendants’ active enforcement
12 thereof, Plaintiff Phillips would purchase for self-defense and other lawful purposes
13 a Sig 365, Sig 320 M17, Glock 17 Gen 5 MOS, FN 509, and/or FNX-9, all of which
14 are handguns in common use for self-defense and lawful purposes and widely sold
15 and possessed outside of California.

16
17 127. Because the handguns that Plaintiff Phillips seeks to purchase for lawful
18 purposes are currently excluded from Defendants’ roster of purportedly “safe”
19 handguns, California’s Handgun Ban bars him from purchasing and taking
20 possession of such handguns from a licensed retailer, who are likewise prohibited
21 from selling them to him on pain of criminal sanction.

22
23 128. Further, as the proprietor of Plaintiff PWG, but for California’s
24 Handgun Ban and Defendants’ active enforcement thereof, Plaintiff Phillips would
25 make available for sale to all of his law-abiding customers all of the commercially
26
27
28

1 handguns in common use for lawful purposes that are widely sold and possessed
2 outside of California, which are currently excluded from Defendants’ handgun
3 roster, and sell and transfer them to law-abiding customers.
4

5 129. Plaintiff PWG is a member and supporter of Plaintiffs FPC, SDCGO,
6 CCRKBA, and SAF.
7

8 130. But for California’s Handgun Ban and Defendants’ active enforcement
9 thereof, Plaintiff PWG would make available for sale to all of its law-abiding
10 customers all of the commercially handguns in common use for lawful purposes that
11 are widely sold and possessed outside of California, which are currently excluded
12 from Defendants’ handgun roster, and sell and transfer them to law-abiding
13 customers.
14
15

16 131. Plaintiffs Phillips and PWG are listed as a firearms dealer in
17 Defendants’ Department of Justice Centralized List of Firearms Dealers, and are
18 federally licensed by the Bureau of Alcohol, Tobacco, Firearms, and Explosives
19 (“ATF”) as a Federal Firearms Licensee (“FFL”).
20
21

22 132. Plaintiff C. Prince is not prohibited under state or federal law from
23 possessing, receiving, owning, or purchasing a firearm.
24

25 133. Plaintiff C. Prince holds an active license to carry a concealed weapon
26 (“CCW”) issued by her county sheriff, after proving “good cause” and “good moral
27 character” to her licensing authority, successfully completing a course of training on
28

1 the law and firearms proficiency under § 26165, and passing an extensive Live Scan-
2 based background check and placement into the State’s system for monitoring law
3 enforcement contact, arrests, and criminal convictions (“Rap Back”).

4
5 134. Plaintiff C. Prince is a member and supporter of Plaintiffs FPC,
6 SDCGO, CCRKBA, and SAF.
7

8 135. But for California’s Handgun Ban and Defendants’ active enforcement
9 thereof, Plaintiff C. Prince would purchase for self-defense and other lawful
10 purposes a Sig Sauer P365, a handgun in common use for self-defense and lawful
11 purposes and widely sold and possessed outside of California.
12

13 136. Because the handgun that Plaintiff C. Prince seeks to purchase for
14 lawful purposes is currently excluded from Defendants’ roster of purportedly “safe”
15 handguns, California’s Handgun Ban bars her from purchasing and taking
16 possession of such handguns from a licensed retailer, who are likewise prohibited
17 from selling them to her on pain of criminal sanction.
18

19 137. Plaintiff D. Prince, proprietor of the business and the individual licensee
20 associated with Plaintiff NCSC, is not prohibited under state or federal law from
21 possessing, receiving, owning, or purchasing a firearm.
22

23 138. Plaintiff D. Prince is an owner and manager of Plaintiff North County
24 Shooting Center, Inc. (“NCSC”), the proprietor of the business, and the individual
25
26
27
28

1 licensee associated with the dealership, including by and through the Defendants and
2 their Bureau of Firearms.

3
4 139. Plaintiff D. Prince possesses a current COE issued by the Defendants'
5 Department of Justice Bureau of Firearms.

6
7 140. Plaintiff D. Prince holds an active license to carry a CCW issued by his
8 county sheriff under Penal Code § 26150, et seq., after proving “good cause” and
9 “good moral character” to that licensing authority, successfully completing a course
10 of training on the law and firearms proficiency under § 26165, passing an extensive
11 Live Scan-based Department of Justice background check, and placement into the
12 “Rap Back” system for monitoring law enforcement contact, arrests, and criminal
13 convictions.
14
15

16 141. Plaintiff D. Prince is a member of Plaintiffs FPC, SDCGO, CCRKBA,
17 and SAF.
18

19 142. But for California’s Handgun Ban and Defendants’ active enforcement
20 thereof, Plaintiff D. Prince would purchase for self-defense and other lawful
21 purposes a Sig Sauer P320 AXG Scorpion, a handgun in common use for self-
22 defense and other lawful purposes and widely sold and possessed outside of
23 California.
24
25

26 143. Because the handguns that Plaintiff D. Prince seeks to purchase for
27 lawful purposes are currently excluded from Defendants’ roster of purportedly
28

1 “safe” handguns, California’s Handgun Ban bars him from purchasing and taking
2 possession of such handguns from a licensed retailer, who are likewise prohibited
3 from selling them to him on pain of criminal sanction.
4

5 144. Further, as the proprietor of Plaintiff NCSC, but for California’s
6 Handgun Ban and Defendants’ active enforcement thereof, Plaintiff D. Prince would
7 make commercially available all handguns in common use for self-defense and other
8 lawful purposes that are widely sold and possessed outside of California, which are
9 currently excluded from Defendants’ handgun roster, and sell and transfer them to
10 law-abiding customers.
11
12

13 145. Plaintiff NCSC is a federally and state-licensed firearms retailer in San
14 Marcos, California.
15

16 146. Plaintiff NCSC is a member of Plaintiffs FPC, SDCGO, CCRKBA, and
17 SAF.
18

19 147. Plaintiff NCSC is listed as a firearms dealer in Defendants’ Department
20 of Justice Centralized List of Firearms Dealers, and is federally licensed by the
21 Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) as a FFL.
22

23 148. But for California’s Handgun Ban and Defendants’ active enforcement
24 thereof, Plaintiff NCSC would make available for sale to all of its law-abiding
25 customers all of the commercially handguns in common use for lawful purposes that
26 are widely sold and possessed outside of California, which are currently excluded
27
28

1 from Defendants' handgun roster, and sell and transfer them to law-abiding
2 customers.

3
4 149. Plaintiff Peterson, proprietor of the business and an individual licensee
5 associated with Plaintiff Gunfighter Tactical, L.L.C. ("GT"), is not prohibited under
6 state or federal law from possessing, receiving, owning, or purchasing a firearm.
7

8 150. Plaintiff Peterson possesses a current COE issued by the Defendants'
9 Department of Justice Bureau of Firearms.

10
11 151. Plaintiff Peterson is a DOJ Certified Instructor.

12 152. Plaintiff Peterson is a member and supporter of Plaintiffs FPC,
13 SDCGO, CCRKBA, and SAF.
14

15 153. But for California's Handgun Ban and Defendants' active enforcement
16 thereof, Plaintiff Peterson would purchase for self-defense and other lawful
17 purposes, among others, a Sig Sauer P365, a Fabrique Nationale 509 Tactical, Sig
18 Sauer P220 Legion (10mm), a Staccato 2011, a Glock 19 Gen5, a Glock 17 Gen5
19 MOS, and/or a Wilson Combat Elite CQB 1911 (9mm), all handguns in common
20 use for lawful purposes and widely sold and possessed outside of California.
21
22

23 154. Ironically, Plaintiff Peterson, who owns and operates a gun store,
24 Plaintiff GT, is highly trained in the safe handling of firearms and is a DOJ Certified
25 Instructor, and sells handguns not on the Defendants' Roster to those who can
26 lawfully purchase them, keeps and carries for self-defense a Fabrique Nationale 509
27
28

1 Tactical while inside GT, but cannot transfer that same firearm to himself—or any
2 other law-abiding citizen not exempt from California’s Handgun Ban—for self-
3 defense in the home.
4

5 155. Because the handguns that Plaintiff Peterson seeks to purchase for
6 lawful purposes are currently excluded from Defendants’ roster of purportedly
7 “safe” handguns, California’s Handgun Ban bars him from purchasing and taking
8 possession of such handguns from a licensed retailer, who are likewise prohibited
9 from selling them to him on pain of criminal sanction.
10
11

12 156. Further, as the proprietor of Plaintiff GT, but for California’s Handgun
13 Ban and Defendants’ active enforcement thereof, Plaintiff Peterson would make
14 commercially available all handguns in common use for self-defense and other
15 lawful purposes that are widely sold and possessed outside of California, which are
16 currently excluded from Defendants’ handgun roster, and sell and transfer them to
17 law-abiding customers.
18
19

20 157. Plaintiff GT is listed as a firearms dealer in Defendants’ Department of
21 Justice Centralized List of Firearms Dealers, and is federally licensed by the Bureau
22 of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) as a FFL.
23

24 158. Plaintiff GT is a member of Plaintiffs FPC, SDCGO, CCRKBA, and
25 SAF.
26
27
28

1 163. Individuals in California have a right to keep and bear arms, including
2 but not limited to, buying, selling, transferring, self-manufacturing or assembling,
3 transporting, carrying, and practicing safety and proficiency with, firearms,
4 ammunition, magazines, and appurtenances, under the Second and Fourteenth
5 Amendments to the United States Constitution.
6
7

8 164. Millions of handguns of the category banned for sale to the State’s
9 citizens under California’s Handgun Ban regime are commonly possessed and used
10 for self-defense and other lawful purposes in the vast majority of states.
11

12 165. Moreover, the handguns banned from personal manufacture and/or
13 assembly by the State’s citizen under California’s Handgun Ban regime are
14 commonly possessed and used for self-defense and other lawful purposes in the vast
15 majority of states.
16

17 166. The Second Amendment “guarantee[s] the individual right to possess
18 and carry weapons in case of confrontation.” *District of Columbia v. Heller*, 554
19 U.S. 570, 592 (2008). And it “elevates above all other interests”—including the
20 State’s in California’s Handgun Ban—“the right of law-abiding, responsible citizens
21 to use arms in defense of hearth and home.” *Id* at 635.
22
23

24 167. The “central” holding of the Supreme Court in *Heller* is “that the
25 Second Amendment protects a personal right to keep and bear arms for lawful
26
27
28

1 purposes, most notably for self-defense within the home.” *McDonald*, 561 U.S. at
2 780.

3
4 168. “This decision is a freedom calculus decided long ago by Colonists who
5 cherished individual freedom more than the subservient security of a British ruler.
6 The freedom they fought for was not free of cost then, and it is not free now.” *Duncan*
7 *v. Becerra*, 366 F. Supp. 3d 1131, 1186 (S.D. Cal. 2019).

8
9 169. “The very enumeration of the right takes out of the hands of
10 government—even the Third Branch of Government—the power to decide on a
11 case-by-case basis whether the right is really worth insisting upon.” *Heller*, 554 U.S.
12 at 634.

13
14
15 170. The fundamental, individual right to keep and bear firearms includes
16 the right to acquire common, modern handguns in common use for lawful
17 purposes—indeed, arms that are lawfully sold and possessed throughout the United
18 States—such as those the California Handgun Ban prevents common law-abiding
19 citizens from purchasing at a licensed retailer.

20
21
22 171. Defendants’ exceptions to California’s Handgun Ban, found in Penal
23 Code §§ 32100, 32105, and 32220, undermine the State’s purported interests in the
24 State’s regulatory scheme.

25
26 172. “Just as the First Amendment protects modern forms of
27 communications, ... and the Fourth Amendment applies to modern forms of search,
28

1 ... the Second Amendment extends, prima facie, to all instruments that constitute
2 bearable arms, even those that were not in existence at the time of the founding.”
3
4 *District of Columbia et al. v. Heller*, 554 U.S. 570, 582 (2008) (internal citations
5 omitted).

6
7 173. California’s Handgun Ban prevents law-abiding citizens, like and
8 including Plaintiffs, Plaintiffs’ members and supporters, and similarly situated
9 members of the public, from acquiring and possessing for lawful purposes
10 “instruments that constitute bearable arms” protected under the Second Amendment.
11

12 174. Defendants’ long-established “Hollywood exemption”—in this case, at
13 § 32110(h)—further undermines the validity of any claimed legitimate interest in
14 trampling on the Second Amendment guarantees of California’s millions of ordinary
15 law abiding citizens whose rights are certainly not less important than those of “an
16 authorized participant” of an entertainment production or event, or “authorized
17 employee or agent of the entity producing that production or event.”
18
19

20 175. Indeed, those exempt under the State’s ‘Hollywood exemption’ are not
21 required to be any more or differently trained than the average law-abiding citizen.
22

23
24 **COUNT ONE**
25 **DEPRIVATION OF CIVIL RIGHTS**
26 **RIGHT TO KEEP AND BEAR ARMS**
27 **U.S. CONST., AMENDS. II AND XIV, 42 U.S.C. § 1983**

28 176. Plaintiffs incorporate herein by reference the foregoing paragraphs as if
fully set forth herein.

1 177. There is an actual and present controversy between the parties.

2 178. The Second Amendment protects “the right of the people to keep and
3 bear Arms.”
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5 179. The Supreme Court has explained that the Amendment “protects a
6 personal right to keep and bear arms for lawful purposes, most notably for self-
7 defense within the home.” *McDonald v. City of Chicago*, 561 U.S. 742, 780 (2010).
8

9 180. By Defendants’ enforcement of California’s Handgun Ban, i.e., the
10 “unsafe” handgun statutes and related regulations, policies, and practices, they have
11 prevented and continue to prevent law-abiding Californians from purchasing,
12 constructing, or assembling handguns that are categorically in common use for self-
13 defense and other lawful purposes, in violation of Plaintiffs’ and similarly situated
14 persons’ rights protected under the Second and Fourteenth Amendments to the
15 United States Constitution.
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19 181. By preventing responsible, law-abiding Californians from purchasing,
20 taking possession of, personally manufacturing and/or assembling, and transferring
21 constitutionally protected firearms as they are entitled under the Constitution,
22 Defendants have violated Plaintiffs’ rights, and the rights of those similarly situated,
23 under the Second and Fourteenth Amendments.
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26 182. “The very enumeration of the [Second Amendment] right takes out of
27 the hands of government . . . the power to decide on a case-by-case basis whether
28

1 the right is *really worth* insisting upon.” *Heller*, 554 U.S. at 635 (emphasis in
2 original).

3
4 183. The Second Amendment is not a “second-class right, subject to an
5 entirely different body of rules than the other Bill of Rights guarantees,” *McDonald*,
6 561 U.S. 742, 780, and it cannot “be singled out for special—and specially
7 unfavorable—treatment.” *Id.* at 778–79.

8
9 184. The State’s interests certainly cannot and do not take priority over the
10 Constitution’s text enshrinement of a fundamental right that “elevates above all other
11 interests the right of law-abiding, responsible citizens to use arms in defense of
12 hearth and home.” *Heller*, 554 U.S. 570 at 635.

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15 185. Upon information and belief, Defendants are individually and
16 responsible for the formulation, issuance, and/or implementation of the laws,
17 policies, practices, and customs at issue in this case.

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19 186. As to all claims made in a representative capacity herein, there are
20 common questions of law and fact that substantially affect the rights, duties, and
21 liabilities of many similarly-situated California residents and visitors who knowingly
22 or unknowingly are subject to the California statutes, regulations, policies, practices,
23 and customs in question.

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26 187. Considerations of necessity, convenience, and justice justify relief to
27 Individual, Retailer, and Institutional Plaintiffs in a representative capacity.
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1 188. Defendants have enforced and will continue to enforce their
2 unconstitutional laws, laws, policies, practices, and customs against Individual
3 Plaintiffs, Retailer Plaintiffs and their customers, Institutional Plaintiffs' members
4 and supporters, and similarly situated persons.
5

6 189. Plaintiffs and Plaintiffs' members, supporters, and customers
7 reasonably fear that Defendants will enforce against them their laws and related
8 enforcement policies, practices, and customs designed to implement California's
9 Handgun Ban.
10

11 190. Defendants' laws, policies, practices, customs, and ongoing
12 enforcement against Plaintiffs, Plaintiffs' members, supporters, and customers, and
13 similarly situated members of the public, which prevent them from exercising their
14 rights, including the purchase, sale, transfer, construction, and assembly of
15 constitutionally protected arms, are thus causing injury and damage that is actionable
16 under 42 U.S.C. § 1983.
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19 191. Plaintiffs thus seek declaratory, preliminary, and permanent injunctive
20 relief.
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22
23 **COUNT TWO**
24 **DEPRIVATION OF CIVIL RIGHTS**
25 **RIGHT TO EQUAL PROTECTION**
26 **U.S. CONST., AMEND. XIV, 42 U.S.C. § 1983**

27 192. Plaintiffs incorporate herein by reference the foregoing paragraphs as if
28 fully set forth herein.

1 193. There is an actual and present controversy between the parties.

2 194. The Fourteenth Amendment to the United States Constitution provides
3
4 that no State shall deny to any person the equal protection of the laws.

5 195. Penal Code section 32110 enumerates eleven (11) different exceptions
6
7 to California's Handgun Ban.

8 196. Penal Code section 32110, subdivision (h), completely exempts from
9 Defendants' Handgun Ban "[t]he sale, loan, or transfer of any semiautomatic pistol
10 that is to be used solely as a prop during the course of a motion picture, television,
11 or video production by an authorized participant therein in the course of making that
12 production or event or by an authorized employee or agent of the entity producing
13 that production or event."
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16 197. California has long catered to its privileged, rich elite. This law, and the
17 exception that applies to participants in entertainment events, such as but not limited
18 to actors and actresses, and other studio employees and contractors, provides just
19 such an example.
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22 198. The § 32110(h) exception to the Handgun Ban cannot survive scrutiny
23 under any standard of review. There is no rational basis to allow a Hollywood actor,
24 temporarily or otherwise, to take possession of and use an off-Roster handgun,
25 merely by virtue of his or her status as a contractor or employee of a movie or
26 television production studio, while denying the same right to millions of law-abiding
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1 California citizens Plaintiffs and Plaintiffs' members and supporters, who have a
2 fundamental, individual right to keep and bear effective, modern arms for self-
3 defense.
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5 199. And, because California's Handgun Ban implicates the Second
6 Amendment rights of law-abiding people, this Court must apply heightened scrutiny
7 in its review of the ban's unequal application to the law-abiding class of persons,
8 such as Individual Plaintiffs, the members and supporters of Institutional Plaintiffs,
9 and the customers of Retailer Plaintiffs, who are in all relevant ways similarly
10 situated to those who are capriciously exempted from Defendants' enforcement of
11 California's Handgun Ban.
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14 200. Defendants' policies that they seek to enforce are therefore
15 discriminatory, favoring a selected group of politically favored citizens, and against
16 the great majority of law-abiding California citizens who have a need, demonstrable
17 utility for, and ultimately a constitutional right to acquire and use all legal firearms,
18 including handguns excluded from the Defendants' handgun Roster, for self-defense
19 and other lawful purposes.
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22 201. Defendants' laws, policies, practices, customs, and ongoing
23 enforcement against Plaintiffs, Plaintiffs' members, supporters, and customers, and
24 similarly situated members of the public, which prevent them from exercising their
25 rights, including the purchase, sale, and possession of constitutionally protected
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1 customs, individually and collectively prevent ordinary law abiding citizens
2 otherwise not prohibited from possessing or acquiring firearms from purchasing
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4 handguns that are categorically in common use for self-defense and other lawful
5 purposes, while establishing exemptions for statutorily-created classes of individuals
6 arbitrarily favored by the State of California, in violation of Plaintiffs' right to equal
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8 protection of the laws guaranteed under Fourteenth Amendments to the United States
9
10 Constitution;

11 3. A preliminary and permanent injunction restraining Defendants and
12 their officers, agents, servants, employees, and all persons in concert or participation
13 with them, and all persons who have notice of the injunction, from enforcing
14 California's Handgun Ban statutes, Cal. Penal Code §§ 31900, et seq. and 32000, et
15 seq., and Penal Code § 29182(e)(2), Defendants' regulations issued pursuant thereto,
16 and Defendants' related enforcement policies, practices, that individually and
17
18 collectively prevent ordinary law-abiding citizens not otherwise prohibited from
19 possessing or acquiring firearms from purchasing and self-manufacturing
20
21 categorically protected handguns that are in common use for self-defense and other
22
23 lawful purposes, and thus violate the Second and Fourteenth Amendments to the
24
25 United States Constitution.

