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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 ROBERT MACOMBER, an individual;
22 CLINT FREEMAN, an individual;
23 RICHARD BAILEY, an individual;
24 JOHN KLIER, an individual; JUSTIN
25 SMITH, an individual; JOHN
26 PHILLIPS, an individual; PWGG, L.P., a
27 California Limited Partnership;
28 CHERYL PRINCE, an individual;
DARIN PRINCE, an individual; NORTH
COUNTY SHOOTING CENTER, INC.,
a California Corporation; RYAN
PETERSON, an individual;
GUNFIGHTER TACTICAL, LLC, a
California Limited Liability Company;

Case No.: 20-cv-2190-DMS-DEB

**FIRST AMENDED COMPLAINT
FOR INJUNCTIVE AND
DECLARATORY RELIEF**

1 FIREARMS POLICY COALITION,
2 INC.; SAN DIEGO COUNTY GUN
3 OWNERS PAC; CITIZENS
4 COMMITTEE FOR THE RIGHT TO
5 KEEP AND BEAR ARMS; and
6 SECOND AMENDMENT
7 FOUNDATION,

8 Plaintiffs,

9 vs.

10 XAVIER BECERRA, in his official
11 capacity as Attorney General of
12 California; and LUIS LOPEZ, in his
13 official capacity as Director of the
14 Department of Justice Bureau of
15 Firearms,

16 Defendants.

17 Plaintiffs Lana Rae Renna, Danielle Jaymes, Hannah Spousta, Laura
18 Schwartz, Michael Schwartz, Robert Macomber, Clint Freeman, Richard Bailey,
19 John Klier, Justin Smith, John Phillips, PWGG, L.P., Cheryl Prince, Darin Prince,
20 North County Shooting Center, Inc., Ryan Peterson, Gunfighter Tactical, LLC,
21 Firearms Policy Coalition, Inc., San Diego County Gun Owners PAC, Citizens
22 Committee for the Right to Keep and Bear Arms, and Second Amendment
23 Foundation (collectively “Plaintiffs”)¹, by and through counsel of record, bring this
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27 ¹ Collectively, the individual, natural person plaintiffs are referred to as “Individual
28 Plaintiffs,” Plaintiffs PWGG, L.P, North County Shooting Center, Inc., and

1 complaint for injunctive and declaratory relief against the named Defendants, and
2 allege as follows:

3 4 INTRODUCTION

5 1. This case, as in *Duncan v. Becerra*, S.D.Cal. no. 3:17-cv-01017- BEN-
6 JLB and the closely related *Miller v. Becerra*, S.D.Cal. no. 3:19-cv-1537-BEN-JLB-
7 and *Fouts v. Becerra*, S.D.Cal. no. 3:19-cv-01662-BEN-JLB, is a challenge to the
8 State of California’s ban on the sale and personal construction of constitutionally
9 protected arms.
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12 2. “In *Heller*, the U.S. Supreme Court provided a simple Second
13 Amendment test in crystal clear language. It is a test that anyone can understand.
14 The right to keep and bear arms is a right enjoyed by law-abiding citizens to have
15 arms that are not unusual in common use for lawful purposes like self-defense.”
16 *Duncan v. Becerra*, 366 F. Supp. 3d 1131, 1142 (S.D. Cal. 2019) (internal quotations
17 omitted) (citing *District of Columbia v. Heller*, 554 U.S. 570, 624, 128 S.Ct. 2783,
18 171 L.Ed.2d 637 (2008)).
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22 3. The State of California’s “Unsafe Handgun Act” handgun ban, Cal.
23 Penal Code §§ 31900, *et seq.* and 32000, *et seq.*, handgun self-manufacturing ban
24

25 _____
26 Gunfighter Tactical, LLC are referred to as “Retailer Plaintiffs,” and Plaintiffs
27 Firearms Policy Coalition, Inc., San Diego County Gun Owners PAC, Citizens
28 Committee for the Right to Keep and Bear Arms, and Second Amendment
Foundation are referred to as “Institutional Plaintiffs.”

1 statute at Penal Code § 29182(e)(2), and Defendants’ regulations, policies, and
2 practices enforcing the State’s regulatory scheme (collectively hereinafter referred
3 to as “California’s Handgun Ban”), individually and collectively prevent adults who
4 are not disqualified from exercising Second Amendment rights from purchasing
5 new, and self-manufacturing, constitutionally protected handguns, and further
6 prevent licensed retailers from selling such handguns to ordinary law-abiding adults,
7 all while exempting politically-favored categories of persons—including those
8 under the State’s “Hollywood” exemption for those in the motion picture, television,
9 and video production industry—in violation of the Second and Fourteenth
10 Amendments to the United States Constitution.

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15 4. Plaintiffs acknowledge *Pena v. Lindley*, 898 F.3d 969 (9th Cir. 2018),
16 but that case, effectively applying rational basis, upheld a prior version of some of
17 the laws challenged herein and was wrongly-decided. They therefore institute this
18 good faith litigation to vindicate their rights, seek to have *Pena* overruled, and
19 change the law as required to conform it to the Constitution’s text, our Nation’s
20 history and tradition, and as required under the Supreme Court’s binding *District of*
21 *Columbia v. Heller*, 554 U.S. 570 (2008), *McDonald v. City of Chicago*, 561 U.S.
22 742 (2010), and *Caetano v. Massachusetts*, 136 S. Ct. 1027 (2016) decisions.
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PARTIES

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

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

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

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

14 9. Plaintiff Michael Schwartz (“M. Schwartz”) is a natural person and a
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16 citizen of the State of California, residing in San Diego County, California.

17 10. Plaintiff Robert Macomber is a natural person and a citizen of the State
18
19 of California, residing in San Diego County, California.

20 11. Plaintiff Clint Freeman is a natural person and a citizen of the State of
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22 California, residing in San Diego County, California.

23 12. Plaintiff Richard Bailey is a natural person and a citizen of the State of
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25 California, residing in Coronado, California.

26 13. Plaintiff John Klier is a natural person and a citizen of the State of
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28 California, residing in San Diego County, California.

1 14. Plaintiff Justin Smith is a natural person and a citizen of the State of
2 California, residing in San Diego County, California.

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

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7 16. 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.

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

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

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

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

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25 21. Plaintiff Gunfighter Tactical, LLC (“Gunfighter Tactical”), a California
26 limited liability corporation doing business as “Gunfighter Tactical,” is a licensed
27 firearms retailer in the City of San Diego within San Diego County, California.
28

1 22. 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 First and Second Amendment rights, advancing individual liberty,
5 and restoring freedom. FPC serves its members and the public through legislative
6 advocacy, grassroots advocacy, litigation and legal efforts, research, education,
7 outreach, and other programs. FPC has members in the State of California, including
8 in San Diego County. FPC represents its members and supporters—including
9 individual gun owners and other law-abiding persons who wish to purchase new
10 and/or self-manufacture handguns they cannot 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 23. 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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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 24. 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

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16 25. 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.

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4 26. 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, manufacture, and ownership of
11 firearms. The Attorney General and DOJ maintain an office in San Diego, California.
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15 27. 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, as well as the
20 manufacture of firearms. Defendant Lopez is sued in his official capacity.
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23 **JURISDICTION AND VENUE**

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

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

10
11 **STATEMENT OF FACTS**

12 ***California’s Regulatory Scheme and Handgun Ban***

13
14 30. In California, individuals are required to purchase and transfer firearms
15 and ammunition through state and federally licensed dealers, like Retailer Plaintiffs,
16 in face-to-face transactions, or face serious criminal penalties.
17

18 31. Because of an onerous and burdensome regulatory scheme designed to
19 deny and chill the exercise of fundamental, individual rights, people in California
20 cannot exercise their Second Amendment right to keep and bear arms without going
21 in person to retailers that must comply with the State’s regulatory scheme on pain of
22 criminal liability—a misdemeanor at a minimum, Cal. Pen. Code, § 19.4 (providing
23 that, unless otherwise specified, a violation of a criminal statute constitutes a
24 misdemeanor)—as well as loss of their licenses to do business.
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1 32. “Where neither party to [a] [firearm] transaction holds a dealer’s license
2 issued pursuant to Sections 26700 to 26915, inclusive, the parties to the transaction
3 shall complete the sale, loan, or transfer of that firearm through a licensed firearms
4 dealer pursuant to Chapter 5 (commencing with Section 28050).” Penal Code §
5 27545.
6

7
8 33. A license to transact in firearms “is subject to forfeiture for a breach of
9 any of the prohibitions and requirements of [Article 2, Penal Code §§ 26800 –
10 26915]” (with some exceptions that do not apply in the instant matter). Penal Code
11 § 26800.
12

13 34. Penal Code § 28220(a) states: “Upon submission of firearm purchaser
14 information, the Department of Justice shall examine its records, as well as those
15 records that it is authorized to request from the State Department of State Hospitals
16 pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine
17 if the purchaser is a person described in subdivision (a) of Section 27535, or is
18 prohibited by state or federal law from possessing, receiving, owning, or purchasing
19 a firearm.”²
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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 35. Defendants’ Department of Justice participates in the National Instant
2 Criminal Background Check System (NICS). Penal Code § 28220(a).

3
4 36. A “Certificate of Eligibility” (“COE”) “means a certificate which states
5 that the Department has checked its records and the records available to the
6 Department in the National Instant Criminal Background Check System and
7 determined that the applicant is not prohibited from acquiring or possessing firearms
8 pursuant to Penal Code sections 18205, 29800, 29805, 29815 through 29825, and
9 29900, or Welfare and Institutions Code sections 8100 and 8103, or Title 18, sections
10 921 and 922 of the United States Code, or Title 27, Part 478.32 of the Code of
11 Federal Regulations at the time the check was performed and which ensures that a
12 person who handles, sells, delivers, or has under his or her custody or control any
13 ammunition, is eligible to do so pursuant to Penal Code section 30347.” 11 CCR §
14 4031(d). *See also* Penal Code § 26710 and 11 CCR § 4030, *et seq.*

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19 37. “The initial COE application process includes a firearms eligibility
20 criminal background check and issuance of a certificate, which is valid for one year.
21 Thereafter, the COE must be renewed annually. A COE can be revoked, at anytime,
22 if the COE holder becomes prohibited from owning/possessing firearms and
23 ammunition.” *See* Defendants’ website at [https://oag.ca.gov/firearms/cert-](https://oag.ca.gov/firearms/cert-eligibility)
24 [eligibility](https://oag.ca.gov/firearms/cert-eligibility).
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1 38. On information and belief, a COE issued by Defendants’ Department
2 of Justice Bureau of Firearms places the certificate holder in their “Rap Back” file,
3 which would notify them immediately should the certificate holder be arrested or
4 otherwise prohibited from purchasing or possessing firearms.
5

6 39. Defendants’ California Department of Justice compiles, publishes, and
7 maintains “a roster listing all of the handguns that have been tested by a certified
8 testing laboratory, have been determined not to be unsafe handguns, and may be sold
9 in this state pursuant to this part,” Cal. Penal Code § 32015 (the “Roster” or “Roster
10 of Certified Handguns”).
11

12 40. Additional information on the Roster of Certified Handguns can be
13 found in Defendants’ regulations at California Code of Regulations, title 11, section
14 4070. California’s Handgun Ban, Cal. Penal Code §§ 31900, *et seq.* and 32000, *et*
15 *seq.*, and Defendants’ regulations, policies, and practices enforcing the State’s
16 “Unsafe Handgun Act” and self-manufacturing ban regulatory scheme, individually
17 and collectively prevent individuals, like and including Plaintiffs, Plaintiffs’
18 members and supporters, and others similarly situated to them, who are not
19 prohibited from possessing or acquiring firearms, from purchasing handguns that are
20 categorically in common use for self-defense and other lawful purposes, and thus
21 violate the Second and Fourteenth Amendments to the United States Constitution.
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1 41. The Handgun Ban further prevents all such individuals from
2 manufacturing handguns in common use for self-defense and other lawful purposes.
3
4 Penal Code § 32000 provides, “[a] person in [California] who manufactures or
5 causes to be manufactured, imports into the state for sale, keeps for sale, offers or
6 exposes for sale, gives, or lends an unsafe handgun shall be punished by
7 imprisonment in a county jail not exceeding one year.”
8

9 42. Defendants’ Roster of Handguns Certified for Sale is available on
10 Defendants’ website at <https://oag.ca.gov/firearms/certified-handguns/search>. On
11 that web page, in a section captioned “IMPORTANT INFORMATION” (Figure 1,
12 below), Defendants state that “Aftermarket changes or modifications made to certain
13 single shot pistols (i.e. changing upper receivers, connecting gas tubes) may be
14 considered manufacturing these pistols into assault weapons. See California Penal
15 Code section 30515, subdivision (a)(1), for a list of assault weapon characteristics.
16 The purchaser could be in violation of Penal Code section 30600, prohibiting the
17 manufacture of assault weapons, and Penal Code section 30605(a), prohibiting the
18 possession of unregistered assault weapons.”
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[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.

43. Defendants’ website also states that: “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.” *Id.*

44. Defendants’ have also published a document titled “Legal Requirements for Self-made Firearms,” available online at <https://oag.ca.gov/system/files/attachments/press-docs/consumer-alert.pdf>, which states in pertinent part that: “If you intend to manufacture or assemble your own

1 firearm—including through the use of 3D printing—you must ensure that the firearm
2 is legal to possess or manufacture in California.”

3
4 45. Defendants’ “Legal Requirements for Self-made Firearms” publication
5 further states that: “Additionally, California law generally prohibits the manufacture
6 of unsafe handguns. A self-manufactured handgun must meet certain design features
7 under state law. A self-manufactured semiautomatic handgun, even if temporarily
8 altered for single-shot firing, must include safety and security features, including:
9 The firearm must incorporate a manually-operated safety device. The firearm must
10 meet California’s drop safety requirements. The firearm must be able to imprint
11 certain identifying information on two locations on each cartridge case when fired.”

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13
14 (Bullets and line breaks omitted.)

15
16 46. Under Penal Code § 29180, *et seq.*, the State of California’s statutes
17 regulating the personal construction of home-built firearms, “manufacturing” or
18 “assembling” a firearm “means to fabricate or construct a firearm, or to fit together
19 the component parts of a firearm to construct a firearm.”

20
21
22 47. While Penal Code § 29182 generally provides that law-abiding
23 individuals in California may apply to Defendants’ and their Department of Justice
24 permission to personally build their own otherwise-lawful firearms (*see* Penal Code
25 § 29182(e)(1)), and the Department “shall grant applications in the form of serial
26 numbers pursuant to Section 23910 to[] persons who wish to manufacture or
27
28

1 assemble firearms pursuant to subdivision (b) of Section 29180,” Penal Code §
2 29182(a)(1), the regulatory scheme “does not authorize a person, on or after July 1,
3 2018, to manufacture or assemble an unsafe handgun, as defined in Section 31910.”
4 Penal Code § 29182(e)(2).
5

6 48. On information and belief, Defendants’ Roster of Certified Handguns
7 available for sale to law-abiding citizens not exempt from California’s Handgun Ban
8 is a small fraction of the total number of handgun makes and models commercially
9 available throughout the vast majority of the United States, all of which are
10 constitutionally protected arms.
11

12 49. On information and belief, at the end of 2013, there were 1,273 makes
13 and models of approved handguns, including 883 semiautomatics, on Defendants’
14 Roster. Since then, the Defendants’ Roster has continued to shrink because of the
15 Defendants’ enforcement of California’s Handgun Ban.
16

17 50. Indeed, as of November 8, 2020, there were “830 handguns found”—
18 *total*, of all makes, models, and permutations—on Defendants’ Roster.
19

20 51. And now, as of January 4, 2021, there are only “779 handguns found”—
21 *total*, of all makes, models, and permutations—on Defendants’ Roster Ban.
22

23 52. Moreover, of those handguns, on information and belief, “about one-
24 third of the Roster’s total listings are comprised of makes and models that do not
25 offer consumers substantive and material choices in the physical attributes, function,
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1 or performance of a handgun relative to another listing (*i.e.*, a base model),” because
2 many of the approved handguns are merely the same handgun make and model as
3 another approved model with cosmetic difference(s). *See, e.g., California's Handgun*
4 *Roster: How big is it, really?*, online at [https://www.firearmspolicy.org/california-](https://www.firearmspolicy.org/california-handgun-roster)
5 [handgun-roster](https://www.firearmspolicy.org/california-handgun-roster) (showing the results of a detailed analysis of the Roster as of January
6
7 30, 2019).

9 53. Since the State’s handgun Roster regulatory scheme last faced a legal
10 challenge, the State of California’s legislature recently enacted an expansive
11 amendment to California’s Handgun Ban in Assembly Bill No. 2847 (2019 – 2020
12 Reg. Sess.) (“AB 2847”) that makes it even more onerous, *inter alia*, by *expressly*
13 *requiring* the Defendants’ Department of Justice to remove three firearms from the
14 Roster that are not compliant with its current requirements for every single new
15
16 firearm added to the roster.³

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19 54. AB 2847 further provides an exemption from the typical rulemaking
20 process for “emergency regulations pursuant to the Administrative Procedure Act
21

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

1 (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of
2 the Government Code) to implement this act.” AB 2847, Sec. 3(a).

3
4 55. AB 2847 took effect on January 1, 2021, and the “[e]mergency
5 regulations adopted pursuant to this section shall be effective ... until July 1, 2022,
6 or until the adoption of regulations by the Attorney General through the regular
7 rulemaking process, whichever comes first.” AB 2847, Sec. 3(b).

8
9 56. California’s Handgun Ban, as it stands today, not only forces and
10 requires the Defendants’ Roster to continue to shrink into oblivion, but, on
11 information and belief, even minor changes to manufacturing processes, materials,
12 and suppliers will cause a previously-certified handgun to be removed from the
13 Roster by Defendants under the State’s laws and Defendants’ policies and
14 enforcement practices.
15

16
17 57. Worse, certified handgun models are removed from the Roster by
18 Defendants if the manufacturer does not pay an annual fee to maintain the model on
19 the Defendants’ Roster. Penal Code § 32015(b)(2). On information and belief, due
20 to California’s Handgun Ban, just as hundreds of handgun makes and models have
21 already been removed from Defendants’ Roster, more handgun makes and models
22 will “drop off” the Roster as manufacturers choose to update their products—as well
23 as their materials, processes, and supply chains—to make them more competitive in
24 the broader civilian market throughout the United States and/or refusing to continue
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1 to pay California’s extortive annual renewal fees, making them ineligible to renew
2 on the Roster, further reducing the availability of constitutionally protected arms that
3 individual adults not disqualified from exercising Second Amendment rights have a
4 fundamental right to acquire and possess.
5

6 58. Handguns that have passed California’s tests and were certified by
7 Defendants do not become “unsafe” because the manufacturer does not pay an
8 annual fee.
9

10 59. Handguns that do not have one or all of the “safety” devices as required
11 under California’s Handgun Ban are in common use for lawful purposes throughout
12 the United States.
13

14 60. Handguns that do not have chamber load indicators are in common use
15 for lawful purposes throughout the United States.
16

17 61. Handguns that do not have magazine disconnect mechanisms are in
18 common use for lawful purposes throughout the United States.
19

20 62. Handguns that do not have “microstamping” technology are in common
21 use for lawful purposes throughout the United States.
22

23 63. Any of the attributes, systems, and “safety” devices required under
24 California’s Handgun Ban can fail or be altered or removed by a handgun’s
25 possessor.
26
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28

1 64. The attributes, systems, and “safety” devices required under
2 California’s Handgun Ban are not sufficient to guarantee a handgun’s safe use.

3
4 65. The attributes, systems, and “safety” devices required under
5 California’s Handgun Ban cannot replace safe and responsible gun handling.

6 66. Microstamping technology is not a safety device.

7
8 67. Microstamping technology has not been shown to viably support any
9 law enforcement purpose.

10
11 68. On information and belief, as of November 8, 2020, there were no
12 commercially available semiautomatic handguns manufactured in the United States
13 that have the microstamping technology required under California’s Handgun Ban.

14
15 69. On information and belief, as of January 4, 2021, there are no
16 commercially available semiautomatic handguns manufactured in the United States
17 that have the microstamping technology required under California’s Handgun Ban.

18
19 70. On information and belief, as of November 8, 2020, there were no
20 commercially available semiautomatic handguns manufactured in the United States
21 that met all of the requirements under California’s Handgun Ban.

22
23 71. On information and belief, as of January 4, 2021, there are still no
24 commercially available semiautomatic handguns manufactured in the United States
25 that meet all of the requirements under California’s Handgun Ban.

26
27

28

1 72. Sturm, Ruger & Co., Inc. (“Ruger”) is “one of the nation’s leading
2 manufacturers of rugged, reliable firearms for the commercial sporting market. With
3 products made in America, Ruger offers consumers almost 800 variations of more
4 than 40 product lines. For more than 70 years, Ruger has been a model of corporate
5 and community responsibility.” Ruger states on its website at
6 <https://ruger.com/service/faqs.html> (in the “FAQS” section under the drop-down
7 menu for “California Residents”):
8
9

10
11 Q. Why are Ruger® pistols that used to be available in
12 California no longer on the Roster?

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

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

 [Answer] We at Ruger are committed to our customers in
California. The problem is the microstamping requirement
(described in another FAQ) in California. Because the
California microstamping law is impossible to comply

1 with, no new Ruger® pistols (or any other manufacturer’s,
2 for that matter) have been added to the California Roster
3 of Handguns Certified for Sale since the law became
4 effective in 2013.

5 Q. What is microstamping?

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

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

74. Defendants’ publicly available Firearms Safety Certificate (“FSC”) Study Guide, a document published by the Office of the Attorney General and

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

6 75. In their publicly available FSC Study Guide, Defendants state, in red
7 type: “**REMEMBER: Ignorance and carelessness can result in firearm accidents.**
8 **Basic gun safety rules must be applied ALL OF THE TIME.**” (Color and
9 capitalization in original.)
10

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

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

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

3
4 79. 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, or 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 80. As an adequate and less restrictive measure, the State’s interest in
17 handgun safety could be advanced by producing, providing, and encouraging
18 education, training, and public outreach on firearm safety, storage, and use.
19

20 81. As an adequate and less restrictive measure, the State’s interest in
21 handgun safety could be advanced by providing firearm locking and/or storage
22 devices.
23

24 82. Notwithstanding California’s Handgun Ban’s general prohibition
25 against ordinary law-abiding citizens acquiring new, constitutionally protected
26 handguns from licensed dealers, Defendants’ ban has consistently exempted all
27
28

1 motion picture, television, and video producers, individuals participating in
2 entertainment events, actors, and all employees and agents of any entity involved the
3 production of such entertainment, Pen. Code, § 32110(h), without any demonstrated
4 or other conceivably legitimate basis for favoring this subset of individuals and
5 entities over the millions of ordinary law-abiding citizens seeking to exercise their
6 fundamental, individual right to keep and bear the same arms.
7

8
9 *How California's Handgun Ban Impacts The Plaintiffs*

10
11 83. Plaintiff Renna is not disqualified from exercising Second Amendment
12 rights nor prohibited under state or federal law from possessing, receiving, owning,
13 or purchasing a firearm.
14

15 84. Plaintiff Renna is a member and supporter of Plaintiffs FPC, SDCGO,
16 CCRKBA, and SAF.
17

18 85. Plaintiff Renna has a damaged tendon in her right thumb that impacts
19 her ability to apply physical force.
20

21 86. The Smith & Wesson M&P® 380 SHIELD™ EZ® is specifically
22 designed for those with limited hand strength. On the website for the Smith &
23 Wesson M&P® 380 SHIELD™ EZ®, online at [https://www.smith-](https://www.smith-wesson.com/firearms/mp-380-shield-ez-0)
24 [wesson.com/firearms/mp-380-shield-ez-0](https://www.smith-wesson.com/firearms/mp-380-shield-ez-0), it states that the firearm is “Built for
25 personal protection and every-day carry, the M&P380 Shield EZ is chambered in
26 380 Auto and is designed to be easy to use, featuring an easy-to-rack slide, easy-to-
27
28

1 load magazine, and easy-to-clean design. Built for personal and home protection, the
2 innovative M&P380 Shield EZ pistol is the latest addition to the M&P M2.0 family
3 and provides an easy-to-use protection option for both first-time shooters and
4 experienced handgunners alike.” The Smith & Wesson M&P® 380 SHIELD™ EZ®
5 that Plaintiff Renna wishes to purchase is a constitutionally protected handgun that
6 is in common use for self-defense and other lawful purposes and widely sold and
7 possessed outside of California.
8
9

10
11 87. But for California’s Handgun Ban and Defendants’ active enforcement
12 thereof, Plaintiff Renna would purchase new from a licensed retailer a
13 constitutionally protected handgun not currently on or eligible under the statutes to
14 be added to Defendants’ Roster, including but not limited to a Smith & Wesson
15 M&P® 380 SHIELD™ EZ®, for self-defense and other lawful purposes.
16

17
18 88. Plaintiff Spousta is not disqualified from exercising Second
19 Amendment rights nor prohibited under state or federal law from possessing,
20 receiving, owning, or purchasing a firearm.
21

22 89. Plaintiff Spousta possesses a valid COE issued by the Defendants’
23 Department of Justice Bureau of Firearms.
24

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

1 91. But for California’s Handgun Ban and Defendants’ active enforcement
2 thereof, Plaintiff Spousta would purchase new from a licensed retailer a
3 constitutionally protected handgun not currently on or eligible under the statutes to
4 be added to Defendants’ Roster, including but not limited to a Springfield Armory
5 Hellcat, Sig 365, CZ Scorpion, HK SP5, and/or Sig MPX for self-defense and other
6 lawful purposes.
7

9 92. Plaintiff Jaymes is not disqualified from exercising Second Amendment
10 rights nor prohibited under state or federal law from possessing, receiving, owning,
11 or purchasing a firearm.
12

13 93. Plaintiff Jaymes possesses a valid COE issued by the Defendants’
14 Department of Justice Bureau of Firearms.
15

16 94. Plaintiff Jaymes is a member and supporter of Plaintiffs FPC, SDCGO,
17 CCRKBA, and SAF.
18

19 But for California’s Handgun Ban and Defendants’ active enforcement thereof,
20 Plaintiff Jaymes would purchase new from a licensed retailer a constitutionally
21 protected handgun not currently on or eligible under the statutes to be added to
22 Defendants’ Roster, including but not limited to a Sig 365, G43X, Glock 19 Gen5,
23 Sig P320, and/or Nighthawk Lady Hawk for self-defense and other lawful purposes.
24

25 95. But for California’s Handgun Ban and Defendants’ active enforcement
26 thereof, Plaintiff Jaymes would self-manufacture for her own possession and lawful
27
28

1 use semiautomatic handguns that are constitutionally protected but not on
2 Defendants' Roster or eligible to be self-manufactured under California's Handgun
3 Ban.
4

5 96. Plaintiff L. Schwartz is not disqualified from exercising Second
6 Amendment rights nor prohibited under state or federal law from possessing,
7 receiving, owning, or purchasing a firearm.
8

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

19 98. Plaintiff L. Schwartz is a member and supporter of Plaintiffs FPC,
20 SDCGO, CCRKBA, and SAF.
21

22 99. But for California's Handgun Ban and Defendants' active enforcement
23 thereof, Plaintiff L. Schwartz would purchase new from a licensed retailer a
24 constitutionally protected handgun not currently on or eligible under the statutes to
25 be added to Defendants' Roster, including but not limited to a Glock 19 Gen5 and/or
26
27
28

1 Springfield Armory Hellcat, which are constitutionally protected handguns in
2 common use for self-defense and lawful purposes.

3
4 100. Plaintiff M. Schwartz is not disqualified from exercising Second
5 Amendment rights nor prohibited under state or federal law from possessing,
6 receiving, owning, or purchasing a firearm.

7
8 101. Plaintiff M. Schwartz holds an active license to carry a concealed
9 weapon (“CCW”) issued by his county sheriff, after proving “good cause” and “good
10 moral character” to his licensing authority, successfully completing a course of
11 training on the law and firearms proficiency under § 26165 and passing an extensive
12 Live Scan-based background check and placement into the State’s system for
13 monitoring law enforcement contact, arrests, and criminal convictions (“Rap Back”).
14

15
16 102. Plaintiff M. Schwartz is the Executive Director of Plaintiff San Diego
17 County Gun Owners PAC.
18

19 103. Plaintiff M. Schwartz is a member and supporter of Plaintiffs FPC,
20 SDCGO, CCRKBA, and SAF.
21

22 104. But for California’s Handgun Ban and Defendants’ active enforcement
23 thereof, Plaintiff M. Schwartz would purchase new from a licensed retailer a
24 constitutionally protected handgun not currently on or eligible under the statutes to
25 be added to Defendants’ Roster, including but not limited to a Glock 19 Gen5 and/or
26
27
28

1 Springfield Armory Hellcat, which are constitutionally protected handguns in
2 common use for self-defense and other lawful purposes.

3
4 105. But for California’s Handgun Ban and Defendants’ active enforcement
5 thereof, Plaintiff M. Schwartz would self-manufacture for his own possession and
6 lawful use semiautomatic handguns that are constitutionally protected but not on
7 Defendants’ Roster or eligible to be self-manufactured under California’s Handgun
8 Ban.
9

10
11 106. Plaintiff Macomber is not disqualified from exercising Second
12 Amendment rights nor prohibited under state or federal law from possessing,
13 receiving, owning, or purchasing a firearm.
14

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

22
23 108. Plaintiff Macomber is a member and supporter of Plaintiffs FPC,
24 SDCGO, CCRKBA, and SAF.
25

26 109. But for California’s Handgun Ban and Defendants’ active enforcement
27 thereof, Plaintiff Macomber would self-manufacture for his own possession and
28

1 lawful use semiautomatic handguns that are constitutionally protected but not on
2 Defendants' Roster or eligible to be self-manufactured under California's Handgun
3
4 Ban.

5 110. Plaintiff Freeman is not disqualified from exercising Second
6 Amendment rights nor prohibited under state or federal law from possessing,
7
8 receiving, owning, or purchasing a firearm.

9 111. Plaintiff Freeman is a firearms instructor.

10 112. Plaintiff Freeman is a member and supporter of Plaintiffs FPC,
11
12 SDCGO, CCRKBA, and SAF.

13 113. But for California's Handgun Ban and Defendants' active enforcement
14 thereof, Plaintiff Freeman would self-manufacture for his own possession and lawful
15 use semiautomatic handguns that are constitutionally protected but not on
16 Defendants' Roster or eligible to be self-manufactured under California's Handgun
17
18 Ban.

19 114. Plaintiff Bailey is not disqualified from exercising Second Amendment
20
21 rights nor prohibited under state or federal law from possessing, receiving, owning,
22
23 or purchasing a firearm.

24 115. Plaintiff Bailey is the elected Mayor of Coronado, California.

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

1 117. But for California’s Handgun Ban and Defendants’ active enforcement
2 thereof, Plaintiff Bailey would purchase new from a licensed retailer a
3 constitutionally protected handgun not currently on or eligible under the statutes to
4 be added to Defendants’ Roster, including but not limited to a Glock 19 Gen5, which
5 is a constitutionally protected handgun in common use for self-defense and other
6 lawful purposes.
7

8
9 118. Plaintiff Klier is not disqualified from exercising Second Amendment
10 rights nor prohibited under state or federal law from possessing, receiving, owning,
11 or purchasing a firearm.
12

13 119. Plaintiff Klier is a veteran of the Navy, having been disabled and
14 honorably discharged after serving in Iraq as a “Seabee” member of the United States
15 Naval Construction Battalions.
16

17 120. Plaintiff Klier is a trained firearms instructor who owns and operates
18 Active Shooter Defense School (“ASDS”), which “employs the best instructors in
19 the industry,” with “former [Navy] SEALs, Rangers, engineers, SWAT officers,
20 combatives instructors and current top performing competitive shooters on staff to
21 ensure students master each technique being taught.” ASDS’s “mission is to provide
22
23
24
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28

1 the most up to date tactical weapons training available to the public, law enforcement
2 and military.”⁴

3
4 121. Plaintiff Klier is a member and supporter of Plaintiffs FPC, SDCGO,
5 CCRKBA, and SAF.

6
7 122. But for California’s Handgun Ban and Defendants’ active enforcement
8 thereof, Plaintiff Klier would purchase new from a licensed retailer a constitutionally
9 protected handgun not currently on or eligible under the statutes to be added to
10 Defendants’ Roster, including but not limited to a Glock 19 Gen5, which is a
11 constitutionally protected handgun in common use for self-defense and other lawful
12 purposes.
13

14
15 123. But for California’s Handgun Ban and Defendants’ active enforcement
16 thereof, Plaintiff Klier would self-manufacture for his own possession and lawful
17 use semiautomatic handguns that are constitutionally protected but not on
18 Defendants’ Roster or eligible to be self-manufactured under California’s Handgun
19 Ban.
20

21
22 124. Plaintiff Justin Smith is not disqualified from exercising Second
23 Amendment rights nor prohibited under state or federal law from possessing,
24 receiving, owning, or purchasing a firearm.
25

26 _____
27 ⁴ See “Meet our Team” on ASDS’s website, online at <https://asdschool.com/asds->
28 instructors.

1 125. Plaintiff Smith is a member and supporter of Plaintiffs FPC, SDCGO,
2 CCRKBA, and SAF.

3
4 126. But for California's Handgun Ban and Defendants' active enforcement
5 thereof, Plaintiff Smith would purchase new from a licensed retailer a
6 constitutionally protected handgun not currently on or eligible under the statutes to
7 be added to Defendants' Roster, including but not limited to a CZ P10, Walther Q5
8 SF, and/or Glock 19 Gen4 and/or Gen5, which are constitutionally protected
9 handguns in common use for self-defense and other lawful purposes.
10

11
12 127. But for California's Handgun Ban and Defendants' active enforcement
13 thereof, Plaintiff Smith would self-manufacture for his own possession and lawful
14 use semiautomatic handguns that are constitutionally protected but not on
15 Defendants' Roster or eligible to be self-manufactured under California's Handgun
16 Ban.
17

18
19 128. Plaintiff Phillips is not disqualified from exercising Second
20 Amendment rights nor prohibited under state or federal law from possessing,
21 receiving, owning, or purchasing a firearm.
22

23 129. Plaintiff Phillips possesses a current COE issued by the Defendants'
24 Department of Justice Bureau of Firearms.
25
26
27
28

1 130. Plaintiff Phillips is the President of Plaintiff PWG, a proprietor of the
2 business, and the individual licensee associated with the dealership and range
3 facility, including by and through the Defendants and their Bureau of Firearms.
4

5 131. Plaintiff Phillips holds an active license to carry a concealed weapon
6 (“CCW”) issued by his county sheriff, after proving “good cause” and “good moral
7 character” to his licensing authority, successfully completing a course of training on
8 the law and firearms proficiency under § 26165, and passing an extensive Live Scan-
9 based background check and placement into the State’s system for monitoring law
10 enforcement contact, arrests, and criminal convictions (“Rap Back”).
11
12

13 132. Plaintiff Phillips is a trained firearms instructor.
14

15 133. Plaintiff Phillips is a member and supporter of Plaintiffs FPC, SDCGO,
16 CCRKBA, and SAF.
17

18 134. But for California’s Handgun Ban and Defendants’ active enforcement
19 thereof, Plaintiff Phillips would purchase new from a licensed retailer a
20 constitutionally protected handgun not currently on or eligible under the statutes to
21 be added to Defendants’ Roster, including but not limited to a Sig Sauer P365, Sig
22 Sauer P320 M17, Glock 17 Gen5 MOS, Fabrique National Herstal 509, and/or
23 Fabrique National Herstal FNX-9, which are constitutionally protected handguns in
24 common use for self-defense and other lawful purposes.
25
26
27
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1 135. Plaintiff PWG is a member and supporter of Plaintiffs FPC, SDCGO,
2 CCRKBA, and SAF.

3
4 136. Plaintiffs Phillips and PWG are a firearms dealer in Defendants'
5 Department of Justice Centralized List of Firearms Dealers, and are federally
6 licensed by the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") as
7 a Federal Firearms Licensee ("FFL").

8
9 137. Many customers and prospective customers of Plaintiffs Phillips and
10 PWG are interested in, have, and continue to seek to purchase constitutionally
11 protected handguns not currently on or eligible under the statutes to be added to
12 Defendants' Roster.

13
14
15 138. But for California's Handgun Ban and Defendants' active enforcement
16 thereof, Plaintiffs Phillips and PWG would make available for sale to their customers
17 all of the constitutionally protected new handguns on the market that are available
18 outside of California but not currently on or eligible under the statutes to be added
19 to Defendants' Roster, and sell and transfer them to their adult customers who are
20 not disqualified from exercising Second Amendment rights.

21
22
23 139. Plaintiff C. Prince is not disqualified from exercising Second
24 Amendment rights nor prohibited under state or federal law from possessing,
25 receiving, owning, or purchasing a firearm.

1 140. Plaintiff C. Prince holds an active license to carry a concealed weapon
2 (“CCW”) issued by her county sheriff, after proving “good cause” and “good moral
3 character” to her licensing authority, successfully completing a course of training on
4 the law and firearms proficiency under § 26165, and passing an extensive Live Scan-
5 based background check and placement into the State’s system for monitoring law
6 enforcement contact, arrests, and criminal convictions (“Rap Back”).
7

9 141. Plaintiff C. Prince is a member and supporter of Plaintiffs FPC,
10 SDCGO, CCRKBA, and SAF.
11

12 142. But for California’s Handgun Ban and Defendants’ active enforcement
13 thereof, Plaintiff C. Prince would purchase new from a licensed retailer a
14 constitutionally protected handgun not currently on or eligible under the statutes to
15 be added to Defendants’ Roster, including but not limited to a Sig Sauer P365, which
16 is a constitutionally protected handgun in common use for self-defense and other
17 lawful purposes.
18

19 143. Plaintiff D. Prince is not disqualified from exercising Second
20 Amendment rights nor prohibited under state or federal law from possessing,
21 receiving, owning, or purchasing a firearm.
22

23 144. Plaintiff D. Prince possesses a current COE issued by the Defendants’
24 Department of Justice Bureau of Firearms.
25
26
27
28

1 145. Plaintiff D. Prince is an owner and manager of Plaintiff NCSC, the
2 proprietor of the business, and the individual licensee associated with the dealership,
3 including by and through the Defendants and their Bureau of Firearms.
4

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

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

18 148. But for California’s Handgun Ban and Defendants’ active enforcement
19 thereof, Plaintiff D. Prince would purchase new from a licensed retailer a
20 constitutionally protected handgun not currently on or eligible under the statutes to
21 be added to Defendants’ Roster, including but not limited to a Sig Sauer P320 AXG
22 Scorpion, which is a constitutionally protected handgun in common use for self-
23 defense and other lawful purposes.
24
25

26 149. Plaintiff NCSC is a federally and state-licensed firearms retailer in San
27 Marcos, California.
28

1 150. Plaintiff NCSC is a member of Plaintiffs FPC, SDCGO, CCRKBA, and
2 SAF.

3
4 151. Plaintiffs D. Prince and NCSC are a firearms dealer in Defendants'
5 Department of Justice Centralized List of Firearms Dealers, and are federally
6 licensed by the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") as
7 a Federal Firearms Licensee ("FFL").
8

9 152. Many customers and prospective customers of Plaintiffs D. Prince and
10 NCSC are interested in, have, and continue to seek to purchase constitutionally
11 protected handguns not currently on or eligible under the statutes to be added to
12 Defendants' Roster.
13

14
15 153. But for California's Handgun Ban and Defendants' active enforcement
16 thereof, Plaintiffs D. Prince and NCSC would make available for sale to their
17 customers all of the constitutionally protected new handguns on the market that are
18 available outside of California but not currently on or eligible under the statutes to
19 be added to Defendants' Roster, and sell and transfer them to their adult customers
20 who are not disqualified from exercising Second Amendment rights.
21

22
23 154. Plaintiff Peterson is not disqualified from exercising Second
24 Amendment rights nor prohibited under state or federal law from possessing,
25 receiving, owning, or purchasing a firearm.
26
27
28

1 155. Plaintiff Peterson possesses a current COE issued by the Defendants’
2 Department of Justice Bureau of Firearms.

3
4 156. Plaintiff Peterson is the proprietor of and an individual licensee
5 associated with Plaintiff Gunfighter Tactical.

6 157. Plaintiff Peterson is a DOJ Certified Instructor.

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

10
11 159. Ironically, Plaintiff Peterson, who owns and operates a gun store
12 (Plaintiff Gunfighter Tactical), is highly trained in the safe handling of firearms, is a
13 DOJ Certified Instructor, and sells handguns not on the Defendants’ Roster to those
14 who can lawfully purchase them, keeps for lawful purposes including self-defense a
15 Fabrique Nationale 509 Tactical handgun while physically inside Gunfighter
16 Tactical, but cannot transfer that same firearm to himself—or any other law-abiding
17 citizen not exempt from California’s Handgun Ban—for self-defense in his home.
18

19
20 160. But for California’s Handgun Ban and Defendants’ active enforcement
21 thereof, Plaintiff Peterson would purchase new from a licensed retailer a
22 constitutionally protected handgun not currently on or eligible under the statutes to
23 be added to Defendants’ Roster, including but not limited to a Fabrique National
24 Herstal 509 Tactical, Sig Sauer P220 Legion (10mm), Staccato 2011, Glock 19
25 Gen5, Glock 17 Gen5 MOS, and a Wilson Combat Elite CQB 1911 (9mm), which
26
27
28

1 are constitutionally protected handguns in common use for self-defense and other
2 lawful purposes.

3
4 161. But for California’s Handgun Ban and Defendants’ active enforcement
5 thereof, Plaintiff Peterson would self-manufacture for his own possession and lawful
6 use semiautomatic handguns that are constitutionally protected but not on
7 Defendants’ Roster or eligible to be self-manufactured under California’s Handgun
8 Ban.
9

10
11 162. Plaintiff Gunfighter Tactical is a member of Plaintiffs FPC, SDCGO,
12 CCRKBA, and SAF.

13
14 163. Plaintiffs Peterson and Gunfighter Tactical are a firearms dealer in
15 Defendants’ Department of Justice Centralized List of Firearms Dealers, and are
16 federally licensed by the Bureau of Alcohol, Tobacco, Firearms, and Explosives
17 (“ATF”) as a Federal Firearms Licensee (“FFL”).
18

19
20 164. Many customers and prospective customers of Plaintiffs Peterson and
21 Gunfighter Tactical are interested in, have, and continue to seek to purchase
22 constitutionally protected handguns not currently on or eligible under the statutes to
23 be added to Defendants’ Roster.

24
25 165. But for California’s Handgun Ban and Defendants’ active enforcement
26 thereof, Plaintiffs Peterson and Gunfighter Tactical would make available for sale to
27 their customers all of the constitutionally protected new handguns on the market that
28

1 are available outside of California but not currently on or eligible under the statutes
2 to be added to Defendants’ Roster, and sell and transfer them to their adult customers
3 who are not disqualified from exercising Second Amendment rights.
4

5 *The Constitutional Rights at Stake*

6 166. The Second Amendment to the United States Constitution provides: “A
7 well-regulated Militia being necessary to the security of a free State, the right of the
8 people to keep and bear Arms shall not be infringed.”
9

10 167. The Fourteenth Amendment to the United States Constitution provides
11 in pertinent part:
12

13 No state shall make or enforce any law which shall abridge
14 the privileges or immunities of citizens of the United
15 States; nor shall any state deprive any person of life,
16 liberty, or property, without due process of law; nor deny
17 to any person within its jurisdiction the equal protection of
the laws.

18 168. The Second Amendment is fully applicable to the States through the
19 Fourteenth Amendment’s Due Process and Privileges or Immunities Clauses.
20 *McDonald v. City of Chicago*, 561 U.S. 742, 750 (2010); *id.* at 805 (Thomas, J.,
21 concurring).
22

23 169. Individuals in California have a right to keep and bear arms, including
24 but not limited to, buying, selling, transferring, self-manufacturing or assembling,
25 transporting, carrying, and practicing safety and proficiency with, firearms,
26
27
28

1 ammunition, magazines, and appurtenances, under the Second and Fourteenth
2 Amendments to the United States Constitution.

3
4 170. Millions of handguns of the category banned for sale to the State’s
5 citizens under California’s Handgun Ban regime are commonly possessed and used
6 for self-defense and other lawful purposes in the vast majority of states.
7

8 171. Moreover, the handgun designs and platforms concomitantly banned
9 from personal manufacture and/or assembly by the State’s citizen under California’s
10 Handgun Ban regime are commonly possessed and used for self-defense and other
11 lawful purposes in the vast majority of states.
12

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

19
20 173. The “central” holding of the Supreme Court in *Heller* is “that the
21 Second Amendment protects a personal right to keep and bear arms for lawful
22 purposes, most notably for self-defense within the home.” *McDonald*, 561 U.S. at
23 780.
24

25
26 174. “This decision is a freedom calculus decided long ago by Colonists who
27 cherished individual freedom more than the subservient security of a British ruler.
28

1 The freedom they fought for was not free of cost then, and it is not free now.” *Duncan*
2 *v. Becerra*, 366 F. Supp. 3d 1131, 1186 (S.D. Cal. 2019).
3

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

9 176. The fundamental, individual right to keep and bear firearms includes
10 the right to acquire and manufacture common, modern handguns in common use for
11 lawful purposes—indeed, arms that are lawfully sold and possessed throughout the
12 United States—such as those the California Handgun Ban prevents common law-
13 abiding citizens from purchasing at a licensed retailer or manufacturing themselves.
14
15

16 177. “Just as the First Amendment protects modern forms of
17 communications, ... and the Fourth Amendment applies to modern forms of search,
18 ... the Second Amendment extends, prima facie, to all instruments that constitute
19 bearable arms, even those that were not in existence at the time of the founding.”
20 *District of Columbia et al. v. Heller*, 554 U.S. 570, 582 (2008) (internal citations
21 omitted).
22
23

24 178. California’s Handgun Ban prevents law-abiding citizens, like and
25 including Plaintiffs, Plaintiffs’ members and supporters, and similarly situated
26
27
28

1 members of the public, from acquiring and possessing for lawful purposes
2 “instruments that constitute bearable arms” protected under the Second Amendment.
3

4 179. The many exceptions to California’s Handgun Ban, found in Penal
5 Code §§ 32100, *et seq.*, undermine any purported interests in the State’s
6 unconstitutional regulatory scheme.
7

8 180. Defendants’ “Hollywood exemption” and numerous other exceptions
9 to California’s Handgun Ban—*see, e.g.*, Cal. Penal Code. § 32110—further
10 undermine the validity of any interested claimed by the Defendants, especially given
11 the ban’s burden and impact upon millions of ordinary law-abiding citizens whose
12 rights are certainly not less important than those of “an authorized participant” of an
13 entertainment production or event, or “authorized employee or agent of the entity
14 producing that production or event.” Indeed, those not subject to California’s
15 Handgun Ban under the Defendants’ “Hollywood exemption,” for example, are not
16 required to be any more or differently trained than the average law-abiding citizen.
17
18
19

20
21 **COUNT ONE**
22 **DEPRIVATION OF CIVIL RIGHTS**
23 **RIGHT TO KEEP AND BEAR ARMS**
24 **U.S. CONST., AMENDS. II AND XIV, 42 U.S.C. § 1983**

25 181. Plaintiffs incorporate herein by reference the foregoing paragraphs as if
26 fully set forth herein.

27 182. There is an actual and present controversy between the parties.
28

1 183. The Second Amendment protects “the right of the people to keep and
2 bear Arms.”

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

8 185. “The very enumeration of the [Second Amendment] right takes out of
9 the hands of government . . . the power to decide on a case-by-case basis whether
10 the right is *really worth* insisting upon.” *Heller*, 554 U.S. at 635 (emphasis in
11 original).
12

13 186. The Second Amendment is not a “second-class right, subject to an
14 entirely different body of rules than the other Bill of Rights guarantees,” *McDonald*,
15 561 U.S. 742, 780, and it cannot “be singled out for special—and specially
16 unfavorable—treatment.” *Id.* at 778–79.
17
18

19 187. The State’s interests certainly cannot and do not take priority over the
20 Constitution’s text enshrinement of a fundamental right that “elevates above all other
21 interests the right of law-abiding, responsible citizens to use arms in defense of
22 hearth and home.” *Heller*, 554 U.S. 570 at 635.
23

24 188. As to all claims made in a representative capacity herein, there are
25 common questions of law and fact that substantially affect the rights, duties, and
26
27
28

1 liabilities of many similarly situated California residents and firearm retailers who
2 are subject to the laws, regulations, policies, practices, and customs in question.

3
4 189. Considerations of necessity, convenience, and justice justify relief to
5 Plaintiffs in a representative capacity.

6
7 190. Defendants are individually and collectively responsible for the
8 formulation, issuance, implementation, and/or enforcement of the laws, regulations,
9 policies, practices, and customs at issue in this case.

10
11 191. Defendants have enforced and will continue to enforce California's
12 Handgun Ban laws, regulations, policies, practices, and customs against Individual
13 Plaintiffs, Retailer Plaintiffs and their customers, Institutional Plaintiffs' members
14 and supporters, and similarly situated persons.

15
16 192. Defendants' enforcement of their unconstitutional laws, regulations,
17 policies, practices, and customs has prevented and continues to prevent Individual
18 Plaintiffs, Retailer Plaintiffs' customers, Institutional Plaintiffs' members and
19 supporters, and other similarly situated adults from purchasing new constitutionally
20 protected handguns in violation of their rights protected under the Second and
21 Fourteenth Amendments to the United States Constitution.

22
23
24 193. Defendants' enforcement of their unconstitutional laws, regulations,
25 policies, practices, and customs has prevented and continues to prevent Individual
26 Plaintiffs, Retailer Plaintiffs' customers, Institutional Plaintiffs' members and
27
28

1 supporters, and other similarly situated adults from self-manufacturing new
2 constitutionally protected handguns, in violation of their rights protected under the
3
4 Second and Fourteenth Amendments to the United States Constitution.

5 194. Defendants' laws, regulations, policies, practices, customs, and
6 ongoing enforcement against Individual Plaintiffs, Retailer Plaintiffs' customers,
7
8 Institutional Plaintiffs' members and supporters, and other similarly situated adults
9 prevent all law-abiding people from lawfully self-manufacturing virtually all
10
11 handguns, including semiautomatic handguns without microstamping technology,
12 on pain of criminal sanction.

13 195. Individual Plaintiffs, Retailer Plaintiffs and their customers, and
14
15 Institutional Plaintiffs' members and supporters reasonably fear that Defendants will
16
17 enforce their laws, regulations, policies, practices, and customs, including associated
18
19 criminal laws and civil penalties, against them should they violate California's
20 Handgun Ban.

21 196. 42 U.S.C. § 1983 creates a cause of action against state actors who
22
23 deprive individuals of federal constitutional rights under color of state law.

24 197. Defendants, individually and collectively, and under color of State law
25
26 at all relevant times, have deprived the fundamental constitutional rights, privileges,
27
28 and immunities of citizenship of adult persons in the State of California not
disqualified from exercising their fundamental, individual right to keep and bear

1 arms, including Individual Plaintiffs, Retailer Plaintiffs’ customers, Institutional
2 Plaintiffs’ members and supporters, and all similarly situated individuals, through
3 Defendants’ enforcement and implementation of California’s Handgun Ban, which
4 has denied, and will continue to infringe upon and prevent by criminal sanction, the
5 exercise of the fundamental right to keep and bear arms unless and until redressed
6 through the relief Plaintiffs seek herein.
7

8
9 198. For all the reasons asserted herein, Defendants have acted in violation
10 of, and continue to act in violation of, 42 U.S.C. § 1983, compelling the relief
11 Plaintiffs seek.
12

13
14 **COUNT TWO**
15 **DEPRIVATION OF CIVIL RIGHTS**
16 **RIGHT TO EQUAL PROTECTION**
17 **U.S. CONST., AMEND. XIV, 42 U.S.C. § 1983**

18 199. Plaintiffs incorporate herein by reference the foregoing paragraphs as if
19 fully set forth herein.

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

21 201. The Fourteenth Amendment to the United States Constitution provides
22 that no State shall deny to any person the equal protection of the laws.
23

24 202. Among other exemptions, Cal. Penal Code § 32110 enumerates eleven
25 (11) different exceptions to California’s Handgun Ban.

26 203. Indeed, Cal. Penal Code § 32110(h) completely exempts from
27 California’s Handgun Ban “[t]he sale, loan, or transfer of any semiautomatic pistol
28

1 that is to be used solely as a prop during the course of a motion picture, television,
2 or video production by an authorized participant therein in the course of making that
3 production or event or by an authorized employee or agent of the entity producing
4 that production or event.”
5

6
7 204. The State of California, through many elected members of the
8 Legislature and governors, has a history of catering to its privileged and politically
9 powerful friends in Hollywood by exempting them from gun control laws that would
10 otherwise apply to them. *See, e.g.*, “The ‘Hollywood’ Gun Control Loophole,”
11 online at <https://www.firearmspolicy.org/the-hollywood-gun-control-loophole>
12 (describing more than a dozen such exemptions).
13

14
15 205. California’s Handgun Ban, and its exception that applies to participants
16 in entertainment events, such as, but not limited to, actors and actresses, and other
17 studio employees and contractors, provides just such an example.
18

19 206. The Cal. Penal Code § 32110(h) exception to the Handgun Ban cannot
20 survive scrutiny under any standard of review. There is no rational basis to allow a
21 Hollywood actor, temporarily or otherwise, to take possession of and use an off-
22 Roster handgun, merely by virtue of his or her status as a contractor or employee of
23 a movie or television production studio, while denying the same to millions of law-
24 abiding California citizens who have a fundamental, individual right to keep and
25 bear modern, off-Roster handguns for self-defense.
26
27
28

1 207. Because California’s Handgun Ban implicates the Second Amendment
2 rights of law-abiding people, this Court must apply heightened scrutiny in its review
3
4 of the ban’s unequal application to law-abiding adults, such as Individual Plaintiffs,
5 the members and supporters of Institutional Plaintiffs, and the customers of Retailer
6
7 Plaintiffs, who are in all relevant ways similarly situated to those who are exempted
8 from Defendants’ enforcement of California’s Handgun Ban.

9 208. Defendants’ policies that they seek to enforce are discriminatory,
10 favoring through exemption a selected group of politically favored citizens while
11
12 against the great majority of law-abiding California citizens who have a need,
13
14 demonstrable utility for, and a constitutional right to acquire and use all legal
15
16 firearms, including handguns excluded from the Defendants’ handgun Roster, for
17 self-defense and other lawful purposes.

18 209. 42 U.S.C. § 1983 creates a cause of action against state actors who
19
20 deprive individuals of federal constitutional rights under color of state law.

21 210. Defendants, individually and collectively, and under color of State law
22
23 at all relevant times, have deprived the fundamental constitutional rights, privileges,
24
25 and immunities of citizenship of adult persons in the State of California not
26
27 disqualified from exercising their fundamental, individual right to keep and bear
28 arms, including Individual Plaintiffs, Retailer Plaintiffs’ customers, Institutional
Plaintiffs’ members and supporters, and all similarly situated individuals, through

1 handguns in violation of their right to keep and bear arms protected under the Second
2 and Fourteenth Amendments to the United States Constitution;

3
4 2. A declaratory judgment that Cal. Penal Code §§ 31900, *et seq.*, 32000,
5 *et seq.*, and 29182(e)(2), Defendants' regulations issued pursuant thereto, and
6 Defendants' related enforcement policies, practices, and customs, individually and
7 collectively prevent Individual Plaintiffs, Retailer Plaintiffs' customers, Institutional
8 Plaintiffs' members and supporters, and ordinary citizens not disqualified from
9 exercising Second Amendment rights from self-manufacturing new, constitutionally
10 protected handguns in violation of their right to keep and bear arms protected under
11 the Second and Fourteenth Amendments to the United States Constitution;

12
13
14
15 3. A declaratory judgment that Cal. Penal Code §§ 31900, *et seq.* and
16 32000, *et seq.*, Defendants' regulations issued pursuant thereto, and Defendants'
17 related enforcement policies, practices, and customs, individually and collectively
18 prevent Individual Plaintiffs, Retailer Plaintiffs' customers, Institutional Plaintiffs'
19 members and supporters, and ordinary citizens not disqualified from exercising
20 Second Amendment rights from purchasing new, constitutionally protected
21 handguns that are not on Defendants' Roster while establishing exemptions for
22 statutorily-created classes of individuals arbitrarily favored by the State of California
23 in violation of the right to equal protection of the laws guaranteed under the
24 Fourteenth Amendment to the United States Constitution;

1 4. A preliminary and permanent injunction restraining Defendants and
2 their officers, agents, servants, employees, and all persons in concert or participation
3 with them, and all persons who have notice of the injunction, from enforcing Cal.
4 Penal Code §§ 31900, *et seq.* and 32000, *et seq.*, Defendants’ regulations issued
5 pursuant thereto, and Defendants’ related enforcement policies, practices, that
6 individually and collectively prevent Individual Plaintiffs, Retailer Plaintiffs’
7 customers, Institutional Plaintiffs’ members and supporters, and ordinary citizens
8 not disqualified from exercising Second Amendment rights from purchasing new,
9 constitutionally protected handguns that are not on Defendants’ Roster;
10
11
12

13 5. A preliminary and permanent injunction restraining Defendants and
14 their officers, agents, servants, employees, and all persons in concert or participation
15 with them, and all persons who have notice of the injunction, from enforcing Cal.
16 Penal Code §§ 31900, *et seq.*, 32000, *et seq.*, and 29182(e)(2), Defendants’
17 regulations issued pursuant thereto, and Defendants’ related enforcement policies,
18 practices, that individually and collectively prevent Individual Plaintiffs, Retailer
19 Plaintiffs’ customers, Institutional Plaintiffs’ members and supporters, and ordinary
20 citizens not disqualified from exercising Second Amendment rights from self-
21 manufacturing new, constitutionally protected handguns that are not on Defendants’
22 Roster;
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