

No. 20-56220

**In the
United States Court of Appeals
for the Ninth Circuit**

DONALD MCDOUGALL, et al.,

Plaintiffs–Appellants,

v.

COUNTY OF VENTURA, et al.,

Defendants–Appellees.

On Appeal from the United States District Court
for the Central District of California
Case No. 2:20-cv-02927-CBM-AS
The Honorable Consuelo B. Marshall

APPELLANTS' EXCERPTS OF RECORD

JOSEPH G.S. GREENLEE
FIREARMS POLICY COALITION
1215 K Street, 17th Floor
Sacramento, CA 95814
(916) 378-5785
jgr@fpchq.org

RAYMOND M. DIGUISEPPE
THE DIGUISEPPE LAW FIRM, P.C.
4320 Southport-Supply Road
Suite 300
Southport, NC 28461
(910) 713-8804
law.rmd@gmail.com

Counsel for Appellants

Under Federal Rules of Appellate Procedure for the Ninth Circuit, Rule 30-1, Plaintiffs-Appellants Donald McDougall, Juliana Garcia, California Gun Rights Foundation, Second Amendment Foundation, and Firearms Policy Coalition, by and through their attorney of record, hereby submit Appellants' Excerpts of Record.

Date: March 5, 2021

*/s/ Raymond M. DiGiuseppe
Counsel for Appellants*

INDEX TO APPELLANTS' EXCERPTS OF RECORD

Dkt	Date	Document Description	Page
55	11/19/20	Notice of Appeal	ER-007
54	10/21/20	Judgment	ER-010
53	10/21/20	Order Re: Motion to Dismiss Case	ER-011
47	07/29/20	Exhibit 7 of Notice of Statewide Public Health Officer Order, Defendant County of Ventura's Public Order to Safely Reopen Ventura County, and the Continued Operation of Gun Stores and Shooting Ranges Under the Additional Orders: 07/22/2020 Ventura County Recovers, Frequently Asked Questions	ER-029
47	07/29/20	Exhibit 5 of Notice of Statewide Public Health Officer Order, Defendant County of Ventura's Public Order to Safely Reopen Ventura County, and the Continued Operation of Gun Stores and Shooting Ranges Under the Additional Orders: 07/16/2020 Order of the Ventura County Health Officer	ER-033
47	07/29/20	Exhibit 4 of Notice of Statewide Public Health Officer Order, Defendant County of Ventura's Public Order to Safely Reopen Ventura County, and the Continued Operation of Gun Stores and Shooting Ranges Under the Additional Orders: 07/14/2020 Order of the Ventura County Health Officer	ER-034
47	07/29/20	Exhibit 3 of Notice of Statewide Public Health Officer Order, Defendant County of Ventura's Public Order to Safely Reopen Ventura County, and the Continued Operation of Gun Stores and Shooting Ranges Under the Additional Orders: 07/03/2020 Order of the Ventura County Health Officer	ER-036
47	07/29/20	Exhibit 2 of Notice of Statewide Public Health Officer Order, Defendant County of Ventura's Public Order to Safely Reopen Ventura County, and the Continued Operation of Gun Stores and Shooting Ranges Under the Additional Orders: 07/02/2020 Order of the Ventura County Health Officer	ER-038
47	07/29/20	Exhibit 1 of Notice of Statewide Public Health Officer Order, Defendant County of Ventura's Public Order to Safely Reopen Ventura County, and the Continued Operation of Gun Stores and Shooting	ER-041

		Ranges Under the Additional Orders: 06/11/2020 Ventura County Public Health Department Order	
45-1	06/16/20	Exhibit 1 of Defendants' Supplemental Request for Judicial Notice in Support of Motion to Dismiss First Amended Complaint: 06/11/2020 "Stay Well VC" Order	ER-043
42-1	06/02/20	Exhibit 27 of Request for Judicial Notice in Support of Motion to Dismiss the First Amended Complaint: 05/29/20 "Stay Well VC" Order	ER-047
42-1	06/02/20	Exhibit 26 of Request for Judicial Notice in Support of Motion to Dismiss the First Amended Complaint: 05/07/20 "Stay Well VC" Order as amended May 20, 2020 and May 22, 2020	ER-053
42-1	06/02/20	Exhibit 24 of Request for Judicial Notice in Support of Motion to Dismiss the First Amended Complaint: VC Emergency, Frequently Asked Questions	ER-063
42-1	06/02/20	Request for Judicial Notice in Support of Motion to Dismiss the First Amended Complaint	ER-072
42	06/02/20	Defendants' Notice of Motion and Motion to Dismiss First Amended Complaint	ER-078
38	05/12/20	Exhibit 3 of Memorandum of Points and Authorities in Support of Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction: 03/28/20 Director of the U.S. Department of Homeland Security, Cybersecurity & Infrastructure Agency, "Advisory Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response."	ER-110
37-2	05/12/20	Exhibit 2 of Memorandum of Points and Authorities in Support of Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction: 05/07/2020 Stay Well VC Order	ER-125
30	04/30/20	In Chambers - Order re Plaintiffs' Second Ex Parte Application for Temporary Restraining Order	ER-135
29-1	04/28/20	Exhibit 15 of Request for Judicial Notice in Support of Opposition to Plaintiffs' Second Ex Parte Application for Temporary Restraining Order: 04/20/20 "Stay Well At Home" Order of the Ventura County Health Officer	ER-137
29-1	04/28/20	Exhibit 5 of Request for Judicial Notice in Support of Opposition to Plaintiffs' Second Ex Parte Application for Temporary Restraining Order: 03/11/20 WHO Director-General's Opening Remarks at the Media Briefing on COVID-19	ER-157

20-7	04/14/20	Exhibit 5 of Declaration of Ronda Baldin-Kennedy in Support of Plaintiff's Motion for Preliminary Injunction: 04/09/20 "Stay Well At Home" Order of the Ventura County Health Officer	ER-162
20-7	04/14/20	Exhibit 4 of Declaration of Ronda Baldin-Kennedy in Support of Plaintiff's Motion for Preliminary Injunction: 03/31/20 "Stay Well At Home" Order of the Ventura County Health Officer	ER-166
20-7	04/14/20	Exhibit 3 of Declaration of Ronda Baldin-Kennedy in Support of Plaintiff's Motion for Preliminary Injunction: 03/20/20 "Stay Well At Home" Order of the Ventura County Health Officer	ER-170
20-7	04/14/20	Exhibit 2 of Declaration of Ronda Baldin-Kennedy in Support of Plaintiff's Motion for Preliminary Injunction: 03/17/20 Health Officer Order for the Control of COVID-19	ER-177
19	04/14/20	First Amended Complaint	ER-180
12	04/01/20	In Chambers – Order re Ex Parte Application for Temporary Restraining Order	ER-210
1	03/28/20	Complaint for Injunctive Relief	ER-212
	03/04/21	District Court Docket	ER-220

CERTIFICATE OF SERVICE

I hereby certify that on March 5, 2021, an electronic PDF of Appellants' Excerpts of Record was uploaded to the Court's CM/ECF system, which will automatically generate and send by electronic mail a Notice of Docket Activity to all registered attorneys participating in the case. Such notice constitutes service on those registered attorneys.

Dated this 5th day of March 2021.

*/s/ Raymond M. DiGuiseppe
Counsel for Appellants*

Ronda Baldwin-Kennedy, Esq. (SB #302813)
Jerome A. Clay, Esq. (SB #327175)
LAW OFFICE OF RONDA BALDWIN-KENNEDY
5627 Kanan Rd. #614
Agoura Hills, CA 91301
Phone: (951) 268-8977
Fax: (702) 974-0147
Email: ronda@lorbk.com

Raymond M. DiGuiseppe (SB #228457)
The DiGuiseppe Law Firm, P.C.
4320 Southport-Supply Road, Suite 300
Southport, North Carolina 28461
Phone: 910-713-8804
Fax: 910-672-7705
Email: law.rmd@gmail.com

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

DONALD MCDOUGALL, an individual; JULIANA GARCIA, an individual; SECOND AMENDMENT FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION; and FIREARMS POLICY COALITION, INC.,

Plaintiffs,

v.

COUNTY OF VENTURA, CALIFORNIA; BILL AYUB, in his official capacity; WILLIAM T. FOLEY, in his official capacity, ROBERT LEVIN, in his official capacity; and

Case No. 2:20-cv-02927

VENTURA COUNTY PUBLIC
HEALTH CARE AGENCY,

Defendants.

NOTICE OF APPEAL

PLEASE TAKE NOTICE that Plaintiffs Donald McDougall, Juliana Garcia, Second Amendment Foundation, California Gun Rights Foundation, and Firearms Policy Coalitions, Inc. hereby appeal to the United States Court of Appeals for the Ninth Circuit from the Court’s Order and Judgment entered on October 21, 2020 (ECF Doc. 68 and Doc. 70). A copy of the order and judgment are attached hereto.

Dated: November 19, 2020

/s/ Raymond M. DiGuiseppe
Raymond M. DiGuiseppe

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I, Raymond M. DiGuiseppe, hereby certify that I served a copy of the *Notice of Appeal* and *Representation Statement* through the Court's ECF system to all registered users.

Dated: November 19, 2020

By:

/s/ Raymond M. DiGuiseppe

THE DIGUISEPPE LAW FIRM, P.C.
4320 Southport-Supply Rd., Ste 300
Southport, North Carolina 28461
Phone: 910-713-8804
Fax: 910-672-7705
law.rmd@gmail.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DONALD MCDUGALL, ET AL.,
Plaintiffs,
vs.
COUNTY OF VENTURA, ET AL.,
Defendants.

Case No.: 2:20-cv-02927-CBM-AS

JUDGMENT JS6

Pursuant to the Court’s Order RE: Motion to Dismiss Case,
IT IS ADJUDGED that the First Amended Complaint is dismissed
with prejudice.

IT IS SO ORDERED.

DATED: October 21, 2020



CONSUELO B. MARSHALL
UNITED STATES DISTRICT JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DONALD MCDUGALL, ET AL.,
Plaintiffs,
vs.
COUNTY OF VENTURA,
CALIFORNIA, ET AL.,
Defendants.

Case No.: 2:20-cv-02927-CBM-AS

**ORDER RE: MOTION TO
DISMISS CASE (DKT. NO. 42)**

The matter before the Court is Defendants County of Ventura, William Ayub, Dr. Robert Levin, and William T. Foley’s (collectively, “Defendants”) motion to dismiss the first amended complaint (“FAC”).¹ (See Dkt. No. 42.) Plaintiffs Donald McDougall, Juliana Garcia, Second Amendment Foundation, California Gun Rights Foundation, and Firearms Policy Coalition (collectively, “Plaintiffs”) oppose the Motion. (See Dkt. No. 43 (“Opp.”).)

Also pending before the Court are Defendants’ Request for Judicial Notice with Exhibits (“Defendants’ RJN”), Plaintiffs’ Request for Judicial Notice In Support of Plaintiffs’ Opposition (“Plaintiffs’ RJN”), and Defendants’ Supplemental Request for Judicial Notice with Exhibit 1 (“Defendants’

¹ Hereinafter referred to as the “Motion.”

1 Supplemental RJN”). (See Dkt. No. 42-1 (Defendants’ RJN), 44 (Plaintiffs’ RJN),
2 45-1 (Defendants’ Supplemental RJN).)

3 **I. BACKGROUND**

4 **A. Factual Background**

5 This is an action under 42 U.S.C. § 1983 for one count of violation of the
6 Second Amendment.² (See Dkt. No. 19 (FAC).) As of June 1, 2020, the novel
7 coronavirus, COVID-19, has infected 1,787,680 people and killed 104,396 people
8 across the nation. (Defendants’ RJN at Ex. 2, p.1.) “Because people may be
9 infected but asymptomatic, they may unwittingly infect others.” *S. Bay Pentecostal*
10 *Church v. Newsom*, ---- U.S. ----, 140 S.Ct. 1613 (2020) (mem.) (Roberts, C.J.,
11 Concurring). The COVID-19 pandemic “has thrust humankind into an
12 unprecedented global public health crisis.” *Altman v. County of Santa Clara*, No.
13 20-cv-02180-JST, 2020 WL 2850291, at *1 (N.D. Cal. June 20, 2020) (citation
14 omitted).

15 On or about March 4, 2020, Governor Gavin Newsom proclaimed a state of
16 emergency in California due to COVID-19. (FAC at ¶ 34.) Beginning on March
17 17, 2020, defendant Dr. Robert Levin (“Levin”), the Ventura County Health
18 Officer, issued a series of “stay well at home” orders on behalf of defendant
19 County of Ventura (the “County”). (FAC at ¶¶ 50-53.) The stay well at home
20 orders generally required individuals living within the County to stay at their
21 places of residence and cease business activities, but exempted certain “essential
22 businesses” from those prohibitions. Although the scope of the stay well at home
23 orders varied as the County amended the order, it is undisputed that firearms
24 retailers were not deemed “essential businesses” and were therefore mandated to

25
26
27 ² Plaintiffs assert a violation of the “Right to Travel” as Count II of the FAC. (FAC at ¶¶ 82-88.)
28 In their Opposition, Plaintiffs dismiss Count II “[i]n the interest of economy and efficiency.”
(Opp. at p. 1, n.1.) Therefore, the Court considers only Count I in this order.

1 be closed from at least March 20, 2020 to May 7, 2020. (*See* Dkt. No. 45 (Reply)
2 at p. 4:9-17.)

3 Plaintiffs Donald McDougall (“McDougall”) and Juliana Garcia (“Garcia”)
4 are residents of the County. (FAC at ¶¶ 7-8.) McDougall purchased a firearm
5 from a licensed firearm dealer and left another firearm with a licensed gunsmith,
6 but was unable to retrieve those firearms or acquire ammunition due to the stay
7 well at home orders. (*Id.* at ¶ 59.) Garcia desired to purchase a firearm and
8 ammunition, but was unable to acquire a Firearm Safety Certificate (“FSC”) or
9 purchase a firearm and ammunition due to the stay well at home orders. (*Id.* at ¶
10 lers and ranges nocond Amendment Foundation, Inc. (“SAF”), California Gun
11 Rights Foundation (“CGF”), and Firearms Policy Coalition, Inc. (“FPC”)
12 (collectively, the “Institutional Plaintiffs”) are nonprofit organizations whose
13 members in the County were affected by the stay well at home orders. (*Id.* at ¶¶ 9-
14 11.)

15 The FAC alleges the Defendants violated Plaintiffs’ rights under the Second
16 Amendment because the issuance and enforcement of the stay well at home orders
17 prevented McDougall, Garcia, and members of the Institutional Plaintiffs from
18 buying, selling, and transferring firearms and ammunition, and as well as training
19 with firearms at firing ranges (“Count I”). (FAC at ¶¶ 65-66, 81.) Plaintiffs seek
20 declaratory relief, injunctive relief, and nominal damages against Defendants.
21 (FAC at Prayer for Relief.)

22 **B. Procedural Background**

23 The complaint was filed on March 28, 2020. (*See* Dkt. No. 1.) McDougall
24 applied for an *ex parte* temporary restraining order on March 30, 2020 (*see* Dkt.
25 No. 8, 9), which the Court denied on April 1, 2020. (*See* Dkt. No. 12.) In that
26 order, the Court held McDougall was not entitled to a temporary restraining order
27 because his Second Amendment claim was unlikely to succeed on the merits under
28 intermediate scrutiny. (*Id.*) On April 14, 2020, Plaintiffs filed the FAC, which

1 added additional plaintiffs and a cause of action for violation of the right to travel.
2 (Dkt. No. 20.) Plaintiffs filed a second *ex parte* application for a temporary
3 restraining order on April 24, 2020 (*see* Dkt. No. 27), which the Court denied on
4 April 30, 2020. (*See* Dkt. No. 30.) The Court set Plaintiffs’ request for an order to
5 show cause why a preliminary injunction should not issue for hearing on May 19,
6 2020. (Dkt. No. 35.) After receiving and considering briefs from both parties,
7 Plaintiffs withdrew the motion for preliminary injunction on May 18, 2020. (Dkt.
8 No. 40.)

9 II. JURISDICTION

10 The Court has jurisdiction over this action under 28 U.S.C. § 1331.

11 III. LEGAL STANDARD

12 A. Fed. R. Civ. P. 12(b)(6)

13 Rule 12(b)(6) allows a court to dismiss a complaint for “failure to state a
14 claim upon which relief can be granted.” To survive a motion to dismiss, the
15 complaint “must contain sufficient factual matter, accepted as true, to ‘state a
16 claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 663
17 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). All
18 well-pleaded facts are taken as true, with all reasonable inferences in favor of the
19 plaintiff. *Twombly*, 550 U.S. at 570. Labels, conclusions, or formulaic recitation
20 of the elements of a cause of action will not suffice. *Twombly*, 550 U.S. at 555. A
21 complaint must state “evidentiary facts which, if true, will prove [the claim].”
22 *Kendall v. Visa U.S.A., Inc.*, 518 F.3d 1042, 1047 (9th Cir. 2008).

23 B. Fed. R. Civ. P. 12(b)(1)³

24 The Court may dismiss a complaint for lack of subject matter jurisdiction.
25 *See* Fed. R. Civ. P. 12(b)(1). The plaintiff has the burden to establish that subject

26 _____
27 ³ Defendants did not move to dismiss the FAC under Rule 12(b)(1) in this Motion. Defendants
28 concede, however, that their challenge based on mootness arises under Rule 12(b)(1).
Defendants argue in the Reply that the Court should consider the mootness arguments because
“Plaintiffs suffer no prejudice for Defendants’ inadvertent error in omitted 12(b)(1) as a basis for

1 matter jurisdiction is proper. *See Ass'n of Am. Med. Colls. v. United States*, 217
2 F.3d 770, 778-779 (9th Cir. 2000). To meet this burden, the plaintiff must show
3 “affirmatively and distinctly the existence of whatever is essential to federal
4 jurisdiction.” *Tosco Corp. v. Cmtys. for a Better Env't*, 236 F.3d 495, 499 (9th Cir.
5 2001), *overruled on other grounds*, *Hertz Corp. v. Friend*, 559 U.S. 77, 82 (2010).
6 A motion to dismiss for lack of subject matter jurisdiction may be a facial attack,
7 where the allegations of the complaint are insufficient on their face to invoke
8 federal jurisdiction, or a factual attack, where “the challenger disputes the truth of
9 the allegations that, by themselves, would otherwise invoke federal jurisdiction.”
10 *Wolfe v. Strankman*, 392 F.3d 358, 362 (9th Cir. 2004) (citation and quotation
11 marks omitted).

12 IV. DISCUSSION

13 A. Requests for Judicial Notice

14 “The court may judicially notice a fact that is not subject to reasonable
15 dispute because it (1) is generally known within the trial court’s territorial
16 jurisdiction; or (2) can be accurately and readily determined from sources whose
17 accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b). The Court may
18 take judicial notice of a document that is a government publication and a matter of
19 public record. *See Lee v. City of Los Angeles*, 250 F.3d 668, 688 (9th Cir. 2001).

20 Defendants’ RJN requests judicial notice of orders of various federal courts
21 (Ex. 1, 4, 28), publications from state and federal agencies (Ex. 2, 3, 9-14, 16-27),
22 scientific publications (Ex. 5-8), and a newspaper article (Ex. 15). (*See* Dkt. No.
23 42-1 (Defendants’ RJN) at p. 2:3-5:7.) Here, the publications from state and
24 federal agencies are matters of public record that are not subject to reasonable
25 dispute. *See U.S. ex rel. Modglin v. DJO Global Inc.*, 48 F.Supp.3d 1362, 1381

26
27
28

dismissal in their notice of motion” because Plaintiffs fully briefed the mootness argument in
their Opposition. (Reply at p.2, n.1.) The Court considers the motion to dismiss under Rule
12(b)(1).

1 (C.D. Cal. 2014) (“Under Rule 201, the court can take judicial notice of ‘[p]ublic
2 records and government documents available from reliable sources on the
3 Internet,’ such as websites run by governmental agencies.”). Moreover, this Court
4 may consider the opinions of other federal courts without reliance on the doctrine
5 of judicial notice. In contrast, Defendants provide no authority for this Court to
6 take judicial notice of the truth of newspaper articles and scientific publications.
7 “This is because often, the accuracy of information in newspaper articles and press
8 releases cannot be readily determined and/or can be reasonably questioned.”
9 *Gerritsen v. Warner Bros. Entertainment Inc.*, 112 F.Supp.3d 1011, 1028 (C.D.
10 Cal. 2015). Therefore, the Court **GRANTS** Defendants’ RJN as to Exhibits 2, 3,
11 9-14, and 16-27, but **DENIES** the request for judicial notice as to Exhibits 1, 4, 5-
12 8, and 28.

13 Plaintiffs’ RJN requests judicial notice of newspaper articles and
14 publications (Ex. 1-4, 9-11), and publications from state and federal agencies (Ex.
15 5-8). (*See* Dkt. No. 44 (Plaintiffs’ RJN) at p. 1:25-3:11.) As explained above,
16 publications from state and federal agencies are matters of public record that are
17 not subject to reasonable dispute. *See DJO Global Inc.*, 48 F.Supp.3d at 1381.
18 Therefore, the Court **GRANTS** Plaintiffs’ RJN as to Exhibits 5-8. In contrast, the
19 Court **DENIES** the request for judicial notice related to the truth of newspaper
20 articles and publications contained in Ex. 1-4, 9-11. *See Gerritsen*, 112 F.Supp.3d
21 at 1028 (“The cases in which courts take judicial notice of newspaper articles and
22 press releases, however, are limited to a narrow set of circumstances not at issue
23 here – e.g., in securities cases for the purpose of showing that particular
24 information was available to the stock market.”).

25 Defendants’ Supplemental RJN asks the Court to take judicial notice of an
26 order of the Ventura County Health Officer, dated June 11, 2020. (Dkt. No. 45-1
27 (Defendants’ Supplemental RJN) at Ex. 1.) Because this a publication from a
28

1 state government and a matter of public record, the Court **GRANTS** Defendants’
2 Supplemental RJN.

3 **B. Motion to Dismiss**

4 **1. Mootness**

5 “Mootness is a jurisdictional issue, and federal courts have no jurisdiction
6 to hear a case that is moot, that is, where no actual or live controversy exists.”
7 *MetroPCS Cal., LLC v. Picker*, 970 F.3d 1106, 1115-1116 (9th Cir. 2020) (citations
8 and quotation marks omitted). “When ‘there is no longer a possibility that [a
9 party] can obtain relief for [its] claim, that claim is moot.’” *Id.* at 1116 (quoting
10 *Ruvalcaba v. City of Los Angeles*, 167 F.3d 514, 521 (9th Cir. 1999)) (brackets in
11 original).

12 Defendants move to dismiss Count I under Fed. R. Civ. P. 12(b)(1), arguing
13 the Second Amendment claim became moot as to all Plaintiffs on May 7, 2020,
14 when the County amended the stay well at home order such that it “no longer
15 prohibits firearm stores from opening.” (Mot. at p. 10:18-20.) Moreover,
16 Defendants argue McDougall’s claim became moot on April 20, 2020, when the
17 stay well at home order “was amended to expressly allow gun purchasers ... to
18 complete the purchases of firearms.” (*Id.* at p. 10:20-21.)

19 The stay well at home order dated April 20, 2020 (“April 20 County Order”)
20 required the closure of all non-essential businesses in the County. (Defendants’
21 RJN, Ex. 20 at ¶ 7.) The list of essential businesses in the April 20 County Order
22 did not include firearm retailers, ammunition retailers, or firing ranges. (*Id.* at ¶
23 17(e).) The April 20 County Order made a “[s]pecial allowance for completion of
24 firearm sales,” whereby individuals “who initiated the purchase of a firearm at a
25 store located within the County before March 20, 2020 (i.e., the day firearm stores
26 were ordered to be closed by the Health Officer)” were permitted to acquire the
27 firearm at the retailer. (*Id.* at ¶ 11.) McDougall purchased a firearm sometime
28 before the issuance of the stay well at home orders, and that firearm was in the

1 possession of a firearm dealer. (FAC at ¶ 59.) Therefore, McDougall was
2 permitted to retrieve that firearm under the April 20 County Order.⁴

3 The stay well at home order dated May 7, 2020 was expressly made no
4 more restrictive than the State Stay at Home Order and permitted “[o]nly retail
5 businesses whose primary line of business qualifies as critical infrastructure under
6 the State Stay at Home Order” to be fully open to the public. (Defendants’ RJN,
7 Ex. 23 at ¶ 8.)

8 “As a general rule, amending or repealing an ordinance will not moot a
9 damages claim because such relief is sought for ‘a past violation of [the plaintiff’s]
10 rights.’ *Epona LLC v. County of Ventura*, No. CV 16-6372, 2019 WL 7940582, at
11 *5 (C.D. Cal. Dec. 12, 2019) (quoting *Outdoor Media Grp. v. City of Beaumont*,
12 506 F.3d 985, 902 (9th Cir. 2007)). Here, in addition to declaratory and injunctive
13 relief, Plaintiffs seek nominal damages. Nominal damages are available to remedy
14 a constitutional violation, even if “actual provable injury” has not occurred. *Id.*
15 (citing *Memphis Cmty. Sch. Dist. v. Stachura*, 477 U.S. 299, 307 (1986)). Thus,
16 even if Defendants are correct that Plaintiffs could purchase firearms, ammunition,
17 and visit firing ranges at least by May 7, 2020, Defendants do not dispute that
18 there was a period of time during which the stay well at home orders prohibited
19 those activities. Assuming such actions by the Defendants violated the Second
20 Amendment (discussed below), Plaintiffs would be entitled to nominal damages.
21 Therefore, there is a possibility that Plaintiffs can obtain relief for their claim, and
22 the claim is not moot.⁵ *See MetroPCS Cal., LLC*, 970 F.3d at 1116.

23
24 ⁴ Defendants do not address whether McDougall could retrieve another firearm he owned that
25 was left with a gunsmith consistent with the April 20 County Order, nor do Defendants address
26 whether McDougall could practice at a firing range or purchase ammunition within the County.

27 ⁵ In the Reply, Defendants argue that “Plaintiffs are not entitled to damages from any of the
28 named government officials, nominal or otherwise, under the doctrine of qualified immunity.”
(Dkt. No. 45 (Reply) at p. 10:26-28.) This argument is raised for the first time in the Reply.
Moreover, Plaintiffs bring claims against the named government officials in their official
capacity, such that qualified immunity would not be available. *See Comm. House, Inc. v. City of
Boise*, 623 F.3d 945, 965 (9th Cir. 2010) (“Qualified immunity, however, is a defense available

1 **2. Merits of the Second Amendment Claim**

2 The parties contest the standard of review for the Second Amendment claim.
3 Defendants argue the framework set out in *Jacobson v. Commonwealth of*
4 *Massachusetts*, 197 U.S. 11, 30-31 (1905) should apply, while Plaintiffs rely on
5 tiered scrutiny, *see, e.g., U.S. v. Chovan*, 735 F.3d 1127, 1136 (9th Cir. 2013).

6 **a. *Jacobson* applies to the Second Amendment claim in this case**

7 *Jacobson* involved a constitutional challenge to a state law and a rule
8 promulgated by the board of health of Cambridge, Massachusetts, which required
9 inhabitants of the city to be vaccinated against smallpox. *Jacobson*, 197 U.S. at
10 12-13. The United States Supreme Court reasoned that to hold in favor of the
11 plaintiff “would practically strip the legislative department of its function to care
12 for the public health and the public safety when endangered by epidemics of
13 disease.” *Id.* at 37. Under the *Jacobson* framework, judicial review of
14 constitutional challenges to emergency measures taken by the state during a public
15 health crisis is narrow:

16 If there is any such power in the judiciary to review legislative action
17 in respect of a matter affecting the general welfare, it can only be when
18 that which the legislature has done comes within the rule that, if a
19 statute purporting to have been enacted to protect the public health, the
20 public morals, or the public safety, has no real or substantial relation to
21 those objects, or is, beyond all question, a plain, palpable invasion of
22 rights secured by the fundamental law, it is the duty of the courts to so
23 adjudge, and thereby give effect to the Constitution.

24 *Id.* at 31. The *Jacobson* Court emphasized that the manner in which the state
25 decides to combat an epidemic is entitled to deference. *See id.* at 30 (“It is no part
26 of the function of a court or a jury to determine which one of two modes was
27 likely to be the most effective for the protection of the public against disease.”).

28 _____ only to government officials sued in their individual capacities. It is *not* available to those sued
only in their official capacities.”).

1 More recently, federal courts have relied on *Jacobson* in cases bringing
2 constitutional challenges to state and local orders aimed at curbing the spread of
3 COVID-19. In *S. Bay United Pentecostal Church*, 140 S.Ct. at 1613-1614, a
4 plurality of the United States Supreme Court denied an injunction brought on First
5 Amendment grounds against an Executive Order of the Governor of California
6 which “limit[ed] attendance at places of worship to 25% of building capacity or a
7 maximum of 100 attendees.” Although four justices dissented, Chief Justice
8 Roberts authored an opinion concurring with the four-justice majority. Amongst
9 other things, the Chief Justice wrote:

10 The precise question of when restrictions on particular social activities
11 should be lifted during the pandemic is a dynamic and fact-intensive
12 matter subject to reasonable disagreement. Our Constitution
13 principally entrusts “[t]he safety and the health of the people” to the
14 politically accountable officials of the States to “guard and protect.”
15 *Jacobson v. Massachusetts*, 197 U.S. 11, 38, 25 S.Ct. 358, 49 L.Ed.
16 643 (1905). When those officials “undertake[] to act in areas fraught
17 with medical and scientific uncertainties,” their latitude “must be
18 especially broad.” *Marshall v. United States*, 414 U.S. 417, 427, 94
19 S.Ct. 700, 38 L.Ed.2d 618 (1974). Where those broad limits are not
20 exceeded, they should not be subject to second-guessing by an
“unelected federal judiciary,” which lacks the background,
competence, and expertise to assess public health and is not
accountable to the people. See *Garcia v. San Antonio Metropolitan
Transit Authority*, 469 U.S. 528, 545, 105 S.Ct. 1005, 83 L.Ed.2d 1016
(1985).

21 *S. Bay United Pentecostal Church*, 140 S.Ct. at 1613-1614. Although the Ninth
22 Circuit has not directly addressed the standard of review for constitutional claims
23 challenging health orders during a pandemic, other circuit courts have applied the
24 *Jacobson* framework in that context. See, e.g., *Adams & Boyle, P.C. v. Slatery*,
25 956 F.3d 913, 925-27 (6th Cir. 2020) (affirming preliminary injunction of
26 Tennessee emergency order halting procedural abortions); *In re Abbott*, 954 F.3d
27 772, 783-788 (5th Cir. 2020) (granting writ of mandamus directing vacatur of
28 temporary restraining order of Texas emergency order halting abortions);

1 *Robinson v. Attorney General*, 957 F.3d 1171, 1179-80 (11th Cir. 2020); *In re*
2 *Rutledge*, 956 F.3d 1018, 1028 (8th Cir. 2020) (holding district court erred by not
3 using *Jacobson* to evaluate Arkansas abortion restrictions).

4 Defendants argue that *Jacobson* “must be read with its historical limitations
5 in mind,” as it was decided “long before the evolution of modern constitutional
6 scrutiny.” (Opp. at p. 16.) This argument is unavailing because the weight of
7 authority from both the United States Supreme Court and Circuits indicates the
8 *Jacobson* framework is valid authority. Defendants next argue the *Jacobson*
9 framework applies to “*legislative-enacted* restraints on *general* liberty interests
10 not specifically protected by enumerated fundamental rights.” (Opp. at 16 (italics
11 in original).) The Court rejects that argument on two grounds. First, the Supreme
12 Court in *Jacobson* considered a challenge to state law *and* a regulation
13 promulgated by the local board of health, so its holding is not limited to
14 “legislatively-enacted restraints.” *Jacobson*, 197 U.S. at 12-13. Second, the
15 holding of *Jacobson* is not limited to “general liberty interests” as opposed to
16 “enumerated fundamental rights,” nor do Defendants point to language from
17 *Jacobson* supporting such an interpretation. Indeed, the United States Supreme
18 Court framed its holding in *Jacobson* broadly, reasoning “the liberty secured by
19 the Constitution of the United States to every person within its jurisdiction does
20 not import an absolute right in each person to be, at all times and in all
21 circumstances, wholly freed from restraint.” *Id.* at 26.

22 Because this case involves a constitutional challenge to a health order
23 promulgated by the County in response to a nationwide public health crisis, the
24 Court applies *Jacobson* to determine whether the stay well at home orders violated
25 the Second Amendment.
26
27
28

1 **b. The Stay Well at Home Orders Are Consistent with**
2 ***Jacobson***

3 Under the standard of review set forth in *Jacobson*, the Court must
4 determine (1) whether the County’s orders “ha[ve] no real or substantial relation”
5 to the County’s objective of preventing the spread of COVID-19; or (2) whether
6 the County of Ventura’s orders affect “beyond all question, a plain, palpable
7 invasion of rights secured by” the Constitution. *Jacobson*, 197 U.S. at 31. The
8 stay well at home orders meet the first test under *Jacobson*. The stated objective
9 of the stay well at home orders “is to ensure that the maximum number of persons
10 stay in their places of residence to the maximum extent feasible, while enabling
11 essential services to continue, to slow the spread of COVID-19 to the maximum
12 extent possible.” (Defendants’ RJN at Ex. 11, ¶ 1.) The County elected to achieve
13 this goal by deeming certain businesses, travel, and services “essential” and
14 restricting businesses, travel, and services that were not deemed essential.
15 Because those limitations restrict in-person contact, they are substantially related
16 to the objective of preventing the spread of COVID-19. Plaintiffs allege in the
17 FAC and argue in their Opposition that the County acted arbitrarily or erroneously
18 by not deeming firearm retailers, ammunition retailers, and firing ranges “essential
19 businesses.” (Opp. at p. 14:15-15:8; FAC at ¶¶ 2-3, 58, 65, 72-76, 81.) This
20 argument is unavailing. *Jacobson* holds that it is not the role of the judiciary to
21 second-guess policy choices favoring one of two modes of preventing the spread
22 of a disease, which is precisely what Plaintiffs request this Court to do. *Jacobson*,
23 197 U.S. at 30. Moreover, Plaintiffs do not dispute that the stay well at home
24 orders bear a substantial relation to the County’s objective of limiting the spread
25 of COVID-19.

26 Under the second test of *Jacobson*, the stay well at home orders must not
27 affect “beyond all question, a plain, palpable invasion of” the Second Amendment.
28 *Jacobson*, 197 U.S. at 31. In *Altman v. County of Santa Clara*, ---- F.Supp.3d ----,

1 2020 WL 2850291, at *10 (N.D. Cal. June 2, 2020), the district court found there
2 to be “significant overlap between the ‘plain, palpable invasion’ prohibited by
3 *Jacobson* and the ‘complete prohibition’ on the Second Amendment right that
4 [*District of Columbia v. Heller*, 554 U.S. 570, 629 (2008)] deemed categorically
5 unconstitutional.”⁶ Because this approach unifies the *Jacobson* framework with
6 modern constitutional jurisprudence, the Court applies the reasoning of *Altman* to
7 determine whether a “plain, palpable” invasion of the Second Amendment resulted
8 from the enactment of the stay well at home orders.

9 “[T]he Second Amendment protects the right to possess a handgun in the
10 home for purposes of self-defense.” *McDonald v. City of Chicago*, 561 U.S. 742,
11 791 (2010) (holding Second Amendment is incorporated to the states via the
12 Fourteenth Amendment). The “core” Second Amendment right to keep and bear
13 arms includes the rights to acquire firearms, purchase ammunition, and maintain
14 proficiency in firearms use. *See Teixeira v. County of Alameda*, 873 F.3d 670, 677-
15 678 (9th Cir. 2017).

16 Defendants argue the temporary nature of the stay well at home orders and
17 amendments thereto that were solicitous to McDougall distinguish the stay well at
18 home orders from the categorical ban of handguns at issue in *Heller*. Moreover,
19 Defendants argue the right to purchase firearms is subject to regulation without
20 violating the Second Amendment. *See Heller*, 554 U.S. at 626-27 (“[N]othing in
21 our opinion should be taken to cast doubt on ... laws imposing conditions and
22 qualifications on the commercial sale of arms.”). Although Plaintiffs do not apply
23 the *Jacobson* framework, they maintain the stay well at home orders “*completely*
24 *denied* access to, and any lawful transactions involving, firearms and ammunition
25 throughout the county.” (Opp. at p. 19:19-21.) Thus, the Court may surmise that,
26 in Plaintiffs’ view, the stay well at home orders are analogous to the complete ban

27
28 ⁶ The “complete prohibition” in *Heller* refers to laws of the District of Columbia that “generally prohibit[ed] the possession of handguns.” *Heller*, 554 U.S. at 574, 629.

1 of handguns at issue in *Heller*, and therefore affected a plain and palpable
2 violation of the Second Amendment right.

3 Here, the Court finds the stay well at home orders did not amount to a plain
4 and palpable violation of the Second Amendment, as required by *Jacobson*.
5 Unlike the total prohibition of handguns at issue in *Heller*, the stay well at home
6 orders are temporary and do not violate the Second Amendment. See *Silvester v.*
7 *Harris*, 843 F.3d 816, 827 (9th Cir. 2016); *Altman v. County of Santa Clara*, ----
8 F.Supp.3d ----, 2020 WL 2850291, at *11-12. *Silvester*, 843 F.3d at 827, provides
9 the closest analog to the temporary closure of firearms retailers and ranges at issue
10 here. *Silvester* involved a challenge to California’s 10-day waiting period to take
11 possession of firearms. In upholding the law, the Ninth Circuit reasoned that
12 “[t]he waiting period does not prevent any individuals from owning a firearm” or
13 impose restrictions on the manner in which firearms are stored after they acquired.
14 *Id.* Rather, the “actual effect” caused by the delay was “very small[,]” and one
15 cognizable in the historical understanding of the Second Amendment:

16 There is, moreover, nothing new in having to wait for the delivery of a
17 weapon. Before the age of superstores and superhighways, most folks
18 could not expect to take possession of a firearm immediately upon
19 deciding to purchase one. As a purely practical matter, delivery took
20 time. Our 18th and 19th century forebears knew nothing about
21 electronic transmissions. Delays of a week or more were not the
22 product of governmental regulations, but such delays had to be
23 routinely accepted as part of doing business.

24 *Silvester*, 843 F.3d at 827. As in *Silvester*, the effect of the stay well at home
25 orders was to delay Plaintiffs’ ability to acquire and practice with firearms and
26 ammunition and not to prohibit those activities. Thus, Plaintiffs have not
27 demonstrated that the temporary closure of firearms retailers constitutes a plain
28 and palpable violation of their Second Amendment right.⁷

⁷ At least one other district court has considered whether a facially neutral emergency order to curb COVID-19 violates the Second Amendment. In *Altman v. County of Santa Clara*, ----

1 Therefore, the Court **GRANTS** the motion to dismiss with prejudice
2 because the stay well at home orders did not amount to a violation of the Second
3 Amendment under the standard set forth in *Jacobson*.

4 **c. The Stay Well At Home Orders Satisfy Traditional**
5 **Constitutional Analysis**

6 The Court need not analyze Plaintiffs’ Second Amendment claim under
7 traditional constitutional scrutiny because *Jacobson* applies. Nonetheless, the
8 Court finds the claim does not survive a motion to dismiss under the Ninth
9 Circuit’s traditional framework for Second Amendment claims.

10 “The Ninth Circuit assesses the constitutionality of firearm regulations
11 under a two-prong test. This inquiry ‘(1) asks whether the challenged law burdens
12 conduct protected by the Second Amendment and (2) if so, directs courts to apply
13 an appropriate level of scrutiny.’” *Duncan v. Bacerra*, 970 F.3d 1133, 1145 (9th
14 Cir. 2020) (quoting *Chovan*, 735 F.3d at 1136) (internal citations omitted)). The
15 Ninth Circuit “appears to ask four questions” to determine whether a challenged
16 law burdens protected conduct: (1) “whether the law regulates ‘arms’ for purposes
17 of the Second Amendment;” (2) “whether the law regulates an arm that is *both*
18 dangerous *and* unusual;” (3) “whether the regulation is longstanding and thus
19 presumptively lawful;” and (4) “whether there is an persuasive historical evidence
20 in the record showing that the regulation affects rights that fall outside the scope of
21 the Second Amendment.” *Duncan*, 970 F.3d at 1145 (citations omitted). If the
22 regulated arm is dangerous and unusual, persuasive historical evidence shows the
23 regulation affects rights outside the scope of the Second Amendment, or the
24 regulation is longstanding and presumptively lawful, then the law does not burden
25 protected conduct. *Id.*

26 _____
27 F.Supp.3d ----, 2020 WL 2850291, at *11-12, Judge Tigar of the Northern District of California
28 held the County of Alameda’s emergency orders did not violate the Second Amendment under
Jacobson because the restrictions were facially neutral and temporary.

1 For purposes of this motion, the Court assumes the stay well at home orders
2 burden protected conduct. Therefore, the Court “must proceed to the second prong
3 of analysis and determine the appropriate level of constitutional scrutiny.” *Id.* To
4 determine the appropriate level of constitutional scrutiny, the Court asks “how
5 ‘close’ the challenged law comes to the core right of law-abiding citizens to
6 defend hearth and home;” and “whether the law imposes substantial burdens on
7 the core right.” *Id.* at 1146. “Only where both questions are answered in the
8 affirmative will strict scrutiny apply.” *Duncan*, 970 F.3d at 1146 (citing *Silvester*,
9 843 F.3d at 821).

10 The Court finds the stay well at home orders do not substantially burden the
11 Second Amendment. The stay well at home orders are analogous to and less
12 restrictive than the waiting periods upheld in *Silvester*, 843 F.3d at 827, because
13 the stay well at home orders are temporary, do not specifically target Second
14 Amendment activities for restriction, and do not impose a categorical ban on the
15 ownership of arms. Plaintiffs attempt to distinguish *Silvester* by arguing the
16 statutory waiting periods apply only to “firearm transactions (not ammunition)”
17 and the stay well at home orders “impose[d] a significant and severe *additional*
18 burden on the core rights at stake.” (Opp. at p. 24, n.5.) Plaintiffs’ argument is
19 unpersuasive. In *Silvester*, the waiting period law was challenged regarding its
20 application “to those purchasers who have previously purchased a firearm or have
21 a permit to carry a concealed weapon, and who clear a background check in less
22 than ten days.” *Silvester*, 843 F.3d at 818. Thus, the waiting period law created an
23 additional layer to existing state laws regulating the manner in which firearms are
24 purchased. The Ninth Circuit rejected the argument that stricter scrutiny of the
25 waiting period law was required because the law added to existing regulations,
26 holding that the waiting period law served other interests. *Id.* at 828-29.

27 Because the stay well at home orders do not substantially burden the core
28 right of the Second Amendment, the Court finds that intermediate scrutiny is the

1 appropriate standard of review if *Jacobson* does not apply. See *Duncan*, 970 F.3d
 2 at 1146. Under intermediate scrutiny, the second-step of *Chovan* requires two
 3 elements be met: “(1) the government’s stated objective must be significant,
 4 substantial, or important; and (2) there must be a ‘reasonable fit’ between the
 5 challenged regulation and the asserted objective.” *Id.* at 821-822. Here, the
 6 stated objective of the County Orders is to prevent the spread of COVID-19, and
 7 the parties do not dispute that this interest is important. Therefore, the Court must
 8 determine whether there is a “reasonable fit” between temporary closure of
 9 firearms retailers and ranges and slowing the spread of COVID-19. The County
 10 determined that “social isolation is considered useful as a tool to control the
 11 spread of pandemic viral infections,” such as COVID-19. (Defendants’ RJN at
 12 Ex. 11, p.1.) Thus, there is a reasonable fit between the County’s objective of
 13 slowing the spread of COVID-19 and the temporary closure of non-essential
 14 businesses, including firearms retailers. Plaintiffs argue that it was unnecessary
 15 for the County to deem firearms retailers and ranges non-essential to slow the
 16 spread of COVID-19, but “intermediate scrutiny does not require the least
 17 restrictive means of furthering a given end.” *Silvester*, 843 F.3d at 827. Therefore,
 18 even though Defendants may have been able to adopt less restrictive means of
 19 achieving its goal of reducing the spread of COVID-19, it was not required to do
 20 so.

21 ///
 22 ///
 23 ///
 24 ///
 25 ///
 26 ///
 27 ///
 28 ///

Frequently Asked Questions (FAQs)

[Public Health Orders](#) | [COVID Business Compliance](#) | [General FAQs](#)

COVID BUSINESS COMPLIANCE – PHONE: 844 VC-OPENS | EMAIL: covidcompliance@ventura.org

FAQs updated July 22, 2020

(New/Updated FAQs highlighted with RED border)

Health Order

Healthcare

Children

What can I do?

Getting around/Outdoors

More info

WHAT CAN I DO?

Can private social clubs be open? Added 7/17/2020

Are garage sales or swap meets allowed allowed? **Updated 7/22/2020**

Can businesses that offer electrolysis, body art, tattoo parlors and piercing be open? **Updated 7/22/2020**

Can businesses that offer haircuts, skin care, nails, waxing, threading and massage be open? **Updated 7/22/2020**

Movie Theaters

Wedding Ceremonies Updated 7/17/2020

Can gyms and fitness facilities be open? **Updated 7/22/2020**

Which businesses and activity types must follow the Gyms and Fitness Center Guidance? Added 7/20/2020

[Español »](#)

[Privacy Policy](#) - [Terms](#)

Day Camps

Family Entertainment Centers

Can cardrooms, satellite wagering facilities, and/or racetracks with onsite wagering be open? Updated 7/20/2020

Hotels, Lodging, and Short-Term Rentals for Tourism or Individual Travel

Campgrounds, RVs, and Outdoor Recreation

Breweries, wineries and similar establishments can reopen for outdoor service Updated 7/22/2020

Can breweries, wineries and distilleries sell their products curbside, pick-up or by delivery? Added 7/10/2020

Zoos, Aquariums, and Museums

Public Pools

Music, Film, and TV Production

Are Martial Arts studios allowed to be open? Updated 7/22/2020

What if I'm in a line and there isn't six feet between me and others?

How can I access free or reduced-price meals for myself or my family?

Should I stock up on food, necessities like toilet paper, and on medicines?

Can grocery stores, farmers markets, and other food retailers remain open?

Are non-profit organizations allowed to continue operating?

Can a car dealership stay open?

Can Recreational Vehicles be repaired?

Can I go to a vet or pet hospital if my pet is sick?

[Español »](#)

[Privacy Policy](#) - [Terms](#)

Can I go out to do laundry or have my laundry done?

Can I go to the bank?

Can bike stores stay open? What about bike rentals?

May cannabis stores continue to operate under the current health officer order?

Where do I report a business that stays open in violation of the Stay Well at Home order?

Can Florists be open?

Can a dog grooming business be open?

Can gun shops be open?

Yes. With the elimination of the essential business model in the local health order, and reliance on the State health order model for critical infrastructure, the Sheriff and local health officer have determined that the gun stores may fully open to the public provided they implement and register site-specific prevention plans as described www.vcreopens.com.

Can Equestrian Centers/Horseback Riding be open?

Can Jet Ski/Boat/Bike Rentals be open?

Can Archery/Shooting Ranges be open?

Yes.

Can a Remote Control Plane Range be open?

Outdoor Photography is permitted with restrictions. Commercial or permitted photo shoots are not allowed.

Can churches be open for in person services? Updated 7/15/2020

Can I play bingo?

[Privacy](#) - [Terms](#)

[Español »](#)

Case: 20-56220, 03/04/2021, ID: 12025275, DktEntry: 17, Page 31 of 231

© 2020 · Ventura County Recovers.

Case: 20-56220, 03/04/2021, ID: 12025275, DktEntry: 17, Page 32 of 231

[Privacy - Terms](#)

[Español »](#)

ORDER OF THE VENTURA COUNTY HEALTH OFFICER

AMENDING JULY 2, 2020, ORDER TO ALLOW BARS WITH FOOD SERVICE AND WINERIES TO REOPEN OUTDOOR OPERATIONS

Effective Date of Order: July 16, 2020 at 10:00 p.m.

Section 1 of the Ventura County Health Officer’s order dated July 2, 2020, is hereby repealed and replaced with the following provision:

“1. Bars that serve food and wineries may open outdoor operations. All bars, pubs, brewpubs, breweries and other businesses licensed to sell alcoholic beverages for consumption on their premises must close indoor operations, but may open outdoor operations if they offer sit-down, outdoor dine-in meals. Alcohol can only be sold in the same transaction as a meal. Wineries and wine tasting rooms may open outdoor operations even if they do not offer sit-down, outdoor dine-in meals.

Additional restrictions on outdoor operations. In addition to complying with all applicable State orders and guidance, bars, pubs, brewpubs, breweries, wineries and wine tasting rooms must comply with the following local requirements:

- (a) only members of the same household may sit together at a single table,
- (b) the maximum time a patron may be on the premises is 1 and ½ hours, and
- (c) Bars must be closed to the public between 10:00 p.m. and 5:00 a.m.”

Effective date and time. This amendment to section 1 of the July 2, 2020, Order shall become effective and operative at 10:00 p.m. on July 16, 2020, and will continue to be in effect until rescinded, superseded or amended in writing by the Health Officer.

IT IS SO ORDERED:



Robert Levin, M.D.
Ventura County Health Officer

Dated: July 16, 2020

ORDER OF THE VENTURA COUNTY HEALTH OFFICER
CLOSING SPECIFIED INDOOR INDUSTRIES AND ACTIVITIES

Effective Date of Order: July 14, 2020 at 8:00 a.m.

AS DIRECTED BY THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH AND UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101030, 101040, 101085, AND 120175, TITLE 17 CALIFORNIA CODE OF REGULATIONS SECTION 2501, ARTICLE XI OF THE CALIFORNIA CONSTITUTION, AND CALIFORNIA GOVERNMENT CODE SECTIONS 8610, 8630, 8634, AND 8665, THE VENTURA COUNTY HEALTH OFFICER (“HEALTH OFFICER”) HEREBY ORDERS:

- 1. Specified industries and activities must close.** The following industries or activities shall close and/or cease unless they can be modified to operate outside or by pick-up.
 - a. Gyms and fitness centers,
 - b. Worship services,
 - c. Protests,
 - d. Offices for non-essential sectors,
 - e. Personal care services, like nail salons, body waxing and tattoo parlors,
 - f. Hair salons and barbershops, and
 - g. Malls.

- 2. Compliance.** The violation of any provision of this Order, the County’s FAQ’s or the State Stay at Home Order constitutes a threat to public health and a public nuisance per se. Pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the County Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order.

- 3. Violation may constitute unfair competition.** Any person that, after notice, operates, manages, maintains or occupies or continues to operate, manage, maintain or occupy, any business in violation of this Order or the State Stay at Home Order may, in addition or in the alternative to any other civil and criminal penalties allowed by law, be subject to liability under the Unfair Competition Law (chapter 5 of part 2 of division 7 of the Business and Professions Code, commencing at section 17200), and subject to civil penalties and other relief as provided therein, for each act or practice in violation of this Order, the State Stay at Home Order, any predecessor order, or any of them.

- 4. Applicable to entire County.** This Order applies to all persons in the cities and the entire unincorporated area of the County.

5. **Effective date and time.** This Order shall become effective and operative at 8:00 a.m. on July 14, 2020, and will continue to be in effect until rescinded, superseded or amended in writing by the Health Officer. All prior orders remain in effect.

6. **Copies of Order.** Copies of this Order shall promptly be: (1) made available at the County of Ventura Public Health Office, 2240 East Gonzalez Road, Suite 210, Oxnard, California, 93036; (2) posted on the Ventura County Public Health Department website (available at www.vchca.org/ph); and (3) provided to any member of the public requesting a copy of this Order.

7. **Severability.** If any provision of this Order or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:



Robert Levin, M.D.
Ventura County Health Officer

Dated: July 13, 2020

**ORDER OF THE VENTURA COUNTY HEALTH OFFICER
REQUIRING ALL BEACHES AND BEACH PARKING TO BE CLOSED
TO THE PUBLIC DURING JULY 4TH WEEKEND**

Effective Date: July 3, 2020, 5:00 a.m.

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040, 101085 AND 120175, THE HEALTH OFFICER OF THE COUNTY OF VENTURA ORDERS:

1. **Public Beaches Closed.** All public beaches in Ventura County shall be closed to members of the public during the July 4th holiday weekend, defined as 5:00 a.m. July 3, 2020, through 5:00 am. July 6, 2020.
2. **Public Beach Parking Closed.** All public parking lots primarily designed or operated to serve persons visiting public beaches shall be closed during the July 4th holiday weekend (i.e., 5:00 a.m. July 3, 2020, through 5:00 a.m. July 6, 2020), and the California Highway Patrol and Caltrans are requested to temporarily close all roadside parking along state highways that are adjacent to public beaches during the July 4th weekend.
3. **Applicable to Entire County.** This Order applies to all persons in the cities and the entire unincorporated area of the County.
4. **Sheriff and Police Chiefs Requested to Enforce.** Pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the County Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order.
5. **All Local Governmental Public Entities Requested to Comply.** Pursuant to Health and Safety Code section 120175.5, the County Health Officer requests that all local governmental public entities, including cities and districts, comply with and enforce this Order closing all public beaches and public beach parking during the July 4th weekend.
6. **Compliance.** The violation of any provision of this Order constitutes a threat to public health and a public nuisance per se. Pursuant to the California Health and Safety Code, including sections 120295 et seq., violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both.
7. **Effective Date and Time.** This Order shall become effective and operative at 5:00 a.m. on July 3, 2020, and expire at 5:00 a.m. on July 6, 2020.
8. **Copies of Order.** Copies of this Order shall promptly be: (1) made available at the County of Ventura Public Health Office, 2240 East Gonzalez Road, Suite 210,

Oxnard, California, 93036; (2) posted on the Ventura County Public Health Department website (available at www.vchca.org/ph); and (3) provided to any member of the public requesting a copy of this Order.

IT IS SO ORDERED:



Robert Levin, M.D.
Ventura County Health Officer

Dated: July 2, 2020

ORDER OF THE VENTURA COUNTY HEALTH OFFICER

CLOSING ALL BARS AND LIMITING RESTAURANTS AND OTHER SPECIFIED BUSINESSES TO OUTDOORS ONLY

Effective Date of Order: July 2, 2020 at 10:00 P.M.

AS DIRECTED BY THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH AND UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101030, 101040, 101085, AND 120175, TITLE 17 CALIFORNIA CODE OF REGULATIONS SECTION 2501, ARTICLE XI OF THE CALIFORNIA CONSTITUTION, AND CALIFORNIA GOVERNMENT CODE SECTIONS 8610, 8630, 8634, AND 8665, THE VENTURA COUNTY HEALTH OFFICER (“HEALTH OFFICER”) HEREBY ORDERS:

1. Bars must close. All Bars shall be closed to the public until those establishments are allowed to resume operation pursuant to state guidance and local permission. For purposes of this Order, “Bar” means a business that is licensed to sell alcoholic beverages for consumption on its premises, including but not limited to bars, pubs, brewpubs, breweries, wineries, wine tasting rooms, and distilleries, but is not permitted as a restaurant by the Ventura County Environmental Health Division (EHD).

2. Restaurants may not allow indoor dining. “Restaurants” shall not allow indoor dining service until Restaurants are allowed to resume indoor dining operations pursuant to state guidance and local permission. For purposes of this Order, “Restaurant” means a business that is permitted as a restaurant by the Ventura County EHD, even if it also possesses a license to sell alcoholic beverages for consumption on its premises.

Outdoor dining allowed with restrictions. Outdoor dining is allowed on Restaurant premises subject to full compliance with all relevant portions of the guidance set forth in the California Department of Public Health Guidance on Dine-In Restaurants. In addition, the following local rules which are more restrictive than the state guidance shall be followed:

- (a) only members of the same household may sit together at a single table,
- (b) the maximum time a patron may dine on the premises is 1 and ½ hours, and
- (c) Restaurants must be closed to on-premise dining between 10:00 p.m. and 5:00 a.m.

Restaurants should continue to encourage takeout and delivery service whenever possible.

3. Movie theatres, family entertainment centers, zoos, museums and cardrooms may not operate indoors. Pursuant to state orders, movie theatres, family entertainment centers, zoos, museums and cardrooms may not operate indoors. Persons should check

current state and local health orders to determine whether such business may operate outdoors, and if so, what restrictions apply in the form of state guidance, frequently asked questions or otherwise.

4. Compliance. The violation of any provision of this Order, the County's FAQ's or the State Stay at Home Order constitutes a threat to public health and a public nuisance per se. Pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the County Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order.

5. Violation may constitute unfair competition. Any person that, after notice, operates, manages, maintains or occupies or continues to operate, manage, maintain or occupy, any business in violation of this Order or the State Stay at Home Order may, in addition or in the alternative to any other civil and criminal penalties allowed by law, be subject to liability under the Unfair Competition Law (chapter 5 of part 2 of division 7 of the Business and Professions Code, commencing at section 17200), and subject to civil penalties and other relief as provided therein, for each act or practice in violation of this Order, the State Stay at Home Order, any predecessor order, or any of them.

6. Applicable to entire County. This Order applies to all persons in the cities and the entire unincorporated area of the County.

7. Effective date and time. This Order shall become effective and operative at 10:00 p.m. on July 2, 2020, and will continue to be in effect until rescinded, superseded or amended in writing by the Health Officer. All prior orders remain in effect.

8. Copies of Order. Copies of this Order shall promptly be: (1) made available at the County of Ventura Public Health Office, 2240 East Gonzalez Road, Suite 210, Oxnard, California, 93036; (2) posted on the Ventura County Public Health Department website (available at www.vchca.org/ph); and (3) provided to any member of the public requesting a copy of this Order.

9. Severability. If any provision of this Order or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:



Robert Levin, M.D.

Ventura County Health Officer

Dated: July 2, 2020

June 11, 2020

**Ventura County Public Health Department issues modified health order
Allows for reopening of additional sectors
Takes Effect Friday, June 12, 2020**

VENTURA, CA – Ventura County Public Health Department has issued a modified health order permitting the reopening of additional businesses that were previously closed. This Order will be effective June 11, 2020 11:59 pm and will continue to be in effect until extended, rescinded, superseded or amended in writing by the Public Health Officer.

Sectors that may reopen on Friday, June 12 with modifications, social distancing protocols, and [completion of the attestation process](#) include, but are not limited to:

- Gyms and Fitness Facilities
- Day Camps
- Family Entertainment Centers
- Hotels and Lodging for tourism or Individual Travel
- Campgrounds, RV Parks and Outdoor Recreation
- Restaurants, Wineries, and Bars
- Zoos, Aquariums, and Museums
- Public Pools
- Skate Parks

Modifications required **in addition to** those found in the state guidance are as follows:

- **Gyms and Fitness Facilities**
 - 1) Outdoor activities can follow the guidance as written
 - 2) Indoor activities must keep a **12-foot** distancing requirement
- **Day Camps**
 - 1) Groups sizes are limited to a 10-1 or 10-2 ratio for each group (10 campers with one or two instructors).
 - 2) Each group must be stable. The same campers and instructor stay together and do not mix with other groups.
 - 3) Any camp activity must maintain 6-foot social distancing. Individual skills and drills can be done, but no group or contact sports such as a football or basketball games may be played
- **Family Entertainment Centers**
 - 1) Examples that may be opened include bowling, miniature golf, batting cages, and private skate parks
 - 2) Movie theaters, arcades, playgrounds, rock climbing walls, and trampoline venues are not allowed to open at this time

- **Hotels and Lodging for Tourism or Individual Travel**
 - 1) Hotel rooms must be left vacant for 24 hours after a guest has departed

- **Campgrounds, RV Parks and Outdoor Recreation**
 - 1) RV parks and campgrounds at the beach are allowed 2/3 capacity
 - 2) RV parks and campgrounds not at the beach are allowed 50% capacity

- **Restaurants, Wineries, and Bars**
 - 1) Bars and wineries that serve food can be open with the existing requirement that alcohol must be sold on the same ticket as a meal
 - 2) Restaurants should continue to follow the previous guidance

- **Zoos, Aquariums, and Museums**
 - 1) Follow state guidance

- **Public and HOA Pools**
 - 1) 50% capacity
 - 2) Use a reservation system
 - 3) Follow [County of Ventura Environmental Health guidance](#) for pools

- **Music, Film, and TV Production**
 - 1) No live audiences
 - 2) *Do not register at VCREopens.com. Attestation is included through permit issuance
 - 3) Must have a COVID-19 Compliance Officer on site
 - 4) Follow industry guidance

These sectors may be open only while adhering to social distancing protocols provided by the Governor and the Ventura County Health Officer and after completing the [County's attestation process](#) (*except for those noted). Businesses must also follow the guidelines on the Frequently Asked Questions document at: Business owners can find resources, information, and the process to complete the attestation at www.vcreopens.com.

Other State Guidance and openings still under consideration:

- Cardrooms, Satellite Wagering Facilities, and Racetracks
- Professional Sports without a Live Audience

For more information about COVID-19 and the local response, visit www.vcemergency.com.

STAY WELL VC
Safely Reopening Ventura County
HEALTH OFFICER ORDER
COUNTY OF VENTURA
FOR CONTROL OF COVID-19 WITHIN THE COUNTY OF VENTURA
Effective Date: June 11, 2020, 11:59 p.m.

Please read this Order carefully. This Order issued by the Ventura County Health Officer shall become effective at 11:59 p.m. on June 11, 2020, and shall replace the Health Officers May 29, 2020 Order. Any prior violations of the previous orders remain prosecutable, criminally or civilly. Pursuant to Health and Safety Code section 120295 et seq., violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both.

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040, 101085 AND 120175, THE HEALTH OFFICER OF THE COUNTY OF VENTURA ORDERS:

1. **Admittance to Long-Term Care Facilities.** Long-Term Care Facilities may not refuse to admit any person who has been diagnosed with or treated for COVID-19 after that person has been discharged from a health care facility and approved for admittance to a Long-Term Care Facility by the Ventura County Public Health Department.

a. For purposes of this Order, “Long-Term Care Facility” means a long-term care facility, skilled nursing facility, intermediate care facility, congregate living health facility, nursing facility, hospice facility, residential care facility for the elderly, residential facility, or community care facility as defined in Health and Safety Code sections 1250, 1502, 1503.5 and 1569, and regulations promulgated thereunder, as they may be amended from time to time.

2. **Hospitals and Long-Term Care Facilities.** The County Health Officer recognizes the authority of the guidance documents “Hospital Holding Unit Guidance for COVID-19” and “Long-Term Care Facility Guidance for Preventing and Managing COVID-19” (the current versions of which are available at www.vcemergency.com) and strongly advises all hospitals and Long-Term Care Facilities to comply with the guidance.

3. **Businesses must establish, implement and enforce COVID-19 prevention plans.** Businesses, with the exception of those listed as exempt in the County of Ventura Frequently Asked Questions (FAQ) website at: www.vcemergency.com/covid19/staywellvc/faqs-general , must establish, implement and enforce a site-specific prevention plan in accordance with the State of California COVID-19 industry Guidance and associated checklist found at covid19.ca.gov/roadmap. Prior to reopening, businesses must register and attest to their preparedness for safely reopening at vcreopen.com. Businesses that were operating under a previous order must also register and attest to their adherence to state guidelines.

As a condition of operation, each business must post a written notice explaining how it will comply with Social Distancing Requirements in conspicuous places where it can easily be seen by employees and patrons of the business facility. The written posting shall identify by name and telephone number the County COVID-19 Compliance Hotline where compliance related questions or complaints may be reported by employees and patrons.

Further, businesses, as a condition of operation, shall admit without delay any officer, employee or agent of the County of Ventura or local city to their business facilities for the purposes of inspection for monitoring and compliance. The failure to cooperate with such inspectors, or repeated and confirmed violations of COVID-19 prevention requirements, may lead to issuance of a business-specific closure order by the County Health Officer.

4. **Local Adoption of State Guidances on Specified Businesses and Activities.** The State Public Health Officer and Director of the California Department of Public Health has issued several guidances allowing for the reopening of specified businesses and engagement in specified activities conditioned on the approval of local health officers. The County Health Officer has approved implementation of the businesses and activities described in the following State guidance documents, subject to any additional requirements that may be set forth in the County of Ventura's Frequently Asked Questions (FAQ's) website:

COVID-19 Industry Guidance: Places of Worship and Providers of Religious Services and Cultural Ceremonies (Released May 25, 2020)

COVID-19 Industry Guidance: Campgrounds, RV Parks, and Outdoor Recreation (Released June 5, 2020)

COVID-19 Industry Guidance: Cardrooms, Satellite Wagering Facilities, and Racetracks (Released June 5, 2020)

COVID-19 Industry Guidance: Tribal Casinos (Released June 5, 2020)

COVID-19 Industry Guidance: Day Camps (Released June 5, 2020)

COVID-19 Industry Guidance: Family Entertainment Centers (Released June 5, 2020)

COVID-19 Industry Guidance: Fitness Facilities (Released June 5, 2020)

COVID-19 Industry Guidance: Hotels, Lodging, and Short Term Rentals (Released June 5, 2020)

COVID-19 Industry Guidance: Restaurants, Bars, and Wineries (Released June 5, 2020)

COVID-19 Industry Guidance: Schools and School-Based Programs (Released June 5, 2020)

COVID-19 Industry Guidance: Museums, Galleries, Zoos, and Aquariums (Released June 5, 2020)

[Note: State guidances which are not expressly conditioned on approval of local health officers have not been listed above, but remain in force and effect under State authority.]

5. **All Requirements Set Forth in the County of Ventura FAQ's Are Directives of the County Health Officer.** Due to the quickly evolving nature of local health conditions and State orders, the County Health Officer has determined that the public would be best served by utilizing FAQ's that can be easily accessed by members of the public and quickly updated by the Health Officer as circumstances warrant. Therefore, all FAQ's on the County of Ventura website at www.vcemergency.com/covid19/staywellvc/faqs-general shall be deemed to be a directive of the County Health Officer.

6. **Compliance.** The violation of any provision of this Local Order, the County's FAQ's or the State Stay at Home Order constitutes a threat to public health and a public nuisance per se. In addition, pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the County Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Local Order.

7. **Violation may constitute unfair competition.** Any person that, after notice, operates, manages, maintains or occupies or continues to operate, manage, maintain or occupy, any business in violation of this Local Order or the State Stay at Home Order may, in addition or in the alternative to any other civil and criminal penalties allowed by law, be subject to liability under the Unfair Competition Law (chapter 5 of part 2 of division 7 of the Business and Professions Code, commencing at section 17200), and subject to civil penalties and other relief as provided therein, for each act or practice in violation of this Local Order, the State Stay at Home Order, any predecessor order, or any of them.

8. **More restrictive provisions of local and State orders enforceable.** This Local Order is issued to supplement the State Stay at Home Order, which establishes minimum requirements for individuals and businesses, as well as the Governor's March 19, 2020, Executive Order N-33-20 directing California residents to follow the State Stay at Home Order. Where a conflict exists between this Local Order and any State public health order, including the State Stay at Home Order, the more restrictive provision controls.
9. **Applicable to entire County.** This Order applies to all persons in the cities and the entire unincorporated area of the County.
10. **Effective date and time.** This Order shall become effective and operative at 11:59 p.m. on June 11, 2020, and will continue to be in effect until rescinded, superseded or amended in writing by the County Health Officer.
11. **Copies of Local Order.** Copies of this Local Order shall promptly be: (1) made available at the County of Ventura Public Health Office, 2240 East Gonzalez Road, Suite 210, Oxnard, California, 93036; (2) posted on the Ventura County Public Health Department website (available at www.vchca.org/ph); and (3) provided to any member of the public requesting a copy of this Local Order.
12. **Severability.** If any provision of this Local Order or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, the remainder of the Local Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Local Order are severable.

IT IS SO ORDERED:



Robert Levin, M.D.
Ventura County Health Officer

Dated: June 11, 2020

**STAY WELL VC
Safely Reopening Ventura County**

**HEALTH OFFICER ORDER
COUNTY OF VENTURA**

FOR CONTROL OF COVID-19 WITHIN THE COUNTY OF VENTURA

Effective Date: May 29, 2020, 11:59 p.m.

Please read this Order carefully. This Order issued by the Ventura County Health Officer shall become effective at 11:59 p.m. on May 29, 2020. At that time, all current Orders of the Ventura County Health Officer shall expire and no longer be of any force or effect, except any and all prior violations of the previous orders remain prosecutable, criminally or civilly. Pursuant to Health and Safety Code section 120295 et seq., violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both.

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040, 101085 AND 120175, THE HEALTH OFFICER OF THE COUNTY OF VENTURA ORDERS:

1. **Admittance to Long-Term Care Facilities.** Long-Term Care Facilities may not refuse to admit any person who has been diagnosed with or treated for COVID-19 after that person has been discharged from a health care facility and approved for admittance to a Long-Term Care Facility by the Ventura County Public Health Department.

a. For purposes of this Order, “Long-Term Care Facility” means a long-term care facility, skilled nursing facility, intermediate care facility, congregate living health facility, nursing facility, hospice facility, residential care facility for the elderly, residential facility, or community care facility as defined in Health and Safety Code sections 1250, 1502, 1503.5 and 1569, and regulations promulgated thereunder, as they may be amended from time to time.

2. **Hospitals and Long-Term Care Facilities.** The County Health Officer recognizes the authority of the guidance documents “Hospital Holding Unit Guidance for COVID-19” and “Long-Term Care Facility Guidance for Preventing and Managing COVID-19” (the current versions of which are available at www.vcemergency.com) and strongly advises all hospitals and Long-Term Care Facilities to comply with the guidance.

3. **Businesses must establish, implement and enforce COVID-19 prevention plans.** Businesses, with the exception of businesses operated from home, must establish, implement and enforce a site-specific prevention plan in accordance with the State of California COVID-19 industry Guidance and associated checklist found at <https://covid19.ca.gov/roadmap/>. Prior to reopening, businesses must register and attest to their preparedness for safely reopening at vcreopen.com. Businesses that were operating under a previous order must also register and attest to their adherence to state guidelines.

As a condition of operation, each business must post a written notice explaining how it will comply with Social Distancing Requirements in conspicuous places where it can easily be seen by employees and patrons of the business facility. The written posting shall identify by name and telephone number the County COVID-19 Compliance Hotline where compliance related questions or complaints may be reported by employees and patrons.

Further, businesses, as a condition of operation, shall admit without delay any officer, employee or agent of the County of Ventura or local city to their business facilities for the purposes of inspection for monitoring and compliance. The failure to cooperate with such inspectors, or repeated and confirmed violations of COVID-19 prevention requirements, may lead to issuance of a business-specific closure order by the County Health Officer.

4. **Places of Worship and Providers of Religious Services and Cultural Ceremonies.**

a. The California Department of Public Health directed on May 25, 2020, that upon a county public health department's approval, in-person attendance at religious services or cultural ceremonies is authorized, but is limited to 25 percent of building capacity, or a maximum of 100 attendees, whichever is fewer.

b. In accordance with the California Department of Public Health's direction on May 25, 2020, this Order provides the Ventura County's Public Health Department's approval for implementation of subsection (a) immediately above.

c. This Order does not obligate places of worship and providers of religious services and cultural ceremonies to resume in-person activities.

d. The Health Officer recommends that places of worship and providers of religious services and cultural ceremonies consider and implement as may be appropriate the guidance issued by the California Department of Public Health on Places of Worship and Providers of Religious Services and Cultural Ceremonies.

e. As a condition of operating under this authority, places of worship or providers of religious services or cultural ceremonies shall post a written notice explaining how it will comply with the guidance issued by the California Department of Public Health where it can easily be seen by employees or patrons of the establishment. The posted notice shall prominently display the name and telephone number of the County Covid Compliance Hotline where compliance related questions or complaints may be reported by employees and patrons.

5. **Activities allowed outside of place of residence.** The State Stay at Home Order allows for persons to leave their places of residence to engage in certain activities. The State Public Health Officer has issued guidance, primarily in the form of posted answers to “Frequently Asked Questions,” that can be ambiguous and frequently amended or otherwise changed. For the sake of clarity and guidance to persons residing in Ventura County, this section of the Order sets forth a non-exclusive list of activities outside of a person’s place of residence that the County Health Officer has deemed to be allowed. To the extent any activity described herein conflicts with and is more permissive than the State Stay at Home Order as it is currently written or as it may be amended, the State Stay at Home Order shall take precedence and shall be enforced.

a. Persons may leave their places of residence to perform the following activities, among others:

(1) To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members (including pets), such as, by way of example, obtaining medical supplies or medication, visiting a health care professional or obtaining supplies needed to work from a place of residence.

(2) To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example, canned food, dry goods, fresh fruits and vegetables, pet supplies, fresh meats, fish and poultry, and any other household consumer products, and products necessary to maintain the safety, sanitation and essential operation of places of residence.

(3) To engage in funeral services, provided the following restrictions are observed:

(i) For graveside services, members of the deceased’s household and the relatives of the deceased within the second degree (including in-laws) may gather for the activity provided that Social Distancing Requirements are followed and that no more than 10 persons gather.

(4) To engage in a wedding ceremony outside a place of worship, provided that Social Distancing Requirements are followed to the greatest extent feasible and that no more than 10 persons (who need not be from the same household or living unit), in addition to the couple to be married and the officiant, gather in a stable group.

(5) To attend a gathering of any size to observe or participate in live or virtual presentations to the gathering, such as faith-based services, concerts, plays, political speeches, movies and similar activities, provided that all of the following protocols are followed:

- (i) All activity must occur outdoors;
- (ii) All persons attending the activity must be inside a motor vehicle occupied only by persons from the same household or living unit;
- (iii) All motor vehicles at the gathering must maintain a distance of six feet from all other vehicles;
- (iv) All persons must remain in the vehicle in which they arrived at all times during the event;
- (v) No restroom facilities shall be made available to persons at the facility during the event;
- (vi) Notwithstanding the above, one or more persons, not exceeding five, may enter nearby buildings as necessary to putting on the presentation; and
- (vii) Social Distancing Requirements shall be complied with to the greatest extent feasible.

(6) To engage in outdoor activity, provided the persons comply with Social Distancing Requirements, such as, by way of example, golfing, tennis, pickle-ball, walking, hiking, running, bicycling, pleasure driving and working around their places of residence, including gardening.

(i) To provide accommodations for persons who wish to golf as a form of outdoor activity, public and private golf courses may operate provided they strictly enforce Social Distancing Requirements and enforce the following additional protocols:

- (a) Motorized carts are allowed provided that only one person may occupy a cart at any time (except where drivers are required for disability accommodations);
- (b) No more than four golfers (who need not be from the same household or living unit), are allowed per group and

each group must be stable (i.e., persons may not substitute in or out of the group);

(c) A distance of at least 30 feet shall be maintained between groups of golfers at all times;

(d) All ball washers shall be covered and flag pins shall either be removed or affixed to prevent handling by golfers, and the cup on each green shall be inverted or otherwise installed to eliminate high-frequency touch surfaces on the greens and tees;

(e) Persons may use a driving range provided that range balls are properly sanitized before distribution to customers (stand-alone golf driving ranges may also operate).

(7) To otherwise carry out activities specifically permitted in this Order.

(8) To care for a family member or pet in another household.

(9) To prepare and present a live-stream or other virtual communication by an organization or association to its members, including worship services. Staff of organizations or associations (who need not be of the same household or living unit), including faith-based organizations, may gather in a single space at the same time solely for the purpose of preparing and presenting live-stream or other virtual communications provided that the number of such staff is the fewest necessary to prepare and present those communications, but in no event in excess of 10 persons, and that Social Distancing Requirements are followed.

6. **Social Distancing Requirements defined.** “Social Distancing Requirements” means and includes maintaining at least a six-foot physical distance from other persons, washing hands with soap and water for at least 20 seconds or using hand sanitizer as frequently as possible, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces and not shaking hands.

7. **Compliance.** The violation of any provision of this Order or the State Stay at Home Order constitutes a threat to public health and a public nuisance per se. In addition, pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the County Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order.

8. **Violation may constitute unfair competition.** Any person that, after notice, operates, manages, maintains or occupies or continues to operate, manage, maintain or occupy, any business in violation of this Order or the State Stay at Home Order may, in

addition or in the alternative to any other civil and criminal penalties allowed by law, be subject to liability under the Unfair Competition Law (chapter 5 of part 2 of division 7 of the Business and Professions Code, commencing at section 17200), and subject to civil penalties and other relief as provided therein, for each act or practice in violation of this Order, the State Stay at Home Order, any predecessor order, or any of them.

9. **More restrictive provisions of local and State orders enforceable.** Where a conflict exists between this Order and any State public health order, the more restrictive provision controls.

10. **Applicable to entire County.** This Order applies to all persons in the cities and the entire unincorporated area of the County.

11. **Effective date and time; repeal of prior order.** This Order shall become effective and operative at 11:59 p.m. on May 29, 2020, and will continue to be in effect until 11:59 p.m. on June 14, 2020, or until it is extended, rescinded, superseded or amended in writing by the County Health Officer.

12. **Copies of This Order.** Copies of this Order shall promptly be: (1) made available at the County of Ventura Public Health Office, 2240 East Gonzalez Road, Suite 210, Oxnard, California, 93036; (2) posted on the Ventura County Public Health Department website (available at www.vchca.org/ph); and (3) provided to any member of the public requesting a copy of this Order.

13. **Severability.** If any provision of this Order or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, the remainder of this Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:



Robert Levin, M.D.
Ventura County Health Officer

Dated: May 29, 2020

**STAY WELL VC
Safely Reopening Ventura County**

**ORDER OF THE VENTURA COUNTY HEALTH
OFFICER SUPPLEMENTING THE STATE
PUBLIC HEALTH OFFICER'S ORDER DATED
MARCH 19, 2020, TO ADDRESS THE UNIQUE
NEEDS OF VENTURA COUNTY IN RESPONSE
TO THE COVID-19 PANDEMIC**

DATE OF THIS ORDER: MAY 7, 2020

[As amended May 20, 2020 and May 22, 2020]

WHEREAS on March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency to exist in the State of California as a result of the threat of COVID-19; and

WHEREAS on March 12, 2020, the County of Ventura Health Officer (“County Health Officer”) issued a Declaration of Local Health Emergency pursuant to Health and Safety Code section 101080, finding that there existed an imminent and proximate threat of the spread of COVID-19 in Ventura County (“County”), and said Declaration was ratified by the County of Ventura Board of Supervisors on March 12, 2020; and

WHEREAS on March 17, 2020, the County Health Officer issued an order directing that all individuals past a certain age remain in their places of residence, limiting the operation of food facilities, and closing specified businesses that serve large gatherings; and

WHEREAS on March 19, 2020, the State Public Health Officer issued an order requiring that all individuals living in the State of California stay at home except as needed to maintain continuity of operations of critical infrastructure sectors as defined (“State Stay at Home Order”); and

WHEREAS the County Health Officer is required by Health and Safety Code section 101030 to enforce and observe all orders of the State Public Health Officer and all statutes relating to public health; and

WHEREAS State law permits local health officers to issue public health orders that are more restrictive, but not less restrictive, than an order issued by the State Public Health Officer, the County Health Officer, based on his evaluation of the unique needs and circumstances existing within the County, issued additional health orders on March 20, March 31, April 9, April 18 and April 20, 2020; and

WHEREAS the County Health Officer has determined that there no longer exists a need for local health orders that are more restrictive than the State Stay at Home Order with respect to many activities of individuals and businesses, and that the public health and welfare would best be served by a single set of regulations where reasonable to avoid public confusion between State and local orders; and

WHEREAS the State of California has identified businesses on its website at <https://covid19.ca.gov/roadmap/> that are able to reopen under the statewide order; and

WHEREAS the County Health Officer has determined that some elements of his current order are not addressed by the State Stay at Home Order, and that the public health would be served by supplementing the State Stay at Home Order as set forth below;

NOW, THEREFORE, I, Dr. Robert Levin, the County Health Officer, pursuant to Health and Safety Code sections 101040, 101085 and 120175, hereby issue the following order (“Local Order”) to be effective immediately:

IT IS HEREBY ORDERED THAT:

1. **Commercial laboratory test results.** All commercial laboratories that test persons in the County for the presence of COVID-19 must report all test results (whether positive or negative) to the Ventura County Public Health Department laboratory within eight hours of receiving the test results.
2. **Special rule for persons 70 years of age or older.** All persons currently living in the County equal to or older than 75 years of age, or equal to or older than 70 years of age with an active or unstable comorbidity, are ordered to stay in their place of residence and must at all times follow Social Distancing Requirements to the greatest extent feasible. Such persons may leave their places of residence only as necessary to seek medical care or exercise or nutrition or to perform essential work in furtherance of Healthcare Operations or Essential Governmental Functions or Services.
 - a. For purposes of this section, “Healthcare Operations” means and includes hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other licensed healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, chiropractors, acupuncturists or any related and/or ancillary healthcare services, including blood donation centers, and veterinarians and all other healthcare services provided to

animals. “Healthcare Operation” does not include fitness and exercise gyms, aquatic centers and similar facilities.

b. For purposes of this section, “Essential Governmental Functions or Services” means government functions or services performed by first responders, emergency management personnel, emergency dispatchers, court personnel, law enforcement personnel, and others who perform essential governmental functions or services as such may be determined by the governmental entity performing those functions or services.

3. **Admittance to Long-Term Care Facilities.** Long-Term Care Facilities may not refuse to admit any person who has been diagnosed with or treated for COVID-19 after that person has been discharged from a health care facility and approved for admittance to a Long-Term Care Facility by the Ventura County Public Health Department.

a. For purposes of this Local Order, “Long-Term Care Facility” means a long-term care facility, skilled nursing facility, intermediate care facility, congregate living health facility, nursing facility, hospice facility, residential care facility for the elderly, residential facility, or community care facility as defined in Health and Safety Code sections 1250, 1502, 1503.5 and 1569, and regulations promulgated thereunder, as they may be amended from time to time.

4. **Hospitals and Long-Term Care Facilities.** The County Health Officer recognizes the authority of the guidance documents “Hospital Holding Unit Guidance for COVID-19” and “Long-Term Care Facility Guidance for Preventing and Managing COVID-19” (the current versions of which are available at www.vcemergency.com) and strongly advises all hospitals and Long-Term Care Facilities to comply with the guidance.

5. **All businesses must establish, implement and enforce COVID-19 prevention plans.** All businesses must establish, implement and enforce a site-specific prevention plan in accordance with the State of California COVID-19 industry Guidance and associated checklist found at <https://covid19.ca.gov/roadmap/>. Prior to reopening, all businesses must register and attest to their preparedness for safely reopening at vcreopen.com. Businesses that were operating under the previous order must also register and attest to their adherence to state guidelines within ten days at vcreopen.com.

As a condition of operation, each business must post a written notice explaining how it will comply with Social Distancing Requirements in conspicuous places

where it can easily be seen by employees and patrons of the business facility. The written posting shall identify by name and telephone number the County Covid Compliance Hotline where compliance related questions or complaints may be reported by employees and patrons.

Further, all businesses, as a condition of operation, shall admit without delay any officer, employee or agent of the County of Ventura or local city to their business facilities for the purposes of inspection for monitoring and compliance. The failure to cooperate with such inspectors, or repeated and confirmed violations of COVID-19 prevention requirements, may lead to issuance of a business-specific closure order by the County Health Officer.

- 6. **Social Distancing Requirements defined.** “Social Distancing Requirements” means and includes maintaining at least a six-foot physical distance from other persons, washing hands with soap and water for at least 20 seconds or using hand sanitizer as frequently as possible, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces and not shaking hands.
- 7. ~~**Repealed May 20, 2020 Food facilities.** Under the State Stay at Home Order, all permanent food facilities, as defined by Health and Safety Code section 113849, may only prepare and offer food that is provided to customers via delivery service, via pick-up for takeout dining, and via drive thru. This Local Order, in addition, requires that permanent food facilities that prepare and offer food via delivery service, pick-up or drive thru must comply with the following procedures:~~
 - ~~a. Containers required. All food must be completely contained in a suitable container before being transferred to a customer. For example, ice cream cones are not allowed; ice cream scoops in a covered container are allowed.~~
 - ~~b. Must consume food away from premises. The exception for take-out food activities is designed to enable persons who are confined to their places of residence to obtain prepared food to take back to their places of residence for consumption. The take-out food shall not be consumed anywhere within the line-of-sight of a person standing in front of the facility that sold the food.~~
 - ~~e. Six-foot spacing must be maintained. All persons waiting in line or otherwise congregating outside a food facility selling food via take-out, delivery or drive thru~~

~~shall maintain a distance of at least six feet from all other persons.~~

8. ~~**Repealed May 20, 2020 Primary retail business must be critical infrastructure to be fully open.** Only retail businesses whose primary line of business qualifies as critical infrastructure under the State Stay at Home Order may be fully open to the public, e.g., businesses whose primary business is the sale of food, beverages, pet supplies, household cleaning products, etc. Items the sale of which constitute less than 33 percent of a business's gross sales over the last six months are considered to be less than primary. For example, a tobacco or vape store that sells a minimal amount of snacks and water as a side business does not qualify as a grocery store, convenience store or similar establishment that can be fully open to the public under the current State Stay at Home Order.~~

9. **Businesses and activities that must remain closed even if allowed by State Stay at Home Order.** The State Stay at Home Order does not expressly address every type of business activity. To avoid confusion, this Local Order prohibits the following businesses and activities, whether or not allowed by the State Stay at Home Order:

a. All swimming pools, spas, hot tubs, saunas, steam rooms and similar facilities, except those located at a single-family residence, which shall be used only by members of a household residing at the single-family residence.

b. All public and private campgrounds and recreational vehicle (RV) parks, except that persons who certify that their RV is their primary residence may be permitted to stay in the RV park. All persons residing in an RV shall comply with all orders otherwise applicable to residents.

10. **List of activities ordered to cease.** The following activities are deemed non-essential and harmful to public health, and therefore are prohibited whether or not allowed by the State Stay at Home Order:

a. **Door-to-Door Solicitations.** Door-to-door solicitations, whether for purposes of sales of goods or services, charitable contributions, signature-gathering or any other commercial or noncommercial purpose.

11. **Essential activities allowed.** The State Stay at Home Order implicitly allows for persons to leave their places of residence to engage in essential activities, but does not expressly address that issue. The State Public Health Officer has issued guidance, primarily in the form of posted answers to “Frequently Asked

Questions,” which are frequently amended or otherwise changed. For the sake of clarity and guidance to persons residing in the County, this section of the Local Order sets forth those activities that the County Health Officer deems to be essential and allowed. However, to the extent any activity described herein conflicts with and is more permissive than the State Stay at Home Order as it is currently written or as it may be amended, the State Stay at Home Order shall take precedence and shall be enforced.

a. Persons may leave their places of residence ~~only~~ **[Repealed May 22, 2020]** to perform one of the following essential activities:

(1) To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members (including pets), such as, by way of example, obtaining medical supplies or medication, visiting a health care professional or obtaining supplies needed to work from a place of residence.

(2) To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example, canned food, dry goods, fresh fruits and vegetables, pet supplies, fresh meats, fish and poultry, and any other household consumer products, and products necessary to maintain the safety, sanitation and essential operation of places of residence.

(3) To engage in funeral services, provided the following restrictions are observed:

(i) For indoor services, where the body of the deceased is present for viewing or in a closed casket, members of the deceased’s household and the relatives of the deceased within the second degree (including in-laws) may gather for the activity provided that Social Distancing Requirements are followed and that no more than five persons gather inside the facility at a single time. Stable groups of five persons (i.e., persons may not substitute in or out of the group) may rotate within the facility providing protocols are implemented to sanitize the facilities between each group visit.

(ii) For graveside services, members of the deceased’s household and the relatives of the deceased within the second degree (including

in-laws) may gather for the activity provided that Social Distancing Requirements are followed and that no more than 10 persons gather.

(4) To engage in a wedding ceremony, provided that Social Distancing Requirements are followed to the greatest extent feasible and that no more than 10 persons (who need not be from the same household or living unit), in addition to the couple to be married and the officiant, gather in a stable group.

(5) To attend a gathering of any size to observe or participate in live or virtual presentations to the gathering, such as faith-based services, concerts, plays, political speeches, movies and similar activities, provided that all of the following protocols are followed:

- (i) all activity must occur outdoors;
- (ii) all persons attending the activity must be inside a motor vehicle occupied only by persons from the same household or living unit;
- (iii) all motor vehicles at the gathering must maintain a distance of six feet from all other vehicles;
- (iv) the motor vehicle windows must be closed at all times during the event;
- (v) all persons must remain in the vehicle in which they arrived at all times during the event;
- (vi) no restroom facilities shall be made available to persons at the facility during the event;
- (vii) no tangible items of any kind, including food products, may be transferred to persons in the motor vehicles;
- (viii) notwithstanding the above, one or more persons, not exceeding five, may enter nearby buildings as necessary to putting on the presentation; and
- (ix) all Social Distancing Requirements shall be complied with to the greatest extent feasible.

(6) To engage in outdoor activity, provided the persons comply with Social Distancing Requirements, such as, by way of example, golfing, tennis, pickle-ball, walking, hiking, running, bicycling, pleasure driving and working around their places of residence, including gardening.

- (i) To provide accommodations for persons who wish to golf as a

form of outdoor activity, public and private golf courses may operate provided they strictly enforce Social Distancing Requirements and enforce the following additional protocols:

- (a) Motorized carts are not allowed;
- (b) No more than four golfers (who need not be from the same household or living unit), are allowed per group and each group must be stable (i.e., persons may not substitute in or out of the group);
- (c) A distance of at least 30 feet shall be maintained between groups of golfers at all times;
- (d) All ball washers shall be covered and flag pins shall be removed and the cup on each green shall be inverted or otherwise installed to eliminate high-frequency touch surfaces on the greens and tees;
- (e) Persons may use a driving range provided that range balls are properly sanitized before distribution to customers (stand-alone golf driving ranges may also operate);
- (f) Practice putting greens shall remain closed;
- (g) ~~Repealed May 22, 2020 The "Pro Shop" or similar facility designed for the sale of golf-related equipment and supplies shall remain closed; and~~
- (h) ~~Repealed May 22, 2020 The snack shop(s) and restaurant(s) shall remain closed.~~

(7) To otherwise carry out activities specifically permitted in this Local Order.

(8) To care for a family member or pet in another household.

(9) To prepare and present a live-stream or other virtual communication by an organization or association to its members, including worship services. Staff of organizations or associations (who need not be of the same household or living unit), including faith-based organizations, may gather in a single space at the same time solely for the purpose of preparing and presenting live-stream or other virtual communications provided that the number of such staff is the fewest necessary to prepare and present those communications, but in no event in excess of 10 persons, and that Social Distancing Requirements are followed.

12. **Compliance.** The violation of any provision of this Local Order or the State Stay at Home Order constitutes a threat to public health and a public nuisance per se. In

addition, pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the County Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Local Order.

13. **Violation may constitute unfair competition.** Any person that, after notice, operates, manages, maintains or occupies or continues to operate, manage, maintain or occupy, any business in violation of this Local Order or the State Stay at Home Order may, in addition or in the alternative to any other civil and criminal penalties allowed by law, be subject to liability under the Unfair Competition Law (chapter 5 of part 2 of division 7 of the Business and Professions Code, commencing at section 17200), and subject to civil penalties and other relief as provided therein, for each act or practice in violation of this Local Order, the State Stay at Home Order, any predecessor order, or any of them.
14. **More restrictive provisions of local and State orders enforceable.** This Local Order is issued to supplement the State Stay at Home Order, which establishes minimum requirements for individuals and businesses, as well as the Governor's March 19, 2020 Executive Order N-33-20 directing California residents to follow the State Stay at Home Order. This Local Order adopts in certain respects more stringent restrictions addressing the particular facts and circumstances in this County, which are necessary to control the public health emergency as it is evolving within the County and the south coast region. Where a conflict exists between this Local Order and any State public health order, including the State Stay at Home Order, the more restrictive provision controls.
15. **Applicable to entire County.** This Local Order applies to all persons in the cities and the entire unincorporated area of the County.
16. **Effective date and time; repeal of prior order.** This Local Order shall become effective and operative at 11:59 p.m. on May 7, 2020, and will continue to be in effect until 11:59 p.m. on May 31, 2020, or until it is extended, rescinded, superseded or amended in writing by the County Health Officer. The County Health Officer order dated April 20, 2020, is hereby repealed and replaced with this Local Order, except that all prior violations of previous orders remain prosecutable, criminally or civilly. All prior closure or cease and desist orders directed at specified persons or businesses shall remain in force, but shall be reviewed by enforcement staff and rescinded if appropriate.
17. **Copies of Local Order.** Copies of this Local Order shall promptly be: (1) made

available at the County of Ventura Public Health Office, 2240 East Gonzalez Road, Suite 210, Oxnard, California, 93036; (2) posted on the Ventura County Public Health Department website (available at www.vchca.org/ph); and (3) provided to any member of the public requesting a copy of this Local Order.

- 18. **Severability.** If any provision of this Local Order or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, the remainder of the Local Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Local Order are severable.

IT IS SO ORDERED:



Robert Levin, M.D.
Ventura County Health Officer

Dated: May 7, 2020

Pursuant to Health and Safety Code section 120295 et seq., violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both.



Coronavirus Information

(/)

[Home \(/\)](#) [Stay Well/FAQs \(/staywellvc/\)](#) [Residents \(/families/\)](#) [Rental Assistance \(/rent/\)](#) [Coping with Stress \(/coping/\)](#)

[Medical Providers \(/healthcare/\)](#) [Business \(/business/\)](#) [Newsroom \(/newsroom/\)](#) [Resources \(/resources/\)](#)

[Donate \(/donate/plasma\)](#)

PUBLIC HEALTH ORDERS / COMPLIANCE / FREQUENTLY ASKED QUESTIONS

[Health Orders \(/staywellvc\)](#) | [COVID Business Compliance \(/business/covidcompliance\)](#) | [General FAQs \(/staywellvc/faqs-general\)](#)

COVID BUSINESS COMPLIANCE – (805)-202-1805 | EMAIL: covidcompliance@ventura.org (<mailto:covidcompliance@ventura.org>)

(Click question to see answer)

STAY AT HOME ORDER AND SOCIAL DISTANCING

Is this order mandatory? What happens if I don't comply?

When does the Order go into effect and how long will it last?



Can this Order be changed?

Yes. Follow updates on www.vcemergency.com (<https://www.vcemergency.com>). We will also share updates with the media.

What is the difference between “stay well at home” and “social distancing”?

What are the social distancing guidelines I still need to follow?

Who counts as a family member?

When practicing social distancing, how far should I stay away from others if I must be away from my home?

HEALTHCARE AND HELPING SICK RELATIVES

What if I need to visit a health care provider?

Can I still seek non-essential medical care like eye exams, teeth cleaning, elective procedures?

What should I do if I’m sick or a family member is sick?

What should I do if I’m sick or a family member is sick and needs to go to the hospital or a medical provider? How can I protect others?

Can I leave home to care for my elderly parents or friends who require assistance to care for themselves? Or a friend or family member who has disabilities?

Can I visit loved ones in the hospital, nursing home, skilled nursing facility, or other residential care facility?

What do I do about my loved one who needs care from me?

SCHOOLS AND CHILDCARE

Does the Order allow me to have my children in childcare? Will my daycare be shut down?

If my child's school is providing food or meals, can I leave home to go to the school to pick up the food or meals?

WHAT CAN I DO? WHAT'S OPEN?

What if I'm in a line and there isn't six feet between me and others?

How can I access free or reduced-price meals for myself or my family?

Should I stock up on food, necessities like toilet paper, and on medicines?

Can grocery stores, farmers markets, and other food retailers remain open?

Are non-profit organizations allowed to continue operating?

#943

Can a car dealership stay open?

Can Recreational Vehicles be repaired?

Can I go to a vet or pet hospital if my pet is sick?

Can I go out to do laundry or have my laundry done?

Can I go to the bank?

Can bike stores stay open? What about bike rentals?

May cannabis stores continue to operate under the current health officer order?

Where do I report a business that stays open in violation of the Stay Well at Home order?

Can Florists be open?

Can a dog grooming business be open?

Can gun shops be open?

Yes. With the elimination of the essential business model in the local health order, and reliance on the State health order model for critical infrastructure, the Sheriff and local health officer have determined that the gun stores may fully open to the public provided they implement and register site-specific prevention plans as described www.vcreopens.com.

Can Equestrian Centers/Horseback Riding be open?

Can Jet Ski/Boat/Bike Rentals be open?

Can Archery/Shooting Ranges be open?

Yes.

Can a Remote Control Plane Range be open?

Outdoor Photography is permitted with restrictions. Commercial or permitted photo shoots are not allowed.

Can churches be open for in person services?

Can Barbershops and Hair Salons reopen?

WHAT'S CLOSED?

Can I go to a bar/nightclub/theater?

Can I go to the gym or health club?

#945

SHOPPING, GETTING AROUND, DAILY NEEDS, AND OUTDOOR RECREATION

Can I go to the store (grocery store, market, corner store, food bank, etc.) to buy food and other things?

Can I take public transportation (bus, subway, train)?

Can I go shopping for things other than food/groceries?

Can I still get deliveries from online stores?

Can I still order the things I need online and have them delivered to my residence?

Can I use ride share, on demand service, or a taxi?

Can I eat inside a restaurant?

Can I shop inside local stores?

Can golf courses and driving ranges be open?

Can I use a golf cart?

Can I go swimming?

WHAT DO I DO ABOUT WORK?

I work for an essential infrastructure organization – can I leave home to go to work?

What do I do about my kids? I have to work.

Can I keep working from home?

What if I want to go to work and I'm not sick?

TRAVEL

I am currently on vacation outside the County–Does the Order allow me to return home?

What happens if I leave the County to go on a planned vacation?

I'm visiting and staying in a hotel, with family/friends, or in a short term rental. What should I do? Can I go home?

WHERE CAN I FIND ADDITIONAL INFORMATION?

For recommendations on how to protect your family members and loved ones, please visit:

- Preventing the Spread of COVID-19 (<https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-prevent-spread.html>)
- Watch for Symptoms (<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>)
- Recommended Cleaning Products (<https://www.americanchemistry.com/Novel-Coronavirus-Fighting-Products-List.pdf>)
- FAQs regarding the virus, prevention, symptoms, testing, and treatment. (<https://www.cdc.gov/coronavirus/2019-ncov/faq.html>)
- FAQs regarding lost wages and financial assistance. (https://www.edd.ca.gov/about_edd/coronavirus-2019/faqs.htm)

Please follow the President's Coronavirus Guidelines for America – 15 Days to Slow the Spread of Coronavirus (COVID-19).

- Whitehouse- 15 Days to Slow the Spread (https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20_coronavirus-guidance_8.5x11_315PM.pdf)

For pets:

- Open Letter to Federal, State & Local Government Officials Regarding Pets and COVID-19 Precautions (https://vcportal.ventura.org/covid19/docs/2020-03-17_Open_Letter_to_Government_Officials_on_Coronavirus_and_Pet_Supplies.pdf)



(<https://www.vcemergency.com>)

➔ OFFICE OF EMERGENCY SERVICES

🏠 EMERGENCY OPERATIONS CENTER

 INFORMATION HOTLINE - (805) 465-6650

© All Rights Reserved - Ventura County - Office Of Emergency Services

1 LEROY SMITH, State Bar No. 107702
County Counsel, County of Ventura
2 CHARMAINE H. BUEHNER, State Bar No. 220868
Assistant County Counsel
3 800 South Victoria Avenue, L/C #1830
Ventura, California 93009
4 Telephone: (805) 654-2588
Facsimile: (805) 654-2185
5 E-mail: charmaine.buehner@ventura.org

6 Attorneys for Defendants County of Ventura
(also erroneously sued as Ventura County Public
7 Health Care Agency), Sheriff William Ayub
(erroneously sued as "Bill Ayub"), Robert Levin
8 and William T. Foley

9

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12

13	DONALD MCDUGALL, an individual; JULIANA GARCIA, an individual; SECOND AMENDMENT FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION; and FIREARMS POLICY COALITION, INC.,	} No. 2:20 cv-02927 CBM(ASX) REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION TO DISMISS THE FIRST AMENDED COMPLAINT
14		
15		} Date: June 30, 2020 Time: 10:00 a.m. Ctrm: 8b Judge: Hon. Consuelo B. Marshall
16		
17	Plaintiffs,	} Trial: Not Set Complaint Filed: March 28, 2020
18	vs.	
19	COUNTY OF VENTURA, CALIFORNIA; BILL AYUB, in his official capacity; WILLIAM T. FOLEY, in his official capacity; ROBERT LEVIN, in his official capacity; and VENTURA COUNTY PUBLIC HEALTH CARE AGENCY,	}
20		
21		}
22	Defendants.	
23		

24 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

25 Defendants County of Ventura (sued in its own name and erroneously in the
26 name of "Ventura County Public Health Care Agency"), Sheriff William Ayub
27 (erroneously sued as "Bill Ayub"), Robert Levin and William T. Foley
28 (collectively "Defendants"), pursuant to Federal Rules of Evidence, rule 201,

1 request that this court take judicial notice of the following official public
2 documents and newspaper articles, including:

3 **Exhibit 1:** *South Bay United Pentecostal v. Newsom* (May 29, 2020,
4 No. 19A1044), 590 U.S. ____ [2020 WL 2813056] (“*South Bay United*”).

5 **Exhibit 2:** Centers for Disease Control & Prevention, Coronavirus Disease,
6 *Cases in the U.S.*, at <https://tinyurl.com/qqt3aq6> (last visited June 1, 2020).

7 **Exhibit 3:** California Department of Public Health, California COVID-19
8 By The Numbers as of May 30, 2020, at [https://www.cdph.ca.gov/Programs/CID/
9 DCDC/Pages/Immunization/ncov2019.aspx#](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/ncov2019.aspx#) (last visited June 1, 2020).
10 Statewide Case Statistics, Ventura Case Statistics as of May 31, 2020, at
11 [https://public.tableau.com/views/COVID-19PublicDashboard/Covid-19Public?:e
12 mbed=y&:display_count=no&:showVizHome=no](https://public.tableau.com/views/COVID-19PublicDashboard/Covid-19Public?:embed=y&:display_count=no&:showVizHome=no) (last visited June 1, 2020).

13 **Exhibit 4:** *Gish v. Newsom* (C.D. Cal. April 23, 2020), 2020 WL 1970070,
14 Case No. 5:20-cv-00755-JGB-KK, ECF 51, pg. ID 1021.

15 **Exhibit 5:** New England Journal of Medicine, *Aerosol and Surface
16 Stability of SARS-CoV-2 as Compared with SARS-CoV-1* (April 16, 2020), at
17 <https://www.nejm.org/doi/pdf/10.1056/NEJMc2004973?articleTools=true> (last
18 visited June 1, 2020).

19 **Exhibit 6:** Stadnytskyi et al., *The Airborne Lifetime of Small Speech
20 Droplets and their Potential Importance in SARS-CoV-2 Transmission*,
21 Proceedings of the National Academy of Sciences (May 4, 2020) at
22 <https://www.pnas.org/content/pnas/early/2020/05/12/2006874117.full.pdf> (last
23 visited June 1, 2020).

24 **Exhibit 7:** Harvard Health Publishing, Harvard Medical School, *COVID-19
25 Basics, Symptoms, Spread & Other Essential Information About the New
26 Coronavirus and COVID-19* (Published March 2020, updated June 1, 2020) at
27 <https://www.health.harvard.edu/diseases-and-conditions/covid-19-basics> (last
28 visited June 1, 2020).

1 **Exhibit 8:** Stanford Health Care, Frequently Asked Questions about the
2 Novel Coronavirus (COVID-19) at [https://stanfordhealthcare.org/stanford-health](https://stanfordhealthcare.org/stanford-health-care-now/2020/novel-coronavirus/faqs-about-covid-19.html#:~:text=Not%20yet.%20Currently%20there,12%2D15%20months)
3 [-care-now/2020/novel-coronavirus/faqs-about-covid-19.html#:~:text=Not%20yet.](https://stanfordhealthcare.org/stanford-health-care-now/2020/novel-coronavirus/faqs-about-covid-19.html#:~:text=Not%20yet.%20Currently%20there,12%2D15%20months)
4 [%20Currently%20there,12%2D15%20months](https://stanfordhealthcare.org/stanford-health-care-now/2020/novel-coronavirus/faqs-about-covid-19.html#:~:text=Not%20yet.%20Currently%20there,12%2D15%20months) (last visited June 1, 2020).

5 **Exhibit 9:** Executive Department of the State of California, Proclamation
6 of a Statewide Emergency, from the Executive Department, State of California,
7 signed by Governor Gavin Newsom (March 4, 2020).

8 **Exhibit 10:** County of Ventura, Declaration of Local Emergency by County
9 Health Officer (March 12, 2020).

10 **Exhibit 11:** County of Ventura, Health Officer Order for the Control of
11 COVID-19 Directing Vulnerable Individuals Living in the County to Shelter at
12 Their Place of Residence, Restrictions of Certain Businesses, Among other
13 Orders, Date of Order: March 17, 2020 (March 17, 2020).

14 **Exhibit 12:** Executive Department of the State of California, Executive
15 Order No. N-33-20 (March 19, 2020).

16 **Exhibit 13:** United States Department of Homeland Security, Cybersecurity
17 and Infrastructure Security Agency (“CISA”), March 19, 2020, Memorandum on
18 Identification of Critical Infrastructure Workers During COVID-19 Response
19 (March 19, 2020) available at: [https://www.cisa.gov/sites/default/files/](https://www.cisa.gov/sites/default/files/publications/CISA-Guidance-on-Essential-Critical-Infrastructure-Workers-1-20-508c.pdf)
20 [publications/CISA-Guidance-on-Essential-Critical-Infrastructure-Workers-1-20-5](https://www.cisa.gov/sites/default/files/publications/CISA-Guidance-on-Essential-Critical-Infrastructure-Workers-1-20-508c.pdf)
21 [08c.pdf](https://www.cisa.gov/sites/default/files/publications/CISA-Guidance-on-Essential-Critical-Infrastructure-Workers-1-20-508c.pdf) (last visited April 1, 2020).

22 **Exhibit 14:** Public Health Officer of the State of California, Essential
23 Business List (March 22, 2020) available at
24 <https://covid19.ca.gov/img/EssentialCriticalInfrastructureWorkers.pdf> (visited
25 April 27, 2020).

26 **Exhibit 15:** Mercury News, Coronavirus: Are Gun Stores Essential?
27 Governor Newsom Sidesteps that Question, Leaves It to the Counties (March 25,
28 2020) available at <https://www.mercurynews.com/2020/03/25/coronavirus-are->

1 gun-stores-essential-governor-sidesteps-that-question-leaves-it-to-the-counties
2 (visited April 26, 2020).

3 **Exhibit 16:** United States Department of Homeland Security, Cybersecurity
4 and Infrastructure Security Agency (“CISA”), March 28, 2020, Memorandum on
5 Identification of Critical Infrastructure Workers During COVID-19 Response
6 (March 28, 2020) available at: [https://www.cisa.gov/sites/default/files/
7 publications/Version_3.0_CISA_Guidance_on_Essential_Critical_Infrastructure_
8 Workers_1.pdf](https://www.cisa.gov/sites/default/files/publications/Version_3.0_CISA_Guidance_on_Essential_Critical_Infrastructure_Workers_1.pdf) (last visited June 1, 2020).

9 **Exhibit 17:** County of Ventura, Stay Well At Home Order of the Ventura
10 County Health Officer (March 20, 2020).

11 **Exhibit 18:** County of Ventura, Stay Well At Home Order of the Ventura
12 County Health Officer (March 31, 2020).

13 **Exhibit 19:** County of Ventura, Stay Well At Home Order of the Ventura
14 County Health Officer (April 9, 2020).

15 **Exhibit 20:** County of Ventura, Stay Well At Home Order of the Ventura
16 County Health Officer (April 20, 2020).

17 **Exhibit 21:** Executive Department of the State of California, Executive
18 Order No. N-60-20 (May 4, 2020).

19 **Exhibit 22:** California Department of Public Health, Order of the State
20 Public Health Officer (May 7, 2020).

21 **Exhibit 23:** County of Ventura, Stay Well VC, Safely Reopening Ventura
22 County (May 7, 2020).

23 **Exhibit 24:** County of Ventura, VC Emergency Coronavirus Information,
24 Frequently Asked Questions, available at [https://www.vcemergency.com/
25 staywellvc/faqs-general](https://www.vcemergency.com/staywellvc/faqs-general) (last visited June 1, 2020).

26 **Exhibit 25:** County of Ventura, Stay Well VC, Safely Reopening Ventura
27 County (May 22, 2020).

28 ///

1 **Exhibit 26:** County of Ventura, Stay Well VC, Safely Reopening Ventura
2 County (May 20, 2020).

3 **Exhibit 27:** County of Ventura, Stay Well VC, Safely Reopening Ventura
4 County (May 29, 2020).

5 **Exhibit 28:** *South Bay United Pentecostal v. Newsom* (9th Cir. May 22,
6 2020) 2020 WL 2687079, Case No. 20-55533 *aff'd* (May 29, 2020, No. 19A1044)
7 590 U.S. ___, at p. 1.

8 Defendants respectfully submit that public documents and newspaper
9 articles (Exhibits 1-22) are proper for judicial notice as well as for consideration
10 by this court with Defendants’ opposition to the motion for preliminary injunction
11 filed by plaintiffs Donald McDougall, Juliana Garcia, Second Amendment
12 Foundation, California Gun Rights Foundation and Firearms Policy Coalition
13 (collectively “Plaintiffs”). Courts may take judicial notice of “a fact that is not
14 subject to reasonable dispute because it . . . can be accurately and readily
15 determined from sources whose accuracy cannot reasonably be questioned” and
16 where such judicial notice “is requested by a party and supplied with the necessary
17 information” “at any stage of the proceeding.” (Fed. Rules Evid., rules 201(b)(2),
18 (d) and (f); *Hepting v. AT & T Corp.* (N.D. Cal. 2006) 439 F.Supp.2d 974, 987-
19 989 [taking judicial notice of official reports, newspaper articles, and press
20 releases]; *Pacific Gas & Elec. Co. v. Lynch* (C.D. Cal. May 2, 2001) No.
21 CV 01-1083RSWLSHX, 2001 WL 840611 at *6 [taking judicial notice of
22 California Governor Gray Davis’s January 17, 2001, Proclamation of a State of
23 Emergency]; *U.S. ex rel. Modglin v. DJO Global Inc.* (C.D. Cal. 2014)
24 48 F.Supp.3d 1362, 1381 [“Under Rule 201, the court can take judicial notice of
25 ‘[p]ublic records and government documents available from reliable sources on
26 the Internet,’ such as websites run by governmental agencies”]; *County of Santa*
27 *Clara v. Trump* (N.D. Cal. 2017) 250 F.Supp.3d 497, 520 [taking judicial notice of
28 proclamations made by U.S. Attorney General Jeff Sessions]; *Merced Irrigation*

1 LEROY SMITH, State Bar No. 107702
County Counsel, County of Ventura
2 CHARMAINE H. BUEHNER, State Bar No. 220868
Assistant County Counsel
3 800 South Victoria Avenue, L/C #1830
Ventura, California 93009
4 Telephone: (805) 654-2588
Facsimile: (805) 654-2185
5 E-mail: charmaine.buehner@ventura.org

6 Attorneys for Defendants County of Ventura
(also erroneously sued as Ventura County Public
7 Health Care Agency), Sheriff William Ayub
(erroneously sued as "Bill Ayub"), Robert Levin
8 and William T. Foley

9

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12

13 DONALD MCDOUGALL, an individual; JULIANA GARCIA, an
14 individual; SECOND AMENDMENT FOUNDATION; CALIFORNIA
15 GUN RIGHTS FOUNDATION; and FIREARMS POLICY COALITION,
16 INC.,

17 Plaintiffs,
18 vs.

19 COUNTY OF VENTURA, CALIFORNIA; BILL AYUB, in his
20 official capacity; WILLIAM T. FOLEY, in his official capacity,
21 ROBERT LEVIN, in his official capacity; and VENTURA COUNTY
22 PUBLIC HEALTH CARE AGENCY,

23 Defendants.
24
25
26
27
28

No. 2:20 cv-02927 CBM(ASX)
DEFENDANTS' NOTICE OF
MOTION AND MOTION TO
DISMISS FIRST AMENDED
COMPLAINT

Date: June 30, 2020
Time: 10:00 a.m.
Ctrm: 8b
Judge: Hon. Consuelo B. Marshall

Trial: Not Set
Complaint Filed: March 28, 2020

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that at the above-noted date and time, or as soon
3 thereafter as the matter may be heard in Courtroom 8B, located at 350 West 1st
4 Street, Los Angeles, California, defendants County of Ventura (“County”), County
5 Sheriff William Ayub, Dr. Robert Levin, and William T. Foley (collectively
6 “Defendants”) will move, pursuant to rule 12(b)(6) of the Federal Rules of Civil
7 Procedure, for dismissal of the first amended complaint (“FAC”) filed by plaintiffs
8 Donald McDougall, Juliana Garcia, Second Amendment Foundation, California
9 Gun Rights Foundation and Firearms Policy Coalition, Inc. The motion will be
10 made on the grounds that the FAC fails to allege sufficient facts to state any
11 cognizable legal claim.

12 The County’s motion is based on this notice of motion and motion, the
13 attached memorandum of points and authorities, the supporting declaration of
14 Charmaine H. Buehner, and all exhibits attached thereto, the request for judicial
15 notice, the pleadings and papers on file herein, and upon such other matters as may
16 be presented to the court at the time of the hearing.

17 This motion is made following the conference of counsel pursuant to L.R.
18 7-3 which took place by telephone on April 30, 2020, and follow-up
19 communication, which took place on May 21 and 26, 2020. (Declaration of
20 Charmaine Buehner, ¶ 2.)

21 LEROY SMITH
22 County Counsel, County of Ventura

23 /s/

24 Dated: June 2, 2020

By CHARMAINE H. BUEHNER
Assistant County Counsel

25 Attorneys for Defendants County of Ventura
26 (also erroneously sued as Ventura County Public
27 Health Care Agency), Sheriff William Ayub
28 (erroneously sued as “Bill Ayub”), Robert Levin
and William T. Foley

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

	<u>Page</u>
I INTRODUCTION	1
II RELEVANT BACKGROUND	1
A. The COVID-19 Pandemic	1
B. The County and State Issued Emergency, Temporary and Specific Orders to Slow the Spread of COVID-19	2
C. On May 7, the County Repealed the Stay at Home Order to Align with the State’s Shelter-in-Place Order and Plan to Reopen the State	6
D. Procedural History	8
III ARGUMENT	10
A. Legal Standard for Motion to Dismiss	10
B. The FAC Is Entirely Mooted by the May 7 Order	10
C. The Stay Well at Home Order Is a Valid Exercise of the Health Officer’s Power Entitled to Minimal Scrutiny and Judicial Deference	11
D. The Stay Well at Home Order Did Not Violate the Second Amendment under Traditional Scrutiny	16
1. The Stay Well at Home Order Did Not Impinge on the Second Amendment as It Was Historically Understood	16
2. The Stay At Home Order Was a Presumptively Lawful Regulation of General Applicability that Did Not Infringe the Ability to Possess or Use, and only Incidentally Delayed the Purchase of, Firearms	18
3. The Stay Well at Home Order Did Not Substantially Burden Second Amendment Rights and Was Substantially Related to Mitigating the Public Health Crisis Presented by COVID-19	19
a. The Order Withstands Immediate Scrutiny	20
b. Preventing the Spread of COVID-19 Is a Compelling Government Interest and the Closure of Non-Essential Businesses, Including Gun Stores, Is Reasonably Suited to Achieve that Objective	22
E. Plaintiffs’ Right-to-Travel Claim Fails	23
IV CONCLUSION	25

TABLE OF AUTHORITIES

Page

FEDERAL STATUTES

1

2

3 *American Cas. Co. of Reading, Penn. v. Baker* (9th Cir. 1994)
22 F.3d 880 10

4

5 *Ashcroft v. Iqbal* (2009)
556 U.S. 662 10

6 *Bateman v. Perdue* (E.D.N.C. 2012)
881 F.Supp.2d 709. 21

7

8 *Bell Atlantic Corp. v. Twombly* (2007)
550 U.S. 544..... 10

9 *Brandy v. Villanueva* (C.D.Cal. 2020)
Case No. 2:20-cv-02874-AB-SK..... 20

10

11 *Camara v. Municipal Court of City and County of*
San Francisco (1967)
387 U.S. 523..... 12

12

13 *Compagnie Francaise de Navigation a Vapeur v. Louisiana*
State Board of Health (1902)
186 U.S. 380 12

14

15 *Comparing Community Hospital v. Maricopa County* (1974)
415 U.S. 250..... 23

16 *District of Columbia v. Heller* (2008)
554 U.S. 570..... 16, 17, 18, 19, 20

17

18 *Francisco* (9th Cir. 2014)
746 F.3d 953..... 17, 18, 22

19 *Fyock v. Sunnyvale* (9th Cir. 2015)
779 F.3d 991..... 18

20

21 *Garcia v. San Antonio Metropolitan Transit Authority* (1985)
469 U.S. 528..... 10, 12

22 *Gish v. Newsom* (C.D.Cal. April 23, 2020)
WL 2687079, Case No. 5:20-cv-00755-JGB-KK..... 2, 11, 12, 13

23

24 *In re Abbott* (5th Cir. 2020)
2020 WL 1685929 11, 12

25 *Jacobson v. Massachusetts* (1905)
197 U.S. 11..... 10, 11, 12

26

27 *Johnson v. City of Cincinnati* (6th Cir. 2002)
310 F.3d 484 23

28 *Kansas v. Hendricks* (1997)
521 U.S. 346..... 11

TABLE OF AUTHORITIES

	<u>Page</u>
1	
2	
3	<i>Lutz v. City of York, PA</i> (3d Cir. 1990) 899 F.2d 255 23
4	<i>Marilley v. Bonham</i> (9th Cir. 1996) 844 F.3d 841..... 15
5	
6	<i>Marilley v. Bonham</i> (9th Cir. 1996) 844 F.3d 841..... 24
7	<i>Marshall v. United States</i> (1974) 414 U.S. 417 10, 12
8	
9	<i>McDonald v. City of Chicago, Ill.</i> (2010) 561 U.S. 742..... 19
10	<i>New York State Rifle & Pistol Association, Inc. v. City of New York, New York</i> (April 27, 2020) ____ U.S. ____ 10
11	
12	<i>North American Cold Storage Co. v. City of Chicago</i> (1908) 211 U.S. 306..... 12
13	
14	<i>Nunez v. City of San Diego</i> (9th Cir. 1997) 114 F.3d 935..... 23
15	<i>Peruta v. California</i> (1995) ____ U.S. ____ 17
16	
17	<i>Peruta v. County of San Diego</i> (9th Cir. 2016) 824 F.3d 919..... 17
18	<i>Prince v. Massachusetts</i> (1944) 321 U.S. 158..... 12
19	
20	<i>Saenz v. Roe</i> (1999) 526 U.S. 489..... 15, 23
21	<i>Silvester v. Harris</i> (9th Cir. 2016) 843 F.3d 816 17, 18, 19, 20, 21, 22, 23
22	
23	<i>South Bay United Pentecostal v. Newsom</i> (9th Cir. 2020) Case No. 20-55533..... 2, 9, 10
24	<i>Sprewell v. Golden State Warriors</i> (9th Cir. 2001) 266 F.3d 979 10
25	
26	<i>Teixiera v. County of Alameda</i> (9th Cir. 2017) 873 F.3d 670 19
27	<i>Terminiello v. City of Chicago</i> (1949) 337 U.S. 1..... 9
28	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF AUTHORITIES

Page

U.S. v. Carpio-Leon (4th Cir. 2012)
701 F.3d 974 16

U.S. v. Chovan (9th Cir. 2013)
735 F.3d 1127..... 16

U.S. v. Huitron-Guizar (10th Cir. 2012)
678 F.3d 1164..... 16

United Bldg. and Constr. Trades Council v. Camden (1984)
465 U.S. 208..... 24

United States v. Lopez (1995)
514 U.S. 549 15

United States v. Sears (C.D. Cal. April 16, 2015)
2015 WL 13359437 23, 25

United States v. Torres (9th Cir. 2019)
911 F.3d 1253..... 20

Winter v. Natural Resources (2008)
555 U.S. 1 13, 14

STATE CASES

Ex parte Daniels (1920)
183 Cal. 636 11

Sherwin-Williams Co. v. City of Los Angeles (1993)
4 Cal.4th 893 11, 16

FEDERAL STATUTES

Code of Federal Regulations
tit. 39, § 390.5..... 12

National Firearms Act
26 U.S.C., §§ 5801-5872 12

United States Code
tit. 18, § 922 15
tit. 18, § 923 15
tit. 18, § 931 15

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF AUTHORITIES

Page

STATE STATUTES

California Code of Regulations

tit. 7, § 2500 et. seq. 13

California Government Code

§ 8558 10

California Health & Safety Code

§ 101040 13
§ 101080 13
§ 101085 13
§ 120175 13

California Penal Code

§ 26815 20
§ 26850-26860 5
§ 27535 20
§ 27540 20
§ 28220, subd. (f) 20

I

INTRODUCTION

The Ventura County Health Officer, defendant Robert Levin, M.D. (“Health Officer”), issued a series of temporary, specific and emergency “Stay Well at Home” orders, on March 17, 20, and 31, 2020, and April 9, 18 and 20, 2020 (collectively, “Stay Well at Home Order” or “Order”), to slow the spread of the COVID-19 pandemic.^{1/} The Order, which the Health Officer carefully monitored and amended to preserve the health and safety of persons within Ventura County, required the closure of any business the Health Officer deemed non-essential effective March 20, including gun stores, because such businesses did not support the ability of people to remain sheltered in their homes to the maximum extent possible. The Order did not prohibit a person from traveling into and out of Ventura County to purchase a firearm, or for any other purpose. Once the Health Officer determined there was no longer a need for local orders more restrictive than those imposed by the State of California, the Order was repealed. Thus, effective May 7, firearm stores within Ventura County may be fully re-open.

The First Amended Complaint (“FAC”) should be dismissed. First, claims that the Order violated the right to bear arms under the Second Amendment and right to travel as guaranteed by the Privileges and Immunities Clause at article IV, section 2 (“P & I Clause”) of the U.S. Constitution are moot. Second, even if not moot, the Order passes constitutional muster under the framework first advanced in *Jacobson v. Commonwealth of Massachusetts* (1905) 197 U.S. 11 (“*Jacobson*”) and cited by the Supreme Court as recently as May 29. Third, as this court recognized in denying two prior requests for a temporary restraining order, the Order did not implicate nor violate an individual’s right to bear arms. Similarly, based on its plain language, the Order did not implicate an individual’s right to travel. Thus, the Order was also lawful under traditional constitutional review.

^{1/} All further dates are in 2020, unless otherwise indicated.

II

RELEVANT BACKGROUND

A. The COVID-19 Pandemic

COVID-19 is a global pandemic and “novel severe acute respiratory illness that has killed thousands of people in California and more than 100,000 nationwide.” (Request for Judicial Notice (“RJN”), Exhs. 1^{2/} & 2.) From early March through May 31, there have been 110,583 confirmed cases and 4,213 deaths in California attributable to COVID-19, with 1,116 cases and 33 deaths occurring within Ventura County. (RJN, Exh. 3.) The virus spreads easily and sustainably through respiratory droplets produced when an infected person coughs or sneezes, through person-to-person contact, and from surfaces that can remain infectious for several days. (RJN, Exhs. 4^{3/}, 5 & 6.) The incubation period for COVID-19 is anywhere from two days to 13 days, during which time “people may be asymptomatic, . . . [and] unwittingly infect others.” (RJN, Exhs. 1 & 7.) “At this time, there is no known cure, no effective treatment, and no vaccine.” (RJN, Exhs. 1 & 8.) “Without a vaccine, measures limiting physical contact between citizens . . . are widely recognized as the only way to effectively slow the spread of the virus.” (RJN, Exhs. 4, 7 & 8.)

B. The County and State Issued Emergency, Temporary and Specific Orders to Slow the Spread of COVID-19

On March 4, citing an increasing number of confirmed COVID-19 cases in the United States and worldwide, Governor Gavin Newsom declared that a state of emergency existed in the State of California. (RJN, Exh. 9.) On March 12, based

///

^{2/} *South Bay United Pentecostal v. Newsom* (May 29, 2020) 590 U.S. ____, Case No. 19A1044 (“*South Bay United*”).

^{3/} *Gish v. Newsom* (C.D.Cal. April 23, 2020) Case No. 5:20-cv-00755-JGB-KK, ECF 51, pg. ID 1021 (“*Gish*”).

1 on the confirmation of COVID-19 cases in Ventura County, the Health Officer
2 declared that a local health emergency existed in Ventura County. (RJN, Exh. 10.)

3 On March 17, the Health Officer issued a local order that required persons
4 living, working and doing business in Ventura County to take a number of
5 precautions to prevent or slow the spread of the disease (“March 17 Order”).

6 Among other provisions, the March 17 Order required the immediate closure of
7 businesses that present a higher risk of transmitting COVID-19 among the public,
8 such as bars, nightclubs, movie theaters, gyms, and restaurants except for take-out
9 and delivery. (RJN, Exh. 11, ¶¶ 2-3.) On March 19, Governor Newsom issued
10 Executive Order N-33-20, which required all persons living in California to stay at
11 their places of residence except as needed to maintain continuity of operations in
12 “critical infrastructure sectors” specified by the state health officer. (RJN, Exh. 12
13 (“State Shelter-in-Place Order”).)^{4/}

14 On March 20, March 31 and April 9, the Health Officer issued supplemental
15 orders that imposed local requirements more restrictive than the State Shelter-in-
16 Place Order tailored to Ventura County public health needs. (RJN, Exhs. 17, 18 &
17

18 ^{4/} The State Shelter-in-Place Order defines “critical infrastructure sectors”
19 consistent with the “March 19, 2020, Memorandum on Identification of Critical
20 Infrastructure Workers During COVID-19 Response” published by the United
21 States Department of Homeland Security’s Cybersecurity and Infrastructure
22 Security Agency (“CISA”). (RJN, Exh. 13 (“March 19 CISA Memo”).) The
23 March 19 CISA Memo does not identify retail gun stores as a component of
24 critical infrastructure. On March 22, the state health officer issued a list of
25 “Essential Critical Infrastructure Workers.” (RJN, Exh. 14.) On March 25, in
26 response to inconsistent local views as to whether gun stores must remain open as
27 an “essential business” under his order, Governor Newsom expressly deferred to
28 local jurisdictions to make the determination. (RJN, Exh. 15.) On March 28,
CISA issued an additional “Advisory Memorandum on Identification of Essential
Critical Infrastructure Workers During COVID-19 Response” (“Revised CISA
Memo”), which included “the operation of firearm or ammunition product
manufacturers, retailers, importers, distributors, and shooting ranges” as a
component of critical infrastructure. The Revised CISA Memo expressly declared
that it is “*not, nor should it be considered, a federal directive or standard. . . .
Individual jurisdictions should add or subtract essential workforce categories
based on their own requirements and discretion.*” (RJN, Exh. 16, Revised CISA
Memo (March 28, 2020), italics added.) Governor Newsom has not revised
Executive Order N-33-20 or issued a new executive order to incorporate the
Revised CISA Memo and its inclusion of gun retailers.

1 19 (“Further Orders”).) The Further Orders sought to slow the spread of
2 COVID-19 by ensuring, among other things, that all persons living in Ventura
3 County stay at their places of residence, except for the purpose of engaging in
4 essential activities, engaging in essential travel, and working at essential
5 businesses. The Further Orders defined “Essential Travel,” in part, as that which
6 is undertaken to engage “in interstate commerce and otherwise subject to the
7 provisions of the Commerce Clause of the United States Constitution.” (RJN,
8 Exh. 17, p. 6, ¶ 7(g)(vii).) The Further Orders prohibited public or private
9 gatherings, prohibited non-essential travel, required the closure of “non-essential”
10 businesses, and mandated social distancing protocols for the operation of essential
11 businesses and for persons engaging in essential activities. (RJN, Exhs. 17.)
12 Under the Further Orders, “essential businesses” included those deemed “critical
13 infrastructure” by the State Shelter-in-Place Order, but excluded businesses that
14 were not necessary to stop the spread of COVID-19 or that did not enable persons
15 to shelter at home. Non-essential businesses, including firearm stores, were
16 ordered to close effective March 20. The Further Orders were set to expire on
17 April 19. (RJN, Exhs. 17.)

18 On April 20, based on a determination that COVID-19 continued to present
19 an imminent and continuing threat to Ventura County, the Health Officer issued a
20 new Stay Well at Home Order. The April 20 Order superseded all prior orders and
21 broadly applied to “all persons in the cities and unincorporated area of Ventura
22 County” without regard to a person’s state residency (“April 20 Order”). (RJN,
23 Exh. 20, pp. 1 & 2, ¶ 2.) All provisions of the April 20 Order were “interpreted to
24 effectuate” the intent and purpose of the Order: “to cause persons to stay at their
25 places of residence to the maximum extent feasible with the minimum disruption
26 to their social, emotional and economic well-being consistent with the overarching
27 goal of eliminating the COVID-19 pandemic.” (RJN, Exh. 20, p. 2, ¶ 1.) As with
28 the prior orders, the April 20 Order stated that the Health Officer “will continue to

1 assess the quickly evolving situation [and] may issue additional orders related to
2 COVID-19. . . .” (RJN, Exh. 20, p. 20, ¶ 23.)

3 The April 20 Order was, in some respects, less restrictive than the prior
4 orders. For example, while “non-essential businesses” were still ordered closed,
5 certain businesses that fell outside of the Stay Well at Home Order’s definition of
6 essential businesses within the state health officer’s list of essential critical
7 infrastructure were authorized to operate to the extent they could operate in a
8 manner that minimized the risk of spreading COVID-19, i.e., such businesses were
9 required to be closed to the public, operate with a limited number of employees
10 who follow strict social distancing guidelines, and deliver to the purchaser any
11 goods to be sold. (RJN, Exh. 20, pp. 3-4, ¶ 7.) While firearm stores could not
12 operate under such constraints while complying with state gun store laws,^{5/} the
13 April 20 Order made a “[s]pecial allowance for completion of firearm sales:”

14 “Under California law persons wishing to purchase a
15 firearm must complete a background check and waiting
16 period, and all sales must be completed in-person. It is
17 not feasible, therefore, for the Health Officer to require
18 that firearm sales be conducted on-line only. To
19 accommodate persons who initiated the purchase of a
20 firearm at a store located within the County before
21 March 20 . . . , firearm purchasers may engage in the
22 actions necessary to complete firearm purchases initiated
23 before March 20, 2020, provided that: [¶] a. All
24 activities, including the transfer of possession of any
25 firearm, occur by appointment only, and only the
26 purchaser and one person of behalf of the store shall be

27 _____
28 ^{5/} See e.g., Penal Code sections 26850-26860 (requiring prospective purchasers of firearms must perform a “safe handling demonstration” of proper loading and unloading techniques using readily identifiable dummy rounds).

1 present; [¶] b. The firearm store shall remain closed to
2 the general public; and [¶] c. Social Distancing
3 Requirements shall be followed to the greatest extent
4 feasible.” (RJN, Exh. 20, p. 7, ¶ 11.)

5 The April 20 Order prohibited “Non-Essential Travel” within Ventura
6 County but *expressly* “allow[ed] travel into or out of the County.” (RJN, Exh. 20,
7 p. 3, ¶ 6.) And, like the Further Orders, the April 20 Order expressly provided that
8 “Essential Travel” included “[t]ravel engaged in interstate commerce and
9 otherwise subject to the provisions of the Commerce Clause of the United States
10 Constitution” and “[t]ravel to return to a place of residence from outside the
11 County.” (RJN, Exh. 17, p. 6, ¶ 7(g)(iv) & (vii), & Exh. 20, p. 18, ¶ 17g(iv) &
12 (vii).) Within Ventura County, the April 20 Order expressly permitted “Essential
13 Activities” so long as social distancing was practiced, including “pleasure
14 driving.” (RJN, Exh. 20, p. 11, ¶ 17(a)(vi).) The April 20 Order was set to expire
15 on May 15. (RJN, Exh. 20.)

16 **C. On May 7, the County Repealed the Stay at Home Order to Align with**
17 **the State’s Shelter-in-Place Order and Plan to Reopen the State**

18 In early May, the Governor and state public health officer cautioned that
19 there was a continuing threat of COVID-19, but recognized there had been
20 significant progress, based on in statewide COVID-19 data, on mitigation efforts,
21 the stabilization of new infections and hospitalizations, and an improved ability to
22 test, contact trace, and support infected individuals. This progress supported the
23 “gradual movement” toward reopening the state while following the State Shelter-
24 in-Place Order in according with a four-phase plan known as the “Pandemic
25 Roadmap.” (RJN, Exhs. 12, 21, & 22, pp. 1-2 [collectively referred to as the
26 “State Order”].) The State Order allows for variation in the speed at which local
27 jurisdictions can progress through phases of reopening, and does not restrict local
28 health officers from enacting more stringent measures to the extent local

1 conditions warrant them. (RJN, Exhs. 21 & 22, pp. 1-2, ¶¶ 1-2.) The State Order
2 also authorizes Californians to leave their homes to engage in permissible
3 activities and patronize businesses as they reopen. (RJN, Exh. 22, p. 2, ¶ 3.)

4 On May 7, the Health Officer issued a new order after determining that
5 “there no longer exists a need for local health orders that are more restrictive than
6 the State Order with respect to many individual and business activities,” and that
7 “public health and welfare would be best served by a single set of regulations
8 where reasonable to avoid public confusion between State and local orders.”
9 (RJN, Exh. 23; ECF Pg. ID 718, 721-22 (“May 7 Order”).) The May 7 Order
10 repealed the previous Stay At Home Order in favor of aligning with the State
11 Order. Since May 7, the Health Officer has continued to ease local restrictions in
12 favor of aligning with the State Order, by orders issued on May 12, 20, 22 and 29.
13 (RJN, Exhs. 25-27 (collectively “Local Reopen Order”).) Because neither the
14 State Order nor the Local Reopen Order mentions guns, the Health Officer
15 published a “Frequently Asked Questions” guide to address the issue:

16 “With the elimination of the essential business model in
17 the local health order, and reliance on the State health
18 order model for critical infrastructure, the Sheriff and
19 local health officer have determined that the [*sic*] gun
20 stores may fully open to the public provided they
21 implement and register site-specific prevention plans as
22 described www.vcreopens.com.” (RJN, Exh. 24.)

23 The Local Reopen Order aligns also with the State Order’s allowance “for
24 persons to leave their places of residence to engage in essential activities.” (RJN,
25 Exh. 23, pp. 5-8, ¶ 11(a)(2) & (a)(7); see also Exh. 27, ¶ 5(a)(2) & (a)(7).) Thus,
26 since May 7, firearms stores have been able to fully reopen and persons desiring to
27 engage in firearm transactions have not been restricted from doing so within the
28 County.

1 **D. Procedural History**

2 Plaintiff Donald McDougall filed the original complaint in this action on
3 March 28, alleging that the then-operative Stay Well at Home Order prevented
4 him from taking possession of his previously purchased firearm in violation of the
5 Second Amendment. (ECF 1, pg. ID 5, ¶¶ 31-33.) McDougall sought a temporary
6 restraining order (“TRO”) to enjoin the County from “ordering gun stores closed”
7 under the then-operative Stay Well at Home Order. (ECF 9, pg. ID 31.) This
8 court denied the TRO. (ECF 12.) This court found that the Stay Well at Home
9 Order survived intermediate scrutiny given that the Order was temporary, did not
10 target handgun ownership, did not prohibit the ownership of a handgun outright,
11 and because of the “compelling” government interest in preventing the spread of
12 COVID-19. (ECF Doc. No. 12, pg. ID 51.)

13 On April 14, McDougall filed the FAC, restating his allegations, and adding
14 four co-plaintiffs: Juliana Garcia, the Second Amendment Foundation, California
15 Gun Rights Foundation and Firearms Policy Coalition, Inc. The FAC reasserts
16 McDougall’s Second Amendment claim and adds a claim that the then-operative
17 Stay Well at Home Order violated the right to travel under the P & I Clause and
18 the due process clauses of the Fifth and Fourteenth Amendments. (ECF 19.) The
19 FAC seeks declaratory relief, injunctive relief, and nominal damages. (ECF 19,
20 pg. ID 96-97.)

21 On April 21, plaintiffs served the FAC on defendants County of Ventura,
22 the Health Officer, William Ayub, the County Sheriff, and William T. Foley, the
23 director of the County Health Care Agency, together with a motion for a
24 preliminary injunction, set for hearing on May 19 (“MPI”). (ECF 25, 28.)
25 Plaintiffs sought to enjoin defendants from “closing or compelling the closure of
26 retail firearm and ammunition businesses on the grounds that they are ‘non-
27 essential businesses’ and preventing individuals from traveling outside the County

28 ///

1 to obtain firearms and ammunition under” the Stay Well at Home Order. (ECF 27,
2 Pg. ID 203.)

3 On April 24, plaintiffs filed a second TRO application, which this court also
4 denied. (ECF 27, 29 & 30.) With respect to the merits of plaintiffs’ “right to
5 travel” claim under the P & I Clause, the court indicated that resolution of that
6 claim would be decided with reference to whether the “Non-Essential Travel”
7 provisions in the Order: 1) apply to plaintiffs; and 2) violate the right to travel
8 given the exemption for interstate commerce that implicates the Commerce Clause
9 of the United States Constitution. (ECF 30, pg. ID 445.) As explained below, the
10 Non-Essential Travel provisions, set forth in the April 20 Order at paragraphs 6
11 and 17(g) and in the March 20 Order at paragraphs 6 and 7(g), did not prohibit the
12 travel plaintiffs proposed, nor did these provisions otherwise violate plaintiffs’
13 constitutional right to travel. (RJN, Exh. 17, p. 2, ¶ 6 & p. 6, ¶ 17(g)(vii); Exh. 15,
14 p. 3, ¶ 6 & p. 18, ¶ 17(g)(vii).) Plaintiffs, no longer restricted from engaging in
15 firearms transactions as of May 7, withdrew their MPI the day before the motion
16 was set to be heard. (ECF 40.)

17 On May 22, the Ninth Circuit Court of Appeals declined to enjoin
18 enforcement of the State Order, finding the order’s restrictions on the number of
19 persons who could attend in-person religious services was not inconsistent with
20 the First Amendment. (RJN, Exh. 28.^{6/}) The Ninth Circuit reasoned that the
21 State’s efforts to fight the pandemic required the court to “temper its doctrinaire
22 logic with a little practical wisdom [or else] it will convert the constitutional Bill
23 of Rights into a suicide pact.” (*Ibid.*) On May 29, the United States Supreme
24 Court denied an application for injunctive relief effectively affirming the Ninth
25 Circuit’s decision. (RJN, Exh. 1.) In doing so, according to Chief Justice Roberts,

26 _____
27 ^{6/} *South Bay United, supra*, 2020 WL 2687079, Case No. 20-55533 at *1, quoting
28 *Terminiello v. City of Chicago* (1949) 337 U.S. 1, 37 [69 S.Ct. 894] (Jackson, J.,
dissenting), *aff’d* _____ (2020) 590 U.S. _____, Case No. 19A1044.

1 the Supreme Court declined to engage in “judicial second-guessing” into “areas
2 fraught with medical and scientific uncertainties” noting that the “Constitution
3 principally entrusts ‘[t]he safety and health of the people’ to the . . . states ‘to
4 guard and protect.’” (RJN, 1.^{7/})

5 **III**
6 **ARGUMENT**

7 **A. Legal Standard for Motion to Dismiss**

8 The FAC must state facts sufficient to show that a claim for relief is plausible on
9 its face. (*Bell Atlantic Corp. v. Twombly* (2007) 550 U.S. 544, 570 [127 S.Ct. 1955].)
10 Facts that are “merely consistent with” the County’s potential liability fall short of
11 establishing plausibility and entitlement to relief. (*Ashcroft v. Iqbal* (2009) 556 U.S. 662,
12 678 [129 S.Ct. 1937].) The court need not “accept as true allegations that contradict
13 matters properly subject to judicial notice or by exhibit. Nor is the court required to
14 accept as true allegations that are merely conclusory, unwarranted deductions of fact, or
15 unreasonable inferences.” (*Sprewell v. Golden State Warriors* (9th Cir. 2001) 266 F.3d
16 979, 988.)

17 **B. The FAC Is Entirely Mooted by the May 7 Order**

18 Effective May 7, the Health Officer no longer prohibits firearm stores from
19 opening, and no longer restricts intra-county firearms transactions. (RJN, Exh.
20 23.) On April 20, the Stay At Home Order was amended to expressly allow gun
21 purchasers such as plaintiff McDougall to complete the purchases of firearms.
22 These actions mooted plaintiffs’ claims. “A case becomes moot when interim
23 relief or events have deprived the court of the ability to redress the party’s
24 injuries.” (*American Cas. Co. of Reading, Penn. v. Baker* (9th Cir. 1994) 22 F.3d
25 880, 896; see also *New York State Rifle & Pistol Association, Inc. v. City of New*
26

27 ^{7/} *South Bay United, supra*, 590 U.S. _____, p. 1, quoting *Jacobson v.*
28 *Massachusetts* (1905) 197 U.S. 11, 38 [25 S.Ct. 358] (“*Jacobson*”), *Marshall v.*
United States (1974) 414 U.S. 417, 427 [94 S.Ct. 700], and *Garcia v. San Antonio*
Metropolitan Transit Authority (1985) 469 U.S. 528, 545 [105 S.Ct. 1005].

1 *York, New York* (April 27, 2020) __ U.S. __ [140 S.Ct. 1525] [amendments to
2 New York statute mooted plaintiffs’ claims].) Here, even if plaintiffs had stated
3 claims for relief, the court can no longer redress the claimed injuries.

4 To the extent plaintiffs complain their ability to purchase firearms or to
5 travel to purchase firearms continues to be restricted under the Local Reopen
6 Order, their complaint is not with defendants because the Local Reopen Order
7 merely aligns with the State Order. The law is well settled that the County cannot
8 enact requirements inconsistent with state law. (*Sherwin-Williams Co. v. City of*
9 *Los Angeles* (1993) 4 Cal.4th 893, 898 [local government cannot enact rules that
10 conflict with state law], citing *Ex parte Daniels* (1920) 183 Cal. 636, 641-648,
11 [finding impermissible contradiction with state law where local legislation
12 purported to fix a lower maximum speed limit for motor vehicles than that which
13 state law fixed].) The court should dismiss the FAC.

14 **C. The Stay Well at Home Order Is a Valid Exercise of the Health**
15 **Officer’s Power Entitled to Minimal Scrutiny and Judicial Deference**

16 On May 29, the United States Supreme Court recognized that the
17 Constitution “principally entrusts ‘[t]he safety and health of the people’ to the
18 politically accountable officials of the States ‘to guard and protect.’” (*South Bay*
19 *United, supra*, 590 U.S. _____, p. 1, quoting *Jacobson, supra*, 197 U.S. at p. 38.^{8/})
20 The court noted that the latitude given to local officials when they “‘undertake[] to
21 act in areas fraught with medical and scientific uncertainties’” is “‘especially
22 broad,’” and that the unelected judiciary “lacks the background, competence, and
23 expertise to assess public health” to engage in “second-guessing” “[w]here the
24

25 ^{8/} *Jacobson* has been widely cited by federal courts as the framework by
26 which constitutional claims challenging emergency health orders should be
27 analyzed during the current pandemic. (See *Kansas v. Hendricks* (1997) 521 U.S.
28 346, 356 [117 S.Ct. 2072] [recognizing that individual’s constitutionally protected
interest in avoiding physical restraint may be overridden in civil context], citing
Jacobson, supra, 197 U.S. at p. 26; *In re Abbott* (5th Cir. April 7, 2020) 2020 WL
1685929 at * 7; *In re Rutelidge* (8th Cir. April 22, 2010) 2020 WL 1933122; see
also *Gish, supra*, Case No. 5:20-cv-00755-JGB-KK, ECF 51, pg. ID 1022.)

1 broad limits” of the local official’s authority is not exceeded. (*South Bay United*,
2 *supra*, 197 U.S. at p. 2, quoting *Marshall v. United States* (1974) 414 U.S. 417,
3 427 [94 S.Ct. 700], and *Garcia v. San Antonio Metropolitan Transit Authority*
4 (1985) 469 U.S. 528, 545 [105 S.Ct. 1005].)

5 Similarly here, the Health Officer’s orders are well within the authority
6 granted to his office and “right to protect [the community] against an epidemic of
7 disease which threatens the safety of its members.” (*Jacobson, supra*, 197 U.S. at
8 p. 27.) During public emergencies, states and local governments may take actions
9 to curb disease that would otherwise impermissibly burden constitutionally
10 protected liberties. (*Id.* at p. 19; see also *Prince v. Massachusetts* (1944) 321 U.S.
11 158, 166-167 [64 S.Ct. 438] [finding that First Amendment “right to practice
12 religion freely does not include liberty to expose the community . . . to
13 communicable disease”].)^{9/} Under *Jacobson*, the Health Officer’s measures are
14 lawful so long as they bear “real or substantial relation” to the public health crisis
15 and are not, “beyond all question, a plain, palpable invasion of rights secured by
16 the fundamental law.” (*Gish, supra*, Case No. 5:20-cv-00755-JGB-KK, ECF 51 at
17 p. 1022, citing *In re Abbott, supra*, 2020 WL 1685929 at * 7, and *Jacobson, supra*,
18 197 U.S. at p. 31.) In other words, under *Jacobson*, the Stay Well at Home Order
19 is subject to “judicial deference and not subject to traditional constitutional
20 scrutiny.” (*Gish, supra*, Case No. 5:20-cv-00755-JGB-KK, RJN, Exh. 2, pg. ID
21 1021, citing *Jacobson, supra*, 197 U.S. at p. 27.)
22
23
24

25 ^{9/} See also *Camara v. Municipal Court of City and County of San Francisco*
26 (1967) 387 U.S. 523, 539 [87 S.Ct. 1727] (warrantless searches permitted under
27 Fourth Amendment when conducted to protect public health in emergency
28 situations), citing *North American Cold Storage Co. v. City of Chicago* (1908) 211
U.S. 306 [29 S.Ct. 101] (seizure of unwholesome food); *Jacobson, supra*, 197
U.S. 11 (compulsory smallpox vaccination); *Compagnie Francaise de Navigation
a Vapeur v. Louisiana State Board of Health* (1902) 186 U.S. 380 [22 S.Ct. 811]
(health quarantine prohibiting disembarkation of healthy passengers and cargo
into infected area).

1 The now-repealed Stay Well at Home Order easily meets the *Jacobson*
2 test.^{10/} The Stay Well at Home Order bore a substantial relation to the public
3 health crisis. The Order was temporary, specific and tailored to prevent the spread
4 of a highly contagious and potentially deadly disease through a combination of
5 targeted requirements, all of which were aimed at minimizing human-to-human
6 contact by directing Ventura County residents to stay at their places of residence
7 to the maximum extent feasible. (RJN, Exh. 20.) At all times relevant, the Health
8 Officer has, and continues to, monitor the pandemic’s impact on persons within
9 Ventura County and has updated the Local Orders as necessary to address the
10 emergency. (See e.g., RJN, Exh. 20.) The Stay Well at Home Order slowed the
11 spread of the disease, saved lives, and prevented the county’s health care systems
12 from being overwhelmed, unlike the situation elsewhere around the globe.^{11/} The
13 Health Officer’s prior determination of what businesses were deemed “essential”
14 is entitled to great deference, notwithstanding any federal advisory documents or
15 differing decisions by other jurisdictions. (See *South Bay United, supra*, 590 U.S.
16 ___ at p. 1; *Winter v. Natural Resources* (2008) 555 U.S. 1, 24; see also *Gish,*
17 *supra*, Case No. 5:20-cv-00755-JGB-KK, RJN, Exh. 2 at p. 1022.)

18 Plaintiffs, on the other hand, cannot demonstrate that the Stay at Home
19 Order’s imposition of a temporary and emergency pause, from March 20 to May 7,
20 on their ability to purchase or sell a gun within Ventura County is, “beyond all

21
22 ^{10/} Nor can the statutory authority of the Health Officer be reasonably
23 questioned: The Health Officer has broad, long-standing and well-established
24 powers to make orders necessary to preserve and protect public health. For
25 example, the California Health and Safety Code provides that “[t]he local health
26 officer may take any preventive measure that may be necessary to protect and
27 preserve the public health from any public health hazard during any ‘state of war
28 emergency,’ ‘state of emergency,’ or ‘local emergency,’ as defined by section
29 8558 of the [California] Government Code, within his or her jurisdiction.” (Cal.
30 Health & Saf. Code, § 101040; see also Cal. Heath & Saf. Code, §§ 101080,
31 101085, 120175 & Cal. Code Regs., tit. 7, § 2500 et seq.)

27 ^{11/} See, e.g., L.A. Times, Social Distancing May Have Helped California
28 Slow the Virus and Avoid New York’s Fate (March 31, 2020) (available at
<https://news.yahoo.com/social-distancing-may-helped-california-120003221.html>)
(visiting April 27, 2020).

1 question, a plain, palpable invasion of rights secured by the fundamental law.”
2 (*Jacobson, supra*, 197 U.S. at p. 31.) Unlike the right to use, possess, or otherwise
3 keep and bear arms in the name of self-defense (which rights the Order does not
4 implicate), the law is well-established that any right to purchase or sell firearms is
5 subject to regulation without violating the Second Amendment, as explained
6 below. In addition, the modifications to the Stay Well at Home Order and
7 subsequent issuance of the Local Reopen Order further support dismissal of the
8 FAC. These modifications to the Local Orders evidence the Health Officer’s
9 continual assessment of the Stay Well at Home Order, both to prevent the spread
10 of COVID-19 and to minimize disruption of the social, emotional and economic
11 well-being of Ventura County residents. For example, the April 20 Order
12 contained provisions *solicitous* of plaintiffs’ claimed Second Amendment rights so
13 long as strict protocols were followed. (See, e.g., *Legacy Church, Inc. v. Kunkel*
14 (D.N.M. April 17, 2020) 2020 WL 1905586 [upholding orders based, in part, on
15 fact that emergency COVID-19 orders were solicitous of plaintiff’s First
16 Amendment rights].) The April 20 Order expressly authorized plaintiff
17 McDougall to take possession of the weapon he alleges he previously purchased.
18 (RJN Exh. 20, p. 7.) And, with the issuance of the Local Reopen Order, the
19 Health Officer’s imposition of an emergency and temporary pause on plaintiffs’
20 ability to engage in transactions concerning firearms and ammunition is over.
21 (RJN, Exhs. 23 & 24.)

22 Similarly, plaintiffs’ right-to-travel claim under the now-repealed Stay at
23 Home Order fails because the Non-Essential Travel provisions did not prevent
24 them (or their members) from leaving Ventura County to purchase a gun
25 elsewhere. (ECF 19, pg. ID 94, ¶ 87; ECF 27, pg. ID 203, Ins. 6-8.) Plaintiffs’
26 allegation in this regard is contrary to the express language of the Stay Well at
27 Home Order, which *allowed* persons to travel into and out of Ventura County
28 without regard to the purpose of the travel. (RJN, Exh. 20, p. 3 [“This Order

1 allows travel into or out of the County”].) Moreover, the Stay Well at Home Order
 2 had, since March 20 (the date non-essential businesses were ordered to close),
 3 included in its definition of “Essential Travel” “[t]ravel engaged in interstate
 4 commerce and otherwise subject to the provisions of the Commerce Clause of the
 5 United States Constitution.” (See, e.g., RJN, Exh. 17, p. 18, ¶ g(7).) The out-of-
 6 county travel plaintiffs proposed, i.e., inter-county or interstate travel to purchase a
 7 firearm, was economic activity that comprises interstate commerce under the
 8 Commerce Clause and thus would fall within the Order’s definition of “Essential
 9 Travel.” (See *United States v. Lopez* (1995) 514 U.S. 549, 563-564 [115 S.Ct.
 10 1624, 1626] [economic activity that substantially affects interstate commerce
 11 subject to federal regulation under the Commerce clause].^{12/}) Put simply, the
 12 “Non-Essential Travel” provisions of the Order did not preclude plaintiffs from
 13 traveling to purchase firearms.

14 To the extent plaintiffs complain that the Stay at Home Order otherwise
 15 restricted their travel in violation of the Constitution, any such restrictions do not
 16 implicate the constitutional right to travel because: 1) the Order did not impose
 17 restrictions on interstate travel, and 2) the Order applied broadly to anyone within
 18 Ventura County generally without regard to their state residency, and thus does
 19 not fall within the purview of the P & I Clause. (See *Saenz v. Roe* (1999) 526 U.S.
 20 489, 490 [119 S.Ct. 1518] (“*Saenz*”) [detailing three components of right to travel,
 21 all stemming from *interstate* travel]; *Marilley v. Bonham* (9th Cir. 1996) 844 F.3d
 22 841, 846 [challenged law does not fall within purview of P & I Clause if it does
 23

24 ^{12/} The transfer, licensing and registration of firearms have long been the
 25 subject of federal regulations that derive their authority from the Commerce
 26 Clause and authorize Congress to regulate interstate commerce. (See, e.g., 18
 27 U.S.C. § 922 [defining unlawful acts in connection with purchase, transfer or
 28 manufacture of firearms]; 18 U.S.C. § 923 [licensing]; 18 U.S.C. § 931
 [prohibiting violent felons from purchasing firearms]; National Firearms Act, 26
 U.S.C. §§ 5801-5872 [regulating registration and taxation of firearms]; 39 C.F.R.
 § 390.5 [broadly defining “interstate commerce” to include intrastate transactions
 that involve goods that enter from or terminate from out of state for purposes of
 federal motor safety carrier regulations].)

1 not treat residents of two or more states differently].) And, even if the Order did
2 implicate plaintiffs’ right to travel, the Order would withstand constitutional
3 scrutiny, whether under the *Jacobson* framework, as discussed above, or
4 traditional scrutiny, as explained in more detail in section III.E, *infra*. Finally, to
5 the extent plaintiffs complain that the State Order restricts their ability to travel,
6 the County has no authority to countermand or contradict the State Order.
7 (*Sherwin-Williams, supra*, 4 Cal.4th at p. 898.)

8 **D. The Stay Well at Home Order Did Not Violate the Second Amendment**
9 **under Traditional Scrutiny**

10 The Second Amendment protects the right of law-abiding, responsible
11 citizens to use arms in defense of hearth and home. (*District of Columbia v.*
12 *Heller* (2008) 554 U.S. 570, 635 [128 S.Ct. 2783] (“*Heller*”).) That right,
13 however, is not unlimited. (*Id.* at p. 626.) The government may place certain
14 limits on where the right is exercised, how the right is exercised and who may
15 exercise the right. (*Id.* at pp. 626-627; *U.S. v. Carpio-Leon* (4th Cir. 2012)
16 701 F.3d 974, 977 [“the Second Amendment does not guarantee the right to
17 possess for *every purpose*, to possess *every type of weapon*, to possess at *every*
18 *place*, or to possess by *every person*”]); *U.S. v. Huitron-Guizar* (10th Cir. 2012)
19 678 F.3d 1164, 1166 [“The right to bear arms, however venerable, is qualified by
20 what one might call the ‘who,’ ‘what,’ ‘where,’ ‘when,’ and ‘why’”].)

21 In *U.S. v. Chovan* (9th Cir. 2013) 735 F.3d 1127, 1136 (“*Chovan*”), the
22 court adopted a two-step inquiry to analyze claims that a law violates the Second
23 Amendment. This test “(1) asks whether the challenged law burdens conduct
24 protected by the Second Amendment; and (2) if so, directs courts to apply an
25 appropriate level of scrutiny.” (*Ibid.*)

26 ///
27 ///
28 ///

1 **1. The Stay Well at Home Order Did Not Impinge on the Second**
2 **Amendment as It Was Historically Understood**

3 Under the first *Chovan* step, a court cannot “apply the Second Amendment
4 to protect a right that does not exist under the Amendment.” (*Peruta v. County of*
5 *San Diego* (9th Cir. 2016) 824 F.3d 919, 942 (en banc) (“*Peruta*”), cert. denied
6 *sub nom.*; *Peruta v. California* (1995) ___ U.S. ___ [137 S.Ct. 1995 (Mem),
7 198 L.Ed.2d 746].) Therefore, the first step of the analysis requires the court to
8 explore the amendment’s reach “based on a ‘historical understanding of the scope
9 of the [Second Amendment] right.’” (*Jackson v. City & County of San*
10 *Francisco* (9th Cir. 2014) 746 F.3d 953, 960 (“*Jackson*”), quoting *Heller, supra*,
11 554 U.S. at p. 625.)

12 Whether the challenged law falls outside the scope of the Second
13 Amendment involves examining whether there is persuasive historical evidence
14 showing that the regulation does not impinge on the Second Amendment right as it
15 was historically understood. (*Jackson, supra*, 554 U.S. at p. 625.) Laws
16 restricting conduct that can be traced to the founding era and are historically
17 understood to fall outside of the Second Amendment’s scope may be upheld
18 without further analysis. (See *Peruta, supra*, 824 F.3d at p. 919.)

19 The Stay Well at Home Order required the closure of non-essential
20 businesses, including gun stores. Plaintiffs have argued that the temporary closure
21 hindered the ability of certain persons to finalize gun purchases during the
22 pendency of the Stay Well at Home Order or prevented would-be gun purchasers
23 from buying a firearm. Since April 20, the Stay Well at Home Order allowed the
24 completion of gun purchases initiated before March 20. Would-be gun purchasers
25 and firearms retailers were unable to engage in transactions concerning firearms
26 within Ventura County only temporarily, from March 20 to May 7. This
27 temporary pause occasioned by a public health crisis does not implicate the
28 Second Amendment, as California has a long history of delaying possession of

1 firearms without impinging on the Second Amendment. Indeed, California has
2 had some kind of waiting period statute for firearm purchases continuously since
3 1923. (*Silvester v. Harris* (9th Cir. 2016) 843 F.3d 816, 823 (“*Silvester*”).) The
4 waiting periods encompassed both time for the California Department of Justice
5 (“Cal DOJ”) to conduct a background check and time for a cooling-off period (so
6 that guns were not purchased in the heat of a conflict). (*Id.* at pp. 823-824.) Cal
7 DOJ has up to 30 days to complete a background check, and the cooling-off period
8 extends 10 days beyond that. As such, the Second Amendment has never
9 protected immediate or convenient purchase and sale of guns.

10 Moreover, in times of emergency such as war, pandemic or natural disaster,
11 federal, state and local governments have historically issued temporary, general
12 regulations that overrode the convenience of purchasers of various goods and
13 services. (See, e.g., *Compagnie Francaise de Navigation a Vapeur v. Louisiana*
14 *State Board of Health, supra*, 186 U.S. 380 [health quarantine prohibiting
15 disembarkation of healthy passengers and cargo into infected area], cited with
16 approval in *Camara v. Municipal Court of City and County of San Francisco,*
17 *supra*, 387 U.S. at p. 539 [recognizing that warrantless search may be permissible
18 under Fourth Amendment in public health emergency].) As such, the temporary
19 delay in a person’s ability to purchase a firearm as a result of the Stay Well at
20 Home Order did not impinge on the Second Amendment right as it was
21 historically understood.

22 **2. The Stay At Home Order Was a Presumptively Lawful Regulation of**
23 **General Applicability that Did Not Infringe the Ability to Possess or Use, and**
24 **only Incidentally Delayed the Purchase of, Firearms**

25 A law also does not burden Second Amendment rights if it falls within “one
26 of the ‘presumptively lawful regulatory measures’ identified” in *Heller, supra*,
27 554 U.S. 570. (*Jackson, supra*, 746 F.3d at p. 960; see also *Fyock v. Sunnyvale*
28 (9th Cir. 2015) 779 F.3d 991, 996-997.)

1 *Heller* made explicit that “nothing in [its] opinion should be taken to cast
 2 doubt on the longstanding prohibitions on the possession of firearms by felons and
 3 the mentally ill, or laws forbidding the carrying of firearms in sensitive places
 4 such as schools and government buildings, or laws imposing conditions and
 5 qualifications on the commercial sale of arms.” (*Heller, supra*, 554 U.S. 570 at
 6 pp. 626-627.) Such measures are “presumptively lawful.” (*Id.* at p. 627, n. 26.)
 7 The Supreme Court reiterated, two years later, that *Heller* does not undermine the
 8 validity of regulations on the commercial sale of firearms. (*McDonald v. City of*
 9 *Chicago, Ill.* (2010) 561 U.S. 742, 786 [130 S.Ct. 3020].)

10 In that regard, the Ninth Circuit has held that the Constitution provides “no
 11 freestanding right on commercial proprietors to sell firearms” and gun buyers have
 12 no right to particular seller locations “so long as their access is not meaningfully
 13 constrained.” (*Teixiera v. County of Alameda* (9th Cir. 2017) 873 F.3d 670, 673,
 14 680.) Here, the Stay Well at Home Order only incidentally regulated the
 15 commercial sale of firearms. The Order did nothing to regulate or limit the ability
 16 of persons to keep or bear arms. Rather, the Order required, among other things,
 17 the temporary closure of businesses that were determined to be non-essential to the
 18 purposes of keeping persons isolated at their places of residence as determined by
 19 the Health Officer. (RJN, Exhs. 11, 17-20.) On its face, the Stay Well at Home
 20 Order did not prohibit people from possessing firearms nor regulate what people
 21 may do with firearms in their own home. To the extent that the Stay Well at Home
 22 Order delayed the ability of some persons to purchase a firearm, the immediate
 23 and convenient acquisition of firearms has never been protected under the Second
 24 Amendment. (See § III.D.1, *supra*; *Silvester, supra*, 843 F.3d at pp. 823-824.)

25 ///
 26 ///
 27 ///
 28 ///

1 **3. The Stay Well at Home Order Did Not Substantially Burden Second**
2 **Amendment Rights and Was Substantially Related to Mitigating the Public**
3 **Health Crisis Presented by COVID-19**

4 Even if the Stay Well at Home Order had burdened plaintiffs’ Second
5 Amendment rights, the Order easily survives intermediate scrutiny as this court
6 previously determined (ECF 12 & 30), and in accordance with the other COVID-
7 19-related Second Amendment decision in the Central District. (*Brandy v.*
8 *Villanueva* (C.D.Cal. April 6, 2020) Case No. 2:20-cv-02874-AB-SK, ECF 20.)

9 **a. The Order Withstands Intermediate Scrutiny**

10 In the absence of an emergency such as a pandemic, courts determine the
11 appropriate level of scrutiny to apply in a Second Amendment challenge by
12 considering (1) how close the challenged law comes to the core of the Second
13 Amendment right; and (2) the severity of the law’s burden on that right. (*United*
14 *States v. Torres* (9th Cir. 2019) 911 F.3d 1253, 1262.) The core of the Second
15 Amendment is the right of law-abiding, responsible citizens to use arms in defense
16 of hearth and home (i.e., self-defense). (*Ibid.*; *Heller, supra*, 554 U.S. at p. 628.)
17 Only laws that implicate the core of the Second Amendment right and severely
18 burden that right will be subjected to strict scrutiny. (*Silvester, supra*, 843 F.3d at
19 p. 821.) Intermediate scrutiny is the appropriate level of scrutiny for all other
20 laws. (*Ibid.*) There has been “near unanimity in the post-*Heller* case law that
21 when considering regulations that fall within the scope of the Second Amendment,
22 intermediate scrutiny is appropriate.” (*Id.* at p. 823.)

23 In *Silvester*, the Ninth Circuit examined the constitutionality of California’s
24 10-day waiting period between the purchase and delivery of a firearm. In
25 California, most citizens who want to purchase a firearm must pass a background
26 check. (*Silvester, supra*, 843 F.3d at pp. 824-825.) The background check is
27 conducted by Cal DOJ, which has the authority to delay the delivery of a firearm
28 for up to 30 days to complete the background check. (*Id.* at p. 825, citing Cal.

1 Pen. Code, § 28220, subd. (f).) Additionally, a person cannot purchase more than
2 one firearm within a 30-day period. (*Id.*, citing Cal. Pen. Code, § 27535.) After
3 passing the Cal DOJ background check, a person may purchase a firearm but must
4 wait 10 days before taking possession of the firearm. (Cal. Pen. Code, §§ 26815,
5 27540.)

6 The *Silvester* court applied intermediate scrutiny based on its determination
7 that the law requiring the 10-day waiting period did not place a substantial burden
8 on the Second Amendment right because it did not prevent, restrict or place any
9 conditions on how guns were stored or used after a purchaser took possession.
10 (*Silvester, supra*, 843 F.3d at p. 827.) The court also noted that historically, the
11 delivery of weapons took time, and that the “very small” burden of waiting 10
12 days before taking possession is less than the burden imposed by other challenged
13 regulations to which Ninth Circuit courts have applied intermediate scrutiny:

14 “There is, moreover, nothing new in having to
15 wait for the delivery of a weapon. Before the age of
16 superstores and superhighways, most folks could not
17 expect to take possession of a firearm immediately upon
18 deciding to purchase one. As a purely practical matter,
19 delivery took time. Our 18th and 19th century forebears
20 knew nothing about electronic transmissions. Delays of
21 a week or more were not the product of governmental
22 regulations, but such delays had to be routinely accepted
23 as part of doing business.” (*Silvester, supra*, 843 F.3d at
24 p. 827.)

25 The Stay Well at Home Order presented a similarly “very small” burden on
26 the Second Amendment right. It did not limit or regulate the ability of persons to
27 possess firearms or what they may do with those firearms in their homes. The
28 Order closed non-essential businesses, which may have incidentally delayed the

1 ability of a person to purchase a firearm. The Order was in effect for a finite
2 period – from March 20 through May 7. As such, the delay is comparable to the
3 constitutionally accepted delays resulting from the Cal DOJ background check and
4 the 10-day cooling-off period. As the court noted in *Silvester*, much more serious
5 limitations on the ability to bear arms have been subjected to intermediate
6 scrutiny. The application of intermediate scrutiny is appropriate.^{13/}

7 **b. Preventing the Spread of COVID-19 Is a Compelling**
8 **Government Interest and the Closure of Non-Essential Businesses, Including**
9 **Gun Stores, Is Reasonably Suited to Achieve that Objective**

10 Under intermediate scrutiny, courts first look to the government’s objectives
11 in enacting the regulation and second to whether it is reasonably suited to achieve
12 those objectives. (*Jackson, supra*, 746 F.3d at p. 965.)

13 Ventura County continues to experience a local health emergency that is
14 part of a global pandemic. COVID-19 is highly contagious and potentially deadly,
15 especially for older persons and persons with serious chronic health conditions.
16 There is no known anti-viral treatment or immunization available for COVID-19.
17 The Stay Well at Home Order was intended to slow the spread of COVID-19 by
18 isolating persons in their places of residences as much as possible. COVID-19
19 presents an imminent and proximate threat to the residents of Ventura County, and
20 it is essential to control the spread of COVID-19 as much as possible to protect the
21 community’s most vulnerable persons and prevent the health care system from
22 being overwhelmed. The compelling government interest is obvious.

23 The test for whether the Stay Well at Home Order reasonably fit with the
24 stated objectives “is not a strict one.” (*Silvester, supra*, 843 F.3d at p. 827.)

25 _____
26 ^{13/} Plaintiffs’ reliance on a North Carolina District Court case for the
27 proposition that strict scrutiny should apply is misplaced. (See *Bateman v. Perdue*
28 (E.D.N.C. 2012) 881 F.Supp.2d 709.) The statute at issue in that case imposed a
complete prohibition on carrying, possessing and selling guns during the state of
emergency, regardless the type of emergency at issue. (*Id.*) The Stay Well at
Home Order does no such thing.

1 Intermediate scrutiny does not require the least restrictive means of furthering a
2 given end. (*Ibid.*) Instead, it requires only that the law be “substantially related to
3 the important government interest.” (*Ibid.*) Here, the Health Officer only need
4 show that the regulation “promotes a substantial government interest that
5 would be achieved less effectively absent the regulation.” (*Id.* at p. 829.) The
6 Health Officer easily meets that burden.

7 The stated goal of the Stay Well at Home Order was to keep as many people
8 in their homes as possible. Even social distancing is not as effective in controlling
9 the spread of the disease as isolating at home. The essential nature of essential
10 businesses, such as grocery stores, justified their continued operation subject to
11 social distancing practices. But a gun store was not within this category, and
12 allowing any non-essential businesses to remain open would have diminished the
13 effectiveness of the Stay Well at Home Order. The closure of gun stores and other
14 non-essential businesses to the public for a limited time easily passes intermediate
15 scrutiny.

16 **E. Plaintiffs’ Right-to-Travel Claim Fails**

17 Plaintiffs assert a right to travel claim under the P & I Clause as guaranteed
18 by the due process protections under the Fifth and Fourteenth Amendments of the
19 Constitution. (ECF 20-1, Pg. ID 125.) This claim fails. As an initial matter, no
20 court in this jurisdiction has ever extended the constitutional right to travel to
21 protect a citizen’s *intrastate* travel. (*U.S.A. v. Sears* (C.D. Cal. April 16, 2015)
22 2015 WL 13359437^{14/} aff’d (9th Cir. 2016) 652 Fed.Appx. 553.) Rather, the three
23 components of the right to travel all arise out of and concern constitutional

24 _____
25 ^{14/} Compare *Community Hospital v. Maricopa County* (1974) 415 U.S. 250,
26 256 [94 S.Ct. 1076] (declining to opine whether right to travel extends to intrastate
27 travel), and *Nunez v. City of San Diego* (9th Cir. 1997) 114 F.3d 935, 944
28 (declining to opine whether right to travel extends to intrastate travel), with *Lutz v.*
City of York, PA (3d Cir. 1990) 899 F.2d 255 (deciding that right to intrastate
travel is not protected under P & I Clause but may be protected under due process
clauses of Fifth Amendment); and *Johnson v. City of Cincinnati* (6th Cir. 2002)
310 F.3d 484, 498.

1 provisions that relate to *interstate* activities: 1) the right to freely enter one state
2 and leave another; 2) the right to be treated as a “welcome visitor rather than an
3 unfriendly alien when temporarily visiting another state”; and 3) the right to be
4 treated like other residents when a traveler decides to become a permanent resident
5 in a new state. (*Saenz, supra*, 526 U.S. at pp. 489-490.) The P & I Clause protects
6 components of the right to travel only insofar as the “challenged law falls within
7 the purview” of the clause, which requires plaintiffs to show that the Order “treats
8 nonresidents differently from residents and impinges upon a ‘fundamental’
9 privilege or immunity protected by the clause.” (*Marilley v. Bonham* (9th Cir.
10 1996) 844 F.3d 841, 846) [finding law that imposes higher license fee for non-
11 residents to fall within purview of the P & I Clause], quoting *United Bldg. and*
12 *Constr. Trades Council v. Camden* (1984) 465 U.S. 208, 218 [104 S.Ct. 1020].)

13 Here, plaintiffs do not allege that the Stay Well at Home Order treated
14 residents from other states differently than California residents. As explained
15 above, the Order broadly applied to “all persons in the cities and the entire
16 unincorporated area of Ventura County” without regard to a person’s residency or
17 citizenship. (RJN, Exh. 20, p. 2.) In addition, the Order only concerned intra-
18 county travel, and did not impose any sort of restriction beyond
19 Ventura County borders. Thus, plaintiffs’ claim does not fall within the purview
20 of the P & I Clause and does not implicate a fundamental right under the
21 Constitution.

22 Even if the Stay Well at Home Order implicated the right to travel, plaintiffs
23 would not succeed on the merits of their claim. (See *Shows v. Swain County*
24 *Sheriff* (W.D.N.C. April 23, 2020) 2020 WL 1953621.) To the extent the Order
25 created barriers to movement – whether interstate or intrastate – such restrictions
26 were narrowly tailored to achieve the compelling government interest to prevent
27 the spread of COVID-19, even assuming that strict scrutiny applies. (See, e.g.,
28 *Mohamed v. Holder* (E.D. Va. 2017) 266 F.Supp.3d 868, 879-883 [upholding “no-



March 28, 2020

ADVISORY MEMORANDUM ON IDENTIFICATION OF ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS DURING COVID-19 RESPONSE

FROM: Christopher C. Krebs
Director
Cybersecurity and Infrastructure Security Agency (CISA)

As the Nation comes together to slow the spread of COVID-19, on March 16th the President issued updated Coronavirus Guidance for America that highlighted the importance of the critical infrastructure workforce.

The Cybersecurity and Infrastructure Security Agency (CISA) executes the Secretary of Homeland Security’s authorities to secure critical infrastructure. Consistent with these authorities, CISA has developed, in collaboration with other federal agencies, State and local governments, and the private sector, an “Essential Critical Infrastructure Workforce” advisory list. This list is intended to help State, local, tribal and territorial officials as they work to protect their communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security. Decisions informed by this list should also take into consideration additional public health considerations based on the specific COVID-19-related concerns of particular jurisdictions.

This list is advisory in nature. It is not, nor should it be considered, a federal directive or standard. Additionally, this advisory list is not intended to be the exclusive list of critical infrastructure sectors, workers, and functions that should continue during the COVID-19 response across all jurisdictions. Individual jurisdictions should add or subtract essential workforce categories based on their own requirements and discretion.

The advisory list identifies workers who conduct a range of operations and services that are typically essential to continued critical infrastructure viability, including staffing operations centers, maintaining and repairing critical infrastructure, operating call centers, working construction, and performing operational functions, among others. It also includes workers who support crucial supply chains and enable functions for critical infrastructure. The industries they support represent, but are not limited to, medical and healthcare, telecommunications, information technology systems, defense, food and agriculture, transportation and logistics, energy, water and wastewater, law enforcement,

and public works.

State, local, tribal, and territorial governments are responsible for implementing and executing response activities, including decisions about access and reentry, in their communities, while the Federal Government is in a supporting role. Officials should use their own judgment in issuing implementation directives and guidance. Similarly, while adhering to relevant public health guidance, critical infrastructure owners and operators are expected to use their own judgement on issues of the prioritization of business processes and workforce allocation to best ensure continuity of the essential goods and services they support. All decisions should appropriately balance public safety, the health and safety of the workforce, and the continued delivery of essential critical infrastructure services and functions. While this advisory list is meant to help public officials and employers identify essential work functions, it allows for the reality that some workers engaged in activity determined to be essential may be unable to perform those functions because of health-related concerns.

CISA will continue to work with our partners in the critical infrastructure community to update this advisory list if necessary as the Nation's response to COVID-19 evolves.

Should you have questions about this list, please contact CISA at CISA.CAT@cisa.dhs.gov.

Attachment: "Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response Version 2.0"



CISA
CYBER+INFRASTRUCTURE

DEFEND TODAY, SECURE TOMORROW

Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response

Version 2.0 (March 28, 2020)

THE IMPORTANCE OF ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS

Functioning critical infrastructure is imperative during the response to the COVID-19 emergency for both public health and safety as well as community well-being. Certain critical infrastructure industries have a special responsibility in these times to continue operations.

This advisory guidance and accompanying list are intended to support state, local, tribal, territorial and industry partners in identifying the critical infrastructure sectors and the essential workers needed to maintain the services and functions Americans depend on daily and that need to be able to operate resiliently during the COVID-19 pandemic response.

This document gives advisory guidance on defining essential critical infrastructure workers. Promoting the ability of such workers to continue to work during periods of community restriction, access management, social distancing, or closure orders/directives is crucial to community resilience and continuity of essential functions.

CISA will continually solicit and accept feedback on the list and will evolve the list in response to stakeholder feedback. We will also use our various stakeholder engagement mechanisms to work with partners on how they are using this list and share those lessons learned and best practices broadly. Feedback can be sent to CISA.CAT@CISA.DHS.GOV.

CONSIDERATIONS FOR GOVERNMENT AND BUSINESS

This list was developed in consultation with federal agency partners, industry experts, and State and local officials, and is based on several key principles:

1. Response efforts to the COVID-19 pandemic are locally executed, state managed, and federally supported.
2. Everyone should follow guidance from the CDC, as well as State and local government officials, regarding strategies to limit disease spread.
3. Workers should be encouraged to work remotely when possible and focus on core business activities. In-person, non-mandatory activities should be delayed until the resumption of normal operations.
4. When continuous remote work is not possible, businesses should enlist strategies to reduce the likelihood of spreading the disease. This includes, but is not necessarily limited to, separating staff by off-setting shift hours or days and/or social distancing. These steps can preserve the workforce and allow operations to continue.
5. All organizations should implement their business continuity and pandemic plans or put plans in place if they do not exist. Delaying implementation is not advised and puts at risk the viability of the business and the



[Linkedin.com/company/cybersecurity-and-infrastructure-security-agency](https://www.linkedin.com/company/cybersecurity-and-infrastructure-security-agency)



@CISAgov | @cyber | @uscert_gov



[Facebook.com/CISA](https://www.facebook.com/CISA)

health and safety of the employees.

6. Reliance on technology and just-in-time supply chains means that certain workers must be able to access certain sites, facilities, and assets to ensure continuity of functions.
7. Government employees, such as emergency managers, and the business community need to establish and maintain lines of communication.
8. When government and businesses engage in discussions about essential critical infrastructure workers, they need to consider the implications of business operations beyond the jurisdiction where the asset or facility is located. Businesses can have sizeable economic and societal impacts as well as supply chain dependencies that are geographically distributed.
9. Whenever possible, jurisdictions should align access and movement control policies related to critical infrastructure workers to lower the burden of workers crossing jurisdictional boundaries.

IDENTIFYING ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS

The following list of identified essential critical infrastructure workers is intended to be overly inclusive reflecting the diversity of industries across the United States.



HEALTHCARE / PUBLIC HEALTH

- Workers who perform critical clinical research, development, and testing needed for COVID-19 response.
- Healthcare providers and Caregivers including physicians, dentists, psychologists, mid-level practitioners, nurses and assistants, infection control and quality assurance personnel, pharmacists, physical and occupational therapists and assistants, social workers, optometrists, speech pathologists, chiropractors, and diagnostic and therapeutic technicians and technologists.
- Hospital and laboratory personnel (including accounting, administrative, admitting and discharge, engineering, epidemiological, source plasma and blood donation, food service, housekeeping, medical records, information technology and operational technology, nutritionists, sanitarians, respiratory therapists, etc.).
- Workers in other medical and biomedical facilities (including Ambulatory Health and Surgical, Blood Banks, Clinics, Community Mental Health, Comprehensive Outpatient rehabilitation, End Stage Renal Disease, Health Departments, Home Health care, Hospices, Hospitals, Long Term Care, Nursing Care Facilities, Organ Pharmacies, Procurement Organizations, Psychiatric Residential, Rural Health Clinics and Federally Qualified Health Centers, and retail facilities specializing in medical good and supplies).
- Manufacturer workers for health manufacturing (including biotechnology companies), materials and parts suppliers, logistics and warehouse operators, distributors of medical equipment (including those who test and repair), personal protective equipment (PPE), isolation barriers, medical gases, pharmaceuticals (including materials used in radioactive drugs), dietary supplements, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, and tissue and paper towel products.
- Public health / community health workers, including those who compile, model, analyze and communicate public health information.
- Blood and plasma donors and the employees of the organizations that operate and manage related activities.
- Workers who manage health plans, billing, and health information, who cannot practically work remotely.
- Workers who conduct community-based public health functions, conducting epidemiologic surveillance, compiling, analyzing and communicating public health information, who cannot practically work remotely.
- Workers performing information technology and cybersecurity functions at healthcare and public health facilities, who cannot practically work remotely.
- Workers performing security, incident management, and emergency operations functions at or on behalf of healthcare entities including healthcare coalitions, who cannot practically work remotely.
- Pharmacy employees necessary to maintain uninterrupted prescription filling.
- Workers performing mortuary funeral, cremation, burial, cemetery, and related services, including funeral homes, crematoriums, cemetery workers, and coffin makers.
- Workers who coordinate with other organizations to ensure the proper recovery, handling, identification, transportation, tracking, storage, and disposal of human remains and personal effects; certify cause of death; and facilitate access to mental/behavioral health services to the family members, responders, and survivors of an incident.



[Linkedin.com/company/cybersecurity-and-infrastructure-security-agency](https://www.linkedin.com/company/cybersecurity-and-infrastructure-security-agency)



[@CISAgov](https://twitter.com/CISAgov) | [@cyber](https://twitter.com/cyber) | [@uscert_gov](https://twitter.com/uscert_gov)



[Facebook.com/CISA](https://www.facebook.com/CISA)

LAW ENFORCEMENT, PUBLIC SAFETY, AND OTHER FIRST RESPONDERS

- Public, private, and voluntary personnel (front line and management) in emergency management, law enforcement, fire and rescue services, emergency medical services, and private security, to include public and private hazardous material responders, air medical service providers (pilots and supporting technicians), corrections, and search and rescue personnel.
- 911 call center employees and Public Safety Answering Points who can't perform their duties remotely.
- Fusion Center employees.
- Workers – including contracted vendors – who maintain, manufacture, or supply equipment and services supporting law enforcement emergency service and response operations (to include electronic security and life safety security personnel).
- Workers supporting the manufacturing of safety equipment and uniforms for law enforcement, public safety personnel, and first responder.
- Workers supporting the operation of firearm or ammunition product manufacturers, retailers, importers, distributors, and shooting ranges.
- Public agency workers responding to abuse and neglect of children, elders, and dependent adults.
- Workers who support weather disaster / natural hazard mitigation and prevention activities.
- Security staff to maintain building access control and physical security measures.

FOOD AND AGRICULTURE

- Workers supporting groceries, pharmacies, convenience stores, and other retail (including unattended and vending) that sells human food, animal/pet food and pet supply, and beverage products, including retail customer support service and information technology support staff necessary for online orders, pickup and delivery.
- Restaurant carry-out and quick serve food operations, including dark kitchen and food prep centers, and carry-out and delivery food employees.
- Food manufacturer employees and their supplier employees—to include those employed in food ingredient production and processing facilities; livestock, poultry, seafood slaughter facilities; pet and animal feed processing facilities; human food facilities producing by-products for animal food; beverage production facilities; and the production of food packaging.
- Farmers, farm workers, and agribusiness support services to include those employed in auction and sales: grain and oilseed handling, processing and distribution; animal food, feed, and ingredient production, packaging, and distribution; manufacturing, packaging, and distribution of veterinary drugs; truck delivery and transport; farm and fishery labor needed to produce our food supply domestically and for export.
- Farmers, farm workers, support service workers, and their supplier employees to include those engaged in producing and harvesting field crops; commodity inspection; fuel ethanol facilities; biodiesel and renewable diesel facilities; storage facilities; and other agricultural inputs.
- Employees and firms supporting the distribution of food, feed, and beverage and ingredients used in these products, including warehouse workers, vendor- managed inventory controllers and blockchain managers.
- Workers supporting the sanitation and pest control of all food manufacturing processes and operations from wholesale to retail.
- Employees in cafeterias used to feed employees, particularly employee populations sheltered against COVID-19.
- Workers in animal diagnostic and food testing laboratories in private industries and in institutions of higher education.

- Government, private, and non-governmental organizations' workers essential for food assistance programs (including school lunch programs) and government payments.
- Employees of companies engaged in the production, storage, transport, and distribution of chemicals, medicines, vaccines, and other substances used by the food and agriculture industry, including seeds, pesticides, herbicides, fertilizers, minerals, enrichments, and other agricultural production aids.
- Animal agriculture workers to include those employed in veterinary health (including those involved in supporting emergency veterinary or livestock services); raising of animals for food; animal production operations; livestock markets; slaughter and packing plants, manufacturers, renderers, and associated regulatory and government workforce.
- Transportation supporting animal agricultural industries, including movement of animal medical and reproductive supplies and materials, animal vaccines, animal drugs, feed ingredients, feed, and bedding, live animals, animal by-products, and deceased animals for disposal.
- Workers who support sawmills and the manufacture and distribution of fiber and forest products, including, but not limited to timber, paper, and other wood and fiber products.
- Employees engaged in the manufacture and maintenance of equipment and other infrastructure necessary for agricultural production and distribution.

ENERGY

- Workers supporting the energy sector, regardless of the energy source (including but not limited to nuclear, fossil, hydroelectric, or renewable), segment of the system, or infrastructure the worker is involved in, or who are needed to monitor, operate, engineer, and maintain the reliability, safety, environmental health, and physical and cyber security of the energy system.
- Energy/commodity trading/scheduling/marketing functions, who can't perform their duties remotely.
- IT and OT technology for essential energy sector operations including support workers, customer service operations; energy management systems, control systems, and Supervisory Control and Data Acquisition SCADA systems, and energy sector entity data centers; cybersecurity engineers; and cybersecurity risk management.
- Workers supporting the energy sector through renewable energy infrastructure (including, but not limited to wind, solar, biomass, hydrogen, ocean, geothermal, and/or hydroelectric), including those supporting construction, manufacturing, transportation, permitting, operation/maintenance, monitoring, and logistics.
- Workers and security staff involved in nuclear re-fueling operations.

Electricity industry:

- Workers who maintain, ensure, or restore, or are involved in the development, transportation, fuel procurement, expansion, or operation of the generation, transmission, and distribution of electric power, including call centers, utility workers, reliability engineers, retail electricity, constraint maintenance, and fleet maintenance technicians- who cannot perform their duties remotely.
- Workers at coal mines, production facilities, and those involved in manufacturing, transportation, permitting, operation/maintenance and monitoring at coal sites which is critical to ensuring the reliability of the electrical system.
- Workers who produce, process, ship and handle coal used for power generation and manufacturing.
- Workers needed for safe and secure operations at nuclear generation to include but not limited to, the broader nuclear supply chain, parts to maintain nuclear equipment, fuel manufacturers and fuel components used in the manufacturing of fuel.
- Workers at renewable energy infrastructure (including, but not limited to wind, solar, biomass, hydrogen, geothermal, and/or hydroelectric), including those supporting construction, manufacturing, transportation, permitting, operation/maintenance, monitoring, and logistics.

- Workers at generation, transmission, and electric black start facilities.
- Workers at Reliability Coordinator, Balancing Authorities, and primary and backup Control Centers, including but not limited to independent system operators, regional transmission organizations, and balancing authorities.
- Mutual assistance personnel.
- Vegetation management and traffic control for supporting those crews.
- Environmental remediation/monitoring workers limited to immediate critical needs technicians.
- Instrumentation, protection, and control technicians.
- Essential support personnel for electricity operations.
- Generator set support workers such as diesel engineers used in power generation.

Petroleum industry:

- Employees for petroleum drilling (onshore and offshore), completion, stimulation, well intervention, monitoring, automation and control, extraction, production, processing, refining as well as associated security or emergency-response operations.
- Employees for petroleum and petroleum product storage and transportation, including pipeline, marine transport, terminals, rail transport, and road transport for use as end-use fuels or feedstocks for chemical manufacturing.
- Petroleum security operations center employees and workers who support maintenance and emergency response services.
- Petroleum operations control rooms/centers.
- Retail fuel centers such as gas stations and truck stops, and the distribution systems that support them.

Natural Gas, Natural Gas Liquids (NGL), Propane, and other liquid fuels

- Workers who support onshore and offshore drilling operations, platform and drilling construction and maintenance; transportation (including helicopter operations); maritime transportation, supply, and dredging operations; maritime navigation; natural gas and natural gas liquid production, processing, extraction, storage and transportation; well intervention, monitoring, automation and control; waste disposal, and maintenance, construction, and operations.
- Natural gas transmission and distribution pipeline workers, including compressor stations and any other required, operations maintenance, construction, and support for natural gas, natural gas liquid, propane, and other liquid fuels. Workers who support underground natural gas, propane, natural gas liquids, and other liquid fuel storage facilities and operations.
- Natural gas processing plants workers, and those that deal with natural gas liquids.
- Workers who staff natural gas, propane, natural gas liquids, and other liquid fuel security operations centers, operations dispatch and control rooms/centers, and emergency response and customer emergencies (including leak calls) operations.
- Drilling, production, processing, refining, and transporting natural gas for use as end-use fuels, feedstocks for chemical manufacturing, or use in electricity generation.
- Propane gas dispatch and control rooms and emergency response and customer emergencies, including propane leak calls.
- Propane gas service maintenance and restoration, including call centers.
- Processing, refining, and transporting natural liquids, including propane gas, for use as end-use fuels or feedstocks for chemical manufacturing.
- Propane gas storage, transmission, and distribution centers.



[Linkedin.com/company/cybersecurity-and-infrastructure-security-agency](https://www.linkedin.com/company/cybersecurity-and-infrastructure-security-agency)



[@CISAgov](https://twitter.com/CISAgov) | [@cyber](https://twitter.com/cyber) | [@uscert_gov](https://twitter.com/uscert_gov)



[Facebook.com/CISA](https://www.facebook.com/CISA)

- Ethanol and biofuel production, refining, and distribution.
- Workers in fuel sectors (including, but not limited to nuclear, coal, and gas) supporting the mining, manufacturing, logistics, transportation, permitting, operation/maintenance, and monitoring of support for resources.

WATER AND WASTEWATER

Employees needed to operate and maintain drinking water and wastewater/drainage infrastructure, including:

- Operational staff at water authorities.
- Operational staff at community water systems.
- Operational staff at wastewater treatment facilities.
- Workers repairing water and wastewater conveyances and performing required sampling or monitoring, including field staff.
- Operational staff for water distribution and testing.
- Operational staff at wastewater collection facilities.
- Operational staff and technical support for SCADA Control systems.
- Chemical and equipment suppliers to water and wastewater systems and personnel protection.
- Workers who maintain digital systems infrastructure supporting water and wastewater operations.

TRANSPORTATION AND LOGISTICS

- Employees supporting or enabling transportation functions, including truck drivers, bus drivers, dispatchers, maintenance and repair technicians, warehouse workers, truck stop and rest area workers, Department of Motor Vehicle (DMV) employees, towing/recovery services, roadside assistance workers, intermodal transportation personnel, and workers who maintain and inspect infrastructure (including those that require cross-jurisdiction travel).
- Workers supporting the distribution of food, pharmaceuticals (including materials used in radioactive drugs) and other medical materials, fuels, chemicals needed for water or water treatment and energy Maintenance and operation of essential highway infrastructure, including roads, bridges, and tunnels (e.g., traffic operations centers and moveable bridge operators).
- Employees of firms providing services, supplies, and equipment that enable warehouse and operations, including cooling, storing, packaging, and distributing products for wholesale or retail sale or use. Includes cold- and frozen-chain logistics for food and critical biologic products.
- Mass transit workers and providing critical transit services and/or performing critical or routine maintenance to mass transit infrastructure or equipment.
- Employees supporting personal and commercial transportation services – including taxis, delivery services, vehicle rental services, bicycle maintenance and car-sharing services, and transportation network providers.
- Workers responsible for operating and dispatching passenger, commuter and freight trains and maintaining rail infrastructure and equipment.
- Maritime transportation workers, including dredgers, port workers, mariners, ship crewmembers, ship pilots and tug boat operators, equipment operators (to include maintenance and repair, and maritime-specific medical providers), ship supply, chandler, and repair companies.
- Workers including truck drivers, railroad employees and contractors, maintenance crew, and cleaners supporting transportation of chemicals, hazardous, medical, and waste materials to support critical infrastructure, capabilities, functions, and services, including specialized carriers, crane and rigging industry workers.



[Linkedin.com/company/cybersecurity-and-infrastructure-security-agency](https://www.linkedin.com/company/cybersecurity-and-infrastructure-security-agency)



@CISAgov | @cyber | @uscert_gov



[Facebook.com/CISA](https://www.facebook.com/CISA)

- Bus drivers and workers who provide or support intercity, commuter and charter bus service in support of other essential services or functions.
- Automotive repair, maintenance, and transportation equipment manufacturing and distribution facilities (including those who repair and maintain electric vehicle charging stations).
- Transportation safety inspectors, including hazardous material inspectors and accident investigator inspectors.
- Manufacturers and distributors (to include service centers and related operations) of packaging materials, pallets, crates, containers, and other supplies needed to support manufacturing, packaging staging and distribution operations.
- Postal, parcel, courier, last-mile delivery, and shipping and related workers, to include private companies.
- Employees who repair and maintain vehicles, aircraft, rail equipment, marine vessels, bicycles, and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers.
- Air transportation employees, including air traffic controllers and maintenance personnel, ramp workers, aviation and aerospace safety, security, and operations personnel and accident investigations.
- Workers who support the operation, distribution, maintenance, and sanitation, of air transportation for cargo and passengers, including flight crews, maintenance, airport operations, those responsible for cleaning and disinfection, and other on- and off- airport facilities workers.
- Workers supporting transportation via inland waterways such as barge crew, dredging, river port workers for essential goods.
- Workers critical to rental and leasing of vehicles and equipment that facilitate continuity of operations for essential workforces and other essential travel.
- Warehouse operators, including vendors and support personnel critical for business continuity (including HVAC & electrical engineers; security personnel; and janitorial staff) and customer service for essential functions.

PUBLIC WORKS AND INFRASTRUCTURE SUPPORT SERVICES

- Workers who support the operation, inspection, and maintenance of essential public works facilities and operations, including bridges, water and sewer main breaks, fleet maintenance personnel, construction of critical or strategic infrastructure, traffic signal maintenance, emergency location services for buried utilities, maintenance of digital systems infrastructure supporting public works operations, and other emergent issues.
- Workers such as plumbers, electricians, exterminators, builders, contractors, HVAC Technicians, landscapers, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, businesses and buildings such as hospitals, senior living facilities, any temporary construction required to support COVID-19 response.
- Workers who support, such as road and line clearing, to ensure the availability of and access to needed facilities, transportation, energy and communications.
- Support to ensure the effective removal, storage, and disposal of residential and commercial solid waste and hazardous waste, including landfill operations.
- Workers who support the operation, inspection, and maintenance of essential dams, locks and levees.
- Workers who support the inspection and maintenance of aids to navigation, and other government provided services that ensure continued maritime commerce.



[Linkedin.com/company/cybersecurity-and-infrastructure-security-agency](https://www.linkedin.com/company/cybersecurity-and-infrastructure-security-agency)



@CISAgov | @cyber | @uscert_gov



[Facebook.com/CISA](https://www.facebook.com/CISA)

COMMUNICATIONS AND INFORMATION TECHNOLOGY

Communications:

- Maintenance of communications infrastructure- including privately owned and maintained communication systems- supported by technicians, operators, call -centers, wireline and wireless providers, cable service providers, satellite operations, Internet Exchange Points, Points of Presence, Network Access Points, back haul and front haul facilities, and manufacturers and distributors of communications equipment.
- Government and private sector employees (including government contractors) with work related to undersea cable infrastructure and support facilities, including cable landing sites, beach manhole vaults and covers, submarine cable depots and submarine cable ship facilities.
- Government and private sector employees (including government contractors) supporting Department of Defense internet and communications facilities.
- Workers who support radio, television, and media service, including, but not limited to front-line news reporters, studio, and technicians for newsgathering, and reporting, and publishing news.
- Network Operations staff, engineers and/or technicians to include IT managers and staff, HVAC & electrical engineers, security personnel, software and hardware engineers, and database administrators that manage the network or operate facilities.
- Engineers, technicians and associated personnel responsible for infrastructure construction and restoration, including contractors for construction and engineering of fiber optic cables, buried conduit, small cells, other wireless facilities, and other communications sector-related infrastructure. This includes construction of new facilities and deployment of new technology as these are required to address congestion or customer usage due to unprecedented use of remote services.
- Installation, maintenance and repair technicians that establish, support or repair service as needed.
- Central office personnel to maintain and operate central office, data centers, and other network office facilities, critical support personnel assisting front line employees.
- Customer service and support staff, including managed and professional services as well as remote providers of support to transitioning employees to set up and maintain home offices, who interface with customers to manage or support service environments and security issues, including payroll, billing, fraud, logistics, and troubleshooting.
- Workers providing electronic security, fire, monitoring and life safety services, and to ensure physical security, cleanliness and safety of facilities and personnel, including temporary licensing waivers for security personnel to work in other States of Municipalities.
- Dispatchers involved with service repair and restoration.
- Retail customer service personnel at critical service center locations for onboarding customers, distributing and repairing equipment and addressing customer issues in order to support individuals' remote emergency communications needs, supply chain and logistics personnel to ensure goods and products are on-boarded to provision these front-line employees.
- External Affairs personnel to assist in coordinating with local, state and federal officials to address communications needs supporting COVID-19 response, public safety, and national security.

Information Technology:

- Workers who support command centers, including, but not limited to Network Operations Command Centers, Broadcast Operations Control Centers and Security Operations Command Centers.
- Data center operators, including system administrators, HVAC & electrical engineers, security personnel, IT managers and purchasers, data transfer solutions engineers, software and hardware engineers, and database administrators, for all industries (including financial services).



[Linkedin.com/company/cybersecurity-and-infrastructure-security-agency](https://www.linkedin.com/company/cybersecurity-and-infrastructure-security-agency)



@CISAgov | @cyber | @uscert_gov



[Facebook.com/CISA](https://www.facebook.com/CISA)

- Workers who support client service centers, field engineers, and other technicians and workers supporting critical infrastructure, as well as manufacturers and supply chain vendors that provide hardware and software, support services, research and development, and information technology equipment (to include microelectronics and semiconductors), and HVAC and electrical equipment for critical infrastructure, and test labs and certification agencies that qualify such equipment (to include microelectronics, optoelectronics, and semiconductors) for critical infrastructure, including data centers.
- Workers needed to preempt and respond to cyber incidents involving critical infrastructure, including medical facilities, SLTT governments and federal facilities, energy and utilities, and banks and financial institutions, securities/other exchanges, other entities that support the functioning of capital markets, public works, critical manufacturing, food & agricultural production, transportation, and other critical infrastructure categories and personnel, in addition to all cyber defense workers (who can't perform their duties remotely).
- Suppliers, designers, transporters and other workers supporting the manufacture, distribution and provision and construction of essential global, national and local infrastructure for computing services (including cloud computing services and telework capabilities), business infrastructure, financial transactions/services, web-based services, and critical manufacturing.
- Workers supporting communications systems and information technology- and work from home solutions- used by law enforcement, public safety, medical, energy, public works, critical manufacturing, food & agricultural production, financial services, education, and other critical industries and businesses.
- Employees required in person to support Software as a Service businesses that enable remote working, performance of business operations, distance learning, media services, and digital health offerings, or required for technical support crucial for business continuity and connectivity.

OTHER COMMUNITY- OR GOVERNMENT-BASED OPERATIONS AND ESSENTIAL FUNCTIONS

- Workers to ensure continuity of building functions, including but not limited to security and environmental controls (e.g., HVAC), the manufacturing and distribution of the products required for these functions, and the permits and inspections for construction supporting essential infrastructure.
- Elections personnel to include both public and private sector elections support.
- Workers supporting the operations of the judicial system.
- Federal, State, and Local, Tribal, and Territorial employees who support Mission Essential Functions and communications networks.
- Trade Officials (FTA negotiators; international data flow administrators).
- Employees necessary to maintain news and media operations across various media.
- Employees supporting Census 2020.
- Weather forecasters.
- Clergy for essential support.
- Workers who maintain digital systems infrastructure supporting other critical government operations.
- Workers who support necessary credentialing, vetting and licensing operations for critical infrastructure workers.
- Customs and immigration workers who are critical to facilitating trade in support of the national emergency response supply chain.
- Educators supporting public and private K-12 schools, colleges, and universities for purposes of facilitating distance learning or performing other essential functions.
- Staff at government offices who perform title search, notary, and recording services in support of mortgage and real estate services and transactions.



[Linkedin.com/company/cybersecurity-and-infrastructure-security-agency](https://www.linkedin.com/company/cybersecurity-and-infrastructure-security-agency)



[@CISAgov](https://twitter.com/CISAgov) | [@cyber](https://twitter.com/cyber) | [@uscert_gov](https://twitter.com/uscert_gov)



[Facebook.com/CISA](https://www.facebook.com/CISA)

- Residential and commercial real estate services, including settlement services.
- Workers supporting essential maintenance, manufacturing, design, operation, inspection, security, and construction for essential products, services, and supply chain and COVID 19 relief efforts.

CRITICAL MANUFACTURING

- Workers necessary for the manufacturing of metals (including steel and aluminum), industrial minerals, semiconductors, materials and products needed for medical supply chains, and for supply chains associated with transportation, energy, communications, information technology, food and agriculture, chemical manufacturing, nuclear facilities, wood products, commodities used as fuel for power generation facilities, the operation of dams, water and wastewater treatment, processing and reprocessing of solid waste, emergency services, and the defense industrial base. Additionally, workers needed to maintain the continuity of these manufacturing functions and associated supply chains, and workers necessary to maintain a manufacturing operation in warm standby.
- Workers necessary for the manufacturing of materials and products needed to manufacture medical equipment and personal protective equipment (PPE).
- Workers necessary for mining and production of critical minerals, materials and associated essential supply chains, and workers engaged in the manufacture and maintenance of equipment and other infrastructure necessary for mining production and distribution.
- Workers who produce or manufacture parts or equipment that supports continued operations for any essential services and increase in remote workforce (including computing and communication devices, semiconductors, and equipment such as security tools for Security Operations Centers (SOCs) or datacenters).

HAZARDOUS MATERIALS

- Workers who manage hazardous materials associated with any other essential activity, including but not limited to healthcare waste (medical, pharmaceuticals, medical material production), testing operations (laboratories processing test kits), and energy (nuclear facilities) Workers at nuclear facilities, workers managing medical waste, workers managing waste from pharmaceuticals and medical material production, and workers at laboratories processing tests Workers who support hazardous materials response and cleanup.
- Workers who maintain digital systems infrastructure supporting hazardous materials management operations.

FINANCIAL SERVICES

- Workers who are needed to provide, process and maintain systems for processing, verification, and recording of financial transactions and services, including payment, clearing, and settlement; wholesale funding; insurance services; consumer and commercial lending; and capital markets activities).
- Workers who are needed to maintain orderly market operations to ensure the continuity of financial transactions and services.
- Workers who are needed to provide business, commercial, and consumer access to bank and non-bank financial services and lending services, including ATMs, lending and money transmission, and to move currency, checks, securities, and payments (e.g., armored cash carriers).
- Workers who support financial operations and those staffing call centers, such as those staffing data and security operations centers, managing physical security, or providing accounting services.
- Workers supporting production and distribution of debit and credit cards.
- Workers providing electronic point of sale support personnel for essential businesses and workers.



[Linkedin.com/company/cybersecurity-and-infrastructure-security-agency](https://www.linkedin.com/company/cybersecurity-and-infrastructure-security-agency)



@CISAgov | @cyber | @uscert_gov



[Facebook.com/CISA](https://www.facebook.com/CISA)

CHEMICAL

- Workers supporting the chemical and industrial gas supply chains, including workers at chemical manufacturing plants, workers in laboratories, workers at distribution facilities, workers who transport basic raw chemical materials to the producers of industrial and consumer goods, including hand sanitizers, food and food additives, pharmaceuticals, paintings and coatings, textiles, building materials, plumbing, electrical, and paper products.
- Workers supporting the safe transportation of chemicals, including those supporting tank truck cleaning facilities and workers who manufacture packaging items.
- Workers supporting the production of protective cleaning and medical solutions, personal protective equipment, disinfectants, fragrances, and packaging that prevents the contamination of food, water, medicine, among others essential.
- Workers supporting the operation and maintenance of facilities (particularly those with high risk chemicals and/or sites that cannot be shut down) whose work cannot be done remotely and requires the presence of highly trained personnel to ensure safe operations, including plant contract workers who provide inspections.
- Workers who support the production and transportation of chlorine and alkali manufacturing, single-use plastics, and packaging that prevents the contamination or supports the continued manufacture of food, water, medicine, and other essential products, including glass container manufacturing.

DEFENSE INDUSTRIAL BASE

- Workers who support the essential services required to meet national security commitments to the federal government and U.S. Military. These individuals include, but are not limited to, space and aerospace; mechanical and software engineers (various disciplines), manufacturing/production workers; IT support; security staff; security personnel; intelligence support, aircraft and weapon system mechanics and maintainers; and sanitary workers who maintain the hygienic viability of necessary facilities.
- Personnel working for companies, and their subcontractors, who perform under contract or sub-contract to the Department of Defense, as well as personnel at government-owned/contractor-operated and government-owned/government-operated facilities, and who provide materials and services to the Department of Defense, including support for weapon systems, software systems and cybersecurity, defense and intelligence communications and surveillance, space systems and other activities in support of our military, intelligence and space forces.

COMMERCIAL FACILITIES

- Workers who support the supply chain of building materials from production through application/installation, including cabinetry, fixtures, doors, cement, hardware, plumbing, electrical, heating/cooling, refrigeration, appliances, paint/coatings, and employees who provide services that enable repair materials and equipment for essential functions.
- Workers supporting ecommerce through distribution, warehouse, call center facilities, and other essential operational support functions.
- Workers in hardware and building materials stores, consumer electronics, technology and appliances retail, and related merchant wholesalers and distributors - with reduced staff to ensure continued operations.
- Workers distributing, servicing, repairing, installing residential and commercial HVAC systems, boilers, furnaces and other heating, cooling, refrigeration, and ventilation equipment.

RESIDENTIAL/SHELTER FACILITIES AND SERVICES

- Workers in dependent care services, in support of workers in other essential products and services.

 [Linkedin.com/company/cybersecurity-and-infrastructure-security-agency](https://www.linkedin.com/company/cybersecurity-and-infrastructure-security-agency)

 @CISAgov | @cyber | @uscert_gov

 [Facebook.com/CISA](https://www.facebook.com/CISA)

- Workers who support food, shelter, and social services, and other necessities of life for needy groups and individuals, including in-need populations and COVID-19 responders (including travelling medical staff).
- Workers in animal shelters.
- Workers responsible for the leasing of residential properties to provide individuals and families with ready access to available housing.
- Workers responsible for handling property management, maintenance, and related service calls who can coordinate the response to emergency “at-home” situations requiring immediate attention, as well as facilitate the reception of deliveries, mail, and other necessary services.
- Workers performing housing construction related activities to ensure additional units can be made available to combat the nation’s existing housing supply shortage.
- Workers performing services in support of the elderly and disabled populations who coordinate a variety of services, including health care appointments and activities of daily living.
- Workers supporting the construction of housing, including those supporting government functions related to the building and development process, such as inspections, permitting and plan review services that can be modified to protect the public health, but fundamentally should continue and serve the construction of housing (e.g., allow qualified private third-party inspections in case of government shutdown).

HYGIENE PRODUCTS AND SERVICES

- Workers who produce hygiene products.
- Workers in laundromats, laundry services, and dry cleaners.
- Workers providing personal and household goods repair and maintenance.
- Workers providing disinfection services, for all essential facilities and modes of transportation, and supporting the sanitation of all food manufacturing processes and operations from wholesale to retail.
- Workers necessary for the installation, maintenance, distribution, and manufacturing of water and space heating equipment and its components.
- Support required for continuity of services, including commercial disinfectant services, janitorial/cleaning personnel, and support personnel functions that need freedom of movement to access facilities in support of front-line employees.



[Linkedin.com/company/cybersecurity-and-infrastructure-security-agency](https://www.linkedin.com/company/cybersecurity-and-infrastructure-security-agency)



[@CISAgov](https://twitter.com/CISAgov) | [@cyber](https://twitter.com/cyber) | [@uscert_gov](https://twitter.com/uscert_gov)



[Facebook.com/CISA](https://www.facebook.com/CISA)

**STAY WELL VC
Safely Reopening Ventura County**

**ORDER OF THE VENTURA COUNTY HEALTH
OFFICER SUPPLEMENTING THE STATE
PUBLIC HEALTH OFFICER'S ORDER DATED
MARCH 19, 2020, TO ADDRESS THE UNIQUE
NEEDS OF VENTURA COUNTY IN RESPONSE
TO THE COVID-19 PANDEMIC**

DATE OF THIS ORDER: MAY 7, 2020

WHEREAS on March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency to exist in the State of California as a result of the threat of COVID-19; and

WHEREAS on March 12, 2020, the County of Ventura Health Officer (“County Health Officer”) issued a Declaration of Local Health Emergency pursuant to Health and Safety Code section 101080, finding that there existed an imminent and proximate threat of the spread of COVID-19 in Ventura County (“County”), and said Declaration was ratified by the County of Ventura Board of Supervisors on March 12, 2020; and

WHEREAS on March 17, 2020, the County Health Officer issued an order directing that all individuals past a certain age remain in their places of residence, limiting the operation of food facilities, and closing specified businesses that serve large gatherings; and

WHEREAS on March 19, 2020, the State Public Health Officer issued an order requiring that all individuals living in the State of California stay at home except as needed to maintain continuity of operations of critical infrastructure sectors as defined (“State Stay at Home Order”); and

WHEREAS the County Health Officer is required by Health and Safety Code section 101030 to enforce and observe all orders of the State Public Health Officer and all statutes relating to public health; and

WHEREAS State law permits local health officers to issue public health orders that are more restrictive, but not less restrictive, than an order issued by the State Public Health Officer, the County Health Officer, based on his evaluation of the unique needs and circumstances existing within the County, issued additional health orders on March 20, March 31, April 9, April 18 and April 20, 2020; and

WHEREAS the County Health Officer has determined that there no longer exists a need for local health orders that are more restrictive than the State Stay at Home Order with respect to many activities of individuals and businesses, and that the public health and welfare would best be served by a single set of regulations where reasonable to avoid public confusion between State and local orders; and

WHEREAS the State of California has identified businesses on its website at <https://covid19.ca.gov/roadmap/> that are able to reopen under the statewide order; and

WHEREAS the County Health Officer has determined that some elements of his current order are not addressed by the State Stay at Home Order, and that the public health would be served by supplementing the State Stay at Home Order as set forth below;

NOW, THEREFORE, I, Dr. Robert Levin, the County Health Officer, pursuant to Health and Safety Code sections 101040, 101085 and 120175, hereby issue the following order (“Local Order”) to be effective immediately:

IT IS HEREBY ORDERED THAT:

1. **Commercial laboratory test results.** All commercial laboratories that test persons in the County for the presence of COVID-19 must report all test results (whether positive or negative) to the Ventura County Public Health Department laboratory within eight hours of receiving the test results.
2. **Special rule for persons 70 years of age or older.** All persons currently living in the County equal to or older than 75 years of age, or equal to or older than 70 years of age with an active or unstable comorbidity, are ordered to stay in their place of residence and must at all times follow Social Distancing Requirements to the greatest extent feasible. Such persons may leave their places of residence only as necessary to seek medical care or exercise or nutrition or to perform essential work in furtherance of Healthcare Operations or Essential Governmental Functions or Services.
 - a. For purposes of this section, “Healthcare Operations” means and includes hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other licensed healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, chiropractors, acupuncturists or any related and/or ancillary healthcare services, including blood donation centers, and veterinarians and all other healthcare services provided to

animals. “Healthcare Operation” does not include fitness and exercise gyms, aquatic centers and similar facilities.

b. For purposes of this section, “Essential Governmental Functions or Services” means government functions or services performed by first responders, emergency management personnel, emergency dispatchers, court personnel, law enforcement personnel, and others who perform essential governmental functions or services as such may be determined by the governmental entity performing those functions or services.

3. **Admittance to Long-Term Care Facilities.** Long-Term Care Facilities may not refuse to admit any person who has been diagnosed with or treated for COVID-19 after that person has been discharged from a health care facility and approved for admittance to a Long-Term Care Facility by the Ventura County Public Health Department.

a. For purposes of this Local Order, “Long-Term Care Facility” means a long-term care facility, skilled nursing facility, intermediate care facility, congregate living health facility, nursing facility, hospice facility, residential care facility for the elderly, residential facility, or community care facility as defined in Health and Safety Code sections 1250, 1502, 1503.5 and 1569, and regulations promulgated thereunder, as they may be amended from time to time.

4. **Hospitals and Long-Term Care Facilities.** The County Health Officer recognizes the authority of the guidance documents “Hospital Holding Unit Guidance for COVID-19” and “Long-Term Care Facility Guidance for Preventing and Managing COVID-19” (the current versions of which are available at www.vcemergency.com) and strongly advises all hospitals and Long-Term Care Facilities to comply with the guidance.

5. **All businesses must establish, implement and enforce COVID-19 prevention plans.** All businesses must establish, implement and enforce a site-specific prevention plan in accordance with the State of California COVID-19 industry Guidance and associated checklist found at <https://covid19.ca.gov/roadmap/>. Prior to reopening, all businesses must register and attest to their preparedness for safely reopening at vcreopen.com. Businesses that were operating under the previous order must also register and attest to their adherence to state guidelines within ten days at vcreopen.com.

As a condition of operation, each business must post a written notice explaining how it will comply with Social Distancing Requirements in conspicuous places

where it can easily be seen by employees and patrons of the business facility. The written posting shall identify by name and telephone number the County Covid Compliance Hotline where compliance related questions or complaints may be reported by employees and patrons.

Further, all businesses, as a condition of operation, shall admit without delay any officer, employee or agent of the County of Ventura or local city to their business facilities for the purposes of inspection for monitoring and compliance. The failure to cooperate with such inspectors, or repeated and confirmed violations of COVID-19 prevention requirements, may lead to issuance of a business-specific closure order by the County Health Officer.

6. **Social Distancing Requirements defined.** “Social Distancing Requirements” means and includes maintaining at least a six-foot physical distance from other persons, washing hands with soap and water for at least 20 seconds or using hand sanitizer as frequently as possible, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces and not shaking hands.
7. **Food facilities.** Under the State Stay at Home Order, all permanent food facilities, as defined by Health and Safety Code section 113849, may only prepare and offer food that is provided to customers via delivery service, via pick-up for takeout dining, and via drive-thru. This Local Order, in addition, requires that permanent food facilities that prepare and offer food via delivery service, pick-up or drive-thru must comply with the following procedures:
 - a. Containers required. All food must be completely contained in a suitable container before being transferred to a customer. For example, ice cream cones are not allowed; ice cream scoops in a covered container are allowed.
 - b. Must consume food away from premises. The exception for take-out food activities is designed to enable persons who are confined to their places of residence to obtain prepared food to take back to their places of residence for consumption. The take-out food shall not be consumed anywhere within the line-of-sight of a person standing in front of the facility that sold the food.
 - c. Six-foot spacing must be maintained. All persons waiting in line or otherwise congregating outside a food facility selling food via take-out, delivery or drive-thru

shall maintain a distance of at least six feet from all other persons.

8. **Primary retail business must be critical infrastructure to be fully open.** Only retail businesses whose primary line of business qualifies as critical infrastructure under the State Stay at Home Order may be fully open to the public, e.g., businesses whose primary business is the sale of food, beverages, pet supplies, household cleaning products, etc. Items the sale of which constitute less than 33 percent of a business's gross sales over the last six months are considered to be less than primary. For example, a tobacco or vape store that sells a minimal amount of snacks and water as a side business does not qualify as a grocery store, convenience store or similar establishment that can be fully open to the public under the current State Stay at Home Order.
9. **Businesses and activities that must remain closed even if allowed by State Stay at Home Order.** The State Stay at Home Order does not expressly address every type of business activity. To avoid confusion, this Local Order prohibits the following businesses and activities, whether or not allowed by the State Stay at Home Order:
 - a. All swimming pools, spas, hot tubs, saunas, steam rooms and similar facilities, except those located at a single-family residence, which shall be used only by members of a household residing at the single-family residence.
 - b. All public and private campgrounds and recreational vehicle (RV) parks, except that persons who certify that their RV is their primary residence may be permitted to stay in the RV park. All persons residing in an RV shall comply with all orders otherwise applicable to residents.
10. **List of activities ordered to cease.** The following activities are deemed non-essential and harmful to public health, and therefore are prohibited whether or not allowed by the State Stay at Home Order:
 - a. **Door-to-Door Solicitations.** Door-to-door solicitations, whether for purposes of sales of goods or services, charitable contributions, signature-gathering or any other commercial or noncommercial purpose.
11. **Essential activities allowed.** The State Stay at Home Order implicitly allows for persons to leave their places of residence to engage in essential activities, but does not expressly address that issue. The State Public Health Officer has issued guidance, primarily in the form of posted answers to “Frequently Asked

Questions,” which are frequently amended or otherwise changed. For the sake of clarity and guidance to persons residing in the County, this section of the Local Order sets forth those activities that the County Health Officer deems to be essential and allowed. However, to the extent any activity described herein conflicts with and is more permissive than the State Stay at Home Order as it is currently written or as it may be amended, the State Stay at Home Order shall take precedence and shall be enforced.

a. Persons may leave their places of residence only to perform one of the following essential activities:

(1) To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members (including pets), such as, by way of example, obtaining medical supplies or medication, visiting a health care professional or obtaining supplies needed to work from a place of residence.

(2) To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example, canned food, dry goods, fresh fruits and vegetables, pet supplies, fresh meats, fish and poultry, and any other household consumer products, and products necessary to maintain the safety, sanitation and essential operation of places of residence.

(3) To engage in funeral services, provided the following restrictions are observed:

(i) For indoor services, where the body of the deceased is present for viewing or in a closed casket, members of the deceased’s household and the relatives of the deceased within the second degree (including in-laws) may gather for the activity provided that Social Distancing Requirements are followed and that no more than five persons gather inside the facility at a single time. Stable groups of five persons (i.e., persons may not substitute in or out of the group) may rotate within the facility providing protocols are implemented to sanitize the facilities between each group visit.

(ii) For graveside services, members of the deceased’s household and the relatives of the deceased within the second degree (including

in-laws) may gather for the activity provided that Social Distancing Requirements are followed and that no more than 10 persons gather.

(4) To engage in a wedding ceremony, provided that Social Distancing Requirements are followed to the greatest extent feasible and that no more than 10 persons (who need not be from the same household or living unit), in addition to the couple to be married and the officiant, gather in a stable group.

(5) To attend a gathering of any size to observe or participate in live or virtual presentations to the gathering, such as faith-based services, concerts, plays, political speeches, movies and similar activities, provided that all of the following protocols are followed:

- (i) all activity must occur outdoors;
- (ii) all persons attending the activity must be inside a motor vehicle occupied only by persons from the same household or living unit;
- (iii) all motor vehicles at the gathering must maintain a distance of six feet from all other vehicles;
- (iv) the motor vehicle windows must be closed at all times during the event;
- (v) all persons must remain in the vehicle in which they arrived at all times during the event;
- (vi) no restroom facilities shall be made available to persons at the facility during the event;
- (vii) no tangible items of any kind, including food products, may be transferred to persons in the motor vehicles;
- (viii) notwithstanding the above, one or more persons, not exceeding five, may enter nearby buildings as necessary to putting on the presentation; and
- (ix) all Social Distancing Requirements shall be complied with to the greatest extent feasible.

(6) To engage in outdoor activity, provided the persons comply with Social Distancing Requirements, such as, by way of example, golfing, tennis, pickle-ball, walking, hiking, running, bicycling, pleasure driving and working around their places of residence, including gardening.

- (i) To provide accommodations for persons who wish to golf as a

form of outdoor activity, public and private golf courses may operate provided they strictly enforce Social Distancing Requirements and enforce the following additional protocols:

- (a) Motorized carts are not allowed;
- (b) No more than four golfers (who need not be from the same household or living unit), are allowed per group and each group must be stable (i.e., persons may not substitute in or out of the group);
- (c) A distance of at least 30 feet shall be maintained between groups of golfers at all times;
- (d) All ball washers shall be covered and flag pins shall be removed and the cup on each green shall be inverted or otherwise installed to eliminate high-frequency touch surfaces on the greens and tees;
- (e) Persons may use a driving range provided that range balls are properly sanitized before distribution to customers (stand-alone golf driving ranges may also operate);
- (f) Practice putting greens shall remain closed;
- (g) The “Pro Shop” or similar facility designed for the sale of golf-related equipment and supplies shall remain closed; and
- (h) The snack shop(s) and restaurant(s) shall remain closed.

(7) To otherwise carry out activities specifically permitted in this Local Order.

(8) To care for a family member or pet in another household.

(9) To prepare and present a live-stream or other virtual communication by an organization or association to its members, including worship services. Staff of organizations or associations (who need not be of the same household or living unit), including faith-based organizations, may gather in a single space at the same time solely for the purpose of preparing and presenting live-stream or other virtual communications provided that the number of such staff is the fewest necessary to prepare and present those communications, but in no event in excess of 10 persons, and that Social Distancing Requirements are followed.

12. **Compliance.** The violation of any provision of this Local Order or the State Stay at Home Order constitutes a threat to public health and a public nuisance per se. In

addition, pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the County Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Local Order.

13. **Violation may constitute unfair competition.** Any person that, after notice, operates, manages, maintains or occupies or continues to operate, manage, maintain or occupy, any business in violation of this Local Order or the State Stay at Home Order may, in addition or in the alternative to any other civil and criminal penalties allowed by law, be subject to liability under the Unfair Competition Law (chapter 5 of part 2 of division 7 of the Business and Professions Code, commencing at section 17200), and subject to civil penalties and other relief as provided therein, for each act or practice in violation of this Local Order, the State Stay at Home Order, any predecessor order, or any of them.
14. **More restrictive provisions of local and State orders enforceable.** This Local Order is issued to supplement the State Stay at Home Order, which establishes minimum requirements for individuals and businesses, as well as the Governor's March 19, 2020 Executive Order N-33-20 directing California residents to follow the State Stay at Home Order. This Local Order adopts in certain respects more stringent restrictions addressing the particular facts and circumstances in this County, which are necessary to control the public health emergency as it is evolving within the County and the south coast region. Where a conflict exists between this Local Order and any State public health order, including the State Stay at Home Order, the more restrictive provision controls.
15. **Applicable to entire County.** This Local Order applies to all persons in the cities and the entire unincorporated area of the County.
16. **Effective date and time; repeal of prior order.** This Local Order shall become effective and operative at 11:59 p.m. on May 7, 2020, and will continue to be in effect until 11:59 p.m. on May 31, 2020, or until it is extended, rescinded, superseded or amended in writing by the County Health Officer. The County Health Officer order dated April 20, 2020, is hereby repealed and replaced with this Local Order, except that all prior violations of previous orders remain prosecutable, criminally or civilly. All prior closure or cease and desist orders directed at specified persons or businesses shall remain in force, but shall be reviewed by enforcement staff and rescinded if appropriate.
17. **Copies of Local Order.** Copies of this Local Order shall promptly be: (1) made

available at the County of Ventura Public Health Office, 2240 East Gonzalez Road, Suite 210, Oxnard, California, 93036; (2) posted on the Ventura County Public Health Department website (available at www.vchca.org/ph); and (3) provided to any member of the public requesting a copy of this Local Order.

- 18. **Severability.** If any provision of this Local Order or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, the remainder of the Local Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Local Order are severable.

IT IS SO ORDERED:



Robert Levin, M.D.
Ventura County Health Officer

Dated: May 7, 2020

Pursuant to Health and Safety Code section 120295 et seq., violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 20-CV-02927-CBM-(ASx) Date April 30, 2020

Title *Donald McDougall, et al. v. County of Ventura, California, et al.*

Present: The Honorable CONSUELO B. MARSHALL, UNITED STATES DISTRICT JUDGE

YOLANDA SKIPPER
Deputy Clerk

NOT REPORTED
Court Reporter

Attorneys Present for Plaintiff:

Attorneys Present for Defendant:

NONE PRESENT

NONE PRESENT

Proceedings:

**IN CHAMBERS- ORDER RE PLAINTIFFS' SECOND EX PARTE
APPLICATION FOR TEMPORARY RESTRAINING ORDER (DKT. NO. 27)**

The matter before the Court is Plaintiffs' "Second Ex Parte Application for Temporary Restraining Order" (the "TRO"). (Dkt. No. 27.) Defendants oppose the issuance of a TRO. (Dkt. No. 29.) The Court previously denied Plaintiff Donald McDougall's "First Ex Parte Application for a Temporary Restraining Order." (See Dkt. No. 12.) Since then, Plaintiff filed the First Amended Complaint ("FAC"), which includes additional Plaintiffs and a cause of action under 42 U.S.C. § 1983 for violation of the right to travel, guaranteed by U.S. Const., Art. IV § 2. (See Dkt. No. 19 (FAC) at ¶¶ 8-11, 82-88.) Plaintiffs also filed a motion for an expedited preliminary injunction hearing (Dkt. No. 20), which the Court set for hearing on May 19, 2020, a date to which the parties previously stipulated, pursuant to Local Rule 65-1. (Dkt. No. 28.)

The standard for issuing a temporary restraining order is similar to the standard for issuing a preliminary injunction, and requires the parties seeking relief to show (1) they are likely to succeed on the merits, (2) they are likely to suffer irreparable harm in the absence of injunctive relief, (3) the balance of equities is in their favor, and (4) injunctive relief is in the public interest. See *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008).

Here, the TRO seeks relief nearly identical to Plaintiff McDougall's first application for a temporary restraining order. Defendants' opposition includes evidence in support of its position, however the Court has not considered this evidence in ruling on this TRO because both parties will have an opportunity to present evidence at the expedited hearing on Plaintiffs' motion for preliminary injunction. Therefore, the Court finds that Plaintiffs have failed to demonstrate they are likely to succeed on the merits of their Second Amendment claim and have not shown that the balance of the equities favors a temporary restraining order. (See Dkt. No. 12.)

Plaintiffs also argue the County of Ventura's Stay Well at Home Order violates the Privileges and Immunities Clause of the United States Constitution and the right to travel by prohibiting them from traveling to adjacent counties. (FAC ¶¶ 82-88; TRO at p. 21:3-9.) The United States Constitution provides that "[t]he Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States." Const., Art. IV §

2, cl. 1. The Privileges and Immunities Clause precludes “discrimination against citizens of other States where there is no substantial reason for the discrimination beyond the mere fact that they are citizens of other States.” *Saenz v. Roe*, 526 U.S. 489, 502 (1999) (citation and quotation marks omitted).

Here, the parties dispute whether the “Non-Essential Travel” provision of the Stay Well at Home Order violates the right to travel given its exemption for travel that implicates the Commerce Clause of the United States Constitution, or whether the “Non-Essential Travel” provision applies to Plaintiffs. Resolution of both issues bears directly on whether Plaintiffs are likely to succeed on the merits and whether they have suffered irreparable harm. Therefore, based on the current record, Plaintiffs have failed to satisfy their burden required for the issuance of a temporary restraining order.

The Court **DENIES** the TRO and **GRANTS** the order to show cause why this TRO should not issue, in accordance with Local Rule 65-1. The Court consolidates the hearings on the orders to show cause why the temporary restraining orders should not issue and Plaintiff’s motion for a preliminary injunction, per the Court’s scheduling order dated April 27, 2020. (*See* Dkt. No. 28.) The Court will consider evidence from both parties supporting their positions at the expedited hearing for the issuance of a preliminary injunction.

IT IS SO ORDERED.

STAY WELL AT HOME

ORDER OF THE VENTURA COUNTY HEALTH OFFICER

AMENDED ORDER DIRECTING PERSONS TO STAY AT THEIR HOMES, CLOSING NON-ESSENTIAL BUSINESSES AND PROHIBITING NON-ESSENTIAL ACTIVITIES TO COMBAT THE COVID-19 PANDEMIC

DATE OF ORDER: APRIL 20, 2020

Please read carefully. This Order issued by the Ventura County Health Officer shall become effective at 11:59 p.m. on April 20, 2020, and shall amend and restate the Health Officer Order dated April 18, 2020. Any and all prior violations of previous orders remain prosecutable, criminally or civilly. Further, all prior closure or cease and desist orders directed at specified persons or business shall remain in effect. Pursuant to Health and Safety Code section 120295 et seq., violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both.

TABLE OF CONTENTS

	Page No.
1. Intent and Purpose	2
2. Applicable to entire County	2
3. Persons to stay at home	2
4. Persons may leave home for specified purposes	3
5. Special rule for persons 70 years of age or older	3
6. Non-Essential travel is prohibited	3
7. Non-Essential Businesses must close	3
a. Exceptions for home businesses and limited business operations	3
8. Standards applicable to operation of Essential Businesses	5
9. Food facilities	5
10. Essential Businesses must have Social Distancing Protocol	6
11. Special allowance for completion of firearm sales	7
12. Partial list of Non-Essential Businesses and facilities ordered to close	7
13. Partial list of Non-Essential Activities ordered to cease	8
14. [Reserved]	9
15. Admittance to Long-Term Care Facilities	9
16. Hospitals and Long-Term Care Facilities	9

17. Definitions and exemptions 9
 a. Essential Activities 9
 b. Healthcare Operations 13
 c. Essential Infrastructure 13
 d. Essential Governmental Functions and Services 14
 e. Essential Businesses 14
 f. Minimum Basic Operations 17
 g. Essential Travel 18
 h. Hotels 18
 i. Business 18
 j. Social Distancing Requirements 18
 18. Commercial laboratory test results 19
 19. Compliance 19
 20. Violation may constitute unfair competition 19
 21. Most Restrictive Provisions of County and State Health Orders Enforcable . . . 19
 22. Effective date and time 20
 23. Continuing assessment. 20
 24. Copies of Order 20
 25. Severability 20

PURSUANT TO SECTIONS 101040, 101085 AND 120175 OF THE HEALTH AND SAFETY CODE, THE HEALTH OFFICER OF VENTURA COUNTY HEREBY ORDERS AS FOLLOWS:

1. **Intent and Purpose.** The intent of this Order is to cause persons to stay at their places of residence to the maximum extent feasible with the minimum disruption to their social, emotional and economic well-being consistent with the overarching goal of eliminating the COVID-19 pandemic. The purpose of this Order is that by requiring persons to stay at home, while allowing them to engage in essential activities, such as working at essential businesses, purchasing necessities or participating in outdoor activities, that the spread of the virus will be mitigated, and that in the event a case of COVID-19 occurs, the public health officer can more easily trace public contacts. All provisions of this Order shall be interpreted to effectuate this intent.
2. **Applicable to entire County.** This Order applies to all persons in the cities and the entire unincorporated area of Ventura County (the “County”).
3. **Persons to stay at home.** All persons currently living within the County are ordered to stay at their places of residence, subject to the exemptions set forth in

this Order. Persons experiencing homelessness are exempt from this section, but are strongly urged to obtain shelter, and governmental and other entities are strongly urged to make such shelter available as soon as possible, and to use Social Distancing Requirements in their operation.^{1/}

4. **Persons may leave home for specified purposes.** Persons may leave their places of residence for the following purposes only: to engage in an Essential Activity; to provide or receive an Essential Governmental Function or Service; or to operate or work at an Essential Business. When persons leave their places of residence for purposes authorized under this Order, they shall follow the Social Distancing Requirements to the maximum extent feasible.
5. **Special rule for persons 70 years of age or older.** All persons currently living in the County equal to or older than 75 years of age, or equal to or older than 70 years of age with an active or unstable comorbidity, are ordered to stay in their place of residence and must at all times follow Social Distancing Requirements to the greatest extent feasible. Such persons may leave their places of residence only as necessary to seek medical care or nutrition or to perform essential work in furtherance of Healthcare Operations or Essential Governmental Functions or Services.
6. **Non-Essential Travel is prohibited.** All travel within the County is prohibited except for Essential Travel. Persons may use public transit only for purposes of performing Essential Activities or to travel to and from work at Essential Businesses or to maintain, provide or receive Essential Governmental Functions or Services. Persons riding on public transit must comply with Social Distancing Requirements to the greatest extent feasible. This Order allows travel into or out of the County.
7. **Non-essential businesses must close.** All businesses with a facility in the County, except Essential Businesses as listed in section 17 of this Order, are required to cease all activities at facilities located within the County except that they may perform Minimum Basic Operations.
 - a. **Exceptions for home businesses and limited business operations.** Notwithstanding the above, the following businesses may operate provided

^{1/} Unless defined when first used, all capitalized terms in this Order are defined in section 17 below.

they comply with all requirements applicable to Essential Businesses and any additional requirements stated below:

- (1) Home Businesses. All businesses may conduct activities and continue operations consisting solely of persons performing activities at their own places of residence.
- (2) Limited Business Operations. A business as specified below may conduct activities and continue operations at a facility of the business in the County provided that (i) no more than ten (10) employees or independent contractors shall be at the facility during any 24-hour period; (ii) there is no physical interaction between members of the public and employees or independent contractors of the business; (iii) members of the public are not permitted inside the business's facilities (i.e., all retail or storefront facilities shall remain closed to the public); (iv) Social Distancing Requirements are followed; and (v) any goods sold by the businesses shall be delivered to the purchaser's place of residence or business address, and any services provided by the businesses shall be provided remotely.

The paragraph immediately above applies only to businesses that meet the definition of a business necessary to maintain continuity of operations of the federal critical infrastructure sectors as defined in the March 19, 2020, Order of the State Public Health Officer (State Shelter Order), and only such businesses may conduct limited business operations under this Order.

Further, all businesses electing to conduct limited business operations must (i) prepare a "Social Distancing Protocol" as set forth in Section 10 below for each facility and post it where it will be easily viewable by the employees and contractors; (ii) provide a copy of the Social Distancing Protocol to each employee or contractor performing work at the facility; (iii) designate a specific on-duty supervisor or employee to monitor and enforce compliance with the Protocol at all times business operations are occurring; and (iv) permit access to the facility immediately upon request by any officer or employee of the County or its agents who wishes to inspect a business's facilities or operations. Repeated, confirmed failure to comply with Social Distancing Protocol may lead to closure of non-compliant businesses.

8. **Standards applicable to operation of Essential Businesses.** Among other requirements set out in this Order, all Essential Businesses that remain open shall provide only those goods and services that justify their classification as an Essential Business in the first place. Therefore:
 - a. Grocery stores, certified farmers' markets, farm and produce stands, supermarkets, convenience stores and other establishments that sell food, beverages, pet supplies or household products (such as cleaning and personal care products) necessary to the safe, sanitary and essential operation of places of residence, that are open to the public, shall not sell any goods other than those described in this subsection (a). The sale of items not listed herein, such as clothing, jewelry, sporting goods, furniture, etc., is prohibited.
 - b. Only businesses whose primary business is the sale of food, beverages, pet supplies or household products (such as cleaning and personal care products) qualify as an Essential Business under section (a) above. For example, a tobacco or vape store that sells a minimal amount of snacks and water as a side business does not qualify as a grocery store, convenience store or similar establishment. Items the sale of which constitute less than 33 percent of a business's gross sales over the last six months are deemed to be minimal.

9. **Food facilities.** All permanent food facilities, as defined by Health and Safety Code section 113849, may only prepare and offer food that is provided to customers via delivery service, via pick-up for takeout dining, and via drive-thru. Permanent food facilities that prepare and offer food via delivery service, pick-up or drive-thru must comply with the following procedures:
 - a. **Containers required.** All food must be completely contained in a suitable container before being transferred to a customer. For example, ice cream cones are not allowed; ice cream scoops in a covered container are allowed.
 - b. **Must consume food away from premises.** The exception for take-out food activities is designed to enable persons who are confined to their places of residence to obtain prepared food to take back to their places of residence for consumption. The take-out food shall not be consumed anywhere within the line-of-sight of a person standing in front of the facility that sold the food.

- c. Six-foot spacing must be maintained. All persons waiting in line or otherwise congregating outside a food facility selling food via take-out, delivery or drive-thru shall maintain a distance of at least six feet from all other persons.

Retail food and beverage facilities. The Health Officer recognizes the authority of the Ventura County Environmental Health Division as stated in “Coronavirus COVID-19 Guidance for Food Facilities” and strongly advises all food and beverage facilities to comply with the guidance.

- 10. **Essential Businesses must have Social Distancing Protocol.** All Essential Businesses must prepare and post a “Social Distancing Protocol” for each of their facilities in the County frequented by the public or employees. The Social Distancing Protocol must be posted at or near the entrance of the relevant facility and shall be easily viewable by the public and employees. A copy of the Social Distancing Protocol must also be provided to each employee performing work at the facility. All Essential Businesses shall implement the Social Distancing Protocol, and shall designate a specific on-duty employee to monitor and enforce compliance with the Protocol at all times the business is open to the public. Essential Businesses shall provide evidence of its implementation to any authority enforcing this Order upon demand.

Completion and posting of the form attached hereto as Appendix A: Social Distancing Protocol will be compliant with this Order. The Social Distancing Protocol must explain how the business is achieving the following, as applicable:

- a. Limiting the number of persons who can enter into the facility and work areas at any one time to ensure that persons in the facility and work areas can easily maintain a minimum six-foot distance from one another at all times, except as required to complete the Essential Business activity;
- b. Where lines may form at a facility, marking increments of six feet, at a minimum, establishing where individuals must stand to maintain adequate social distancing;
- c. Providing hand sanitizer, soap and water, or other effective disinfectant at or near the entrance of the facility and in other appropriate areas for use by the public and employees and in locations where there is high-frequency employee interaction with the public (e.g., cashiers);

- d. Providing for contactless payment systems or, if not feasible to do so, disinfect for the next customer by disinfecting all payment portals, pens and styluses after each use;
- e. Regularly cleaning and disinfecting other high-touch surfaces;
- f. Posting a sign at the entrance of the facility and work area informing the public and employees that they should avoid entering the facility if they have a cough or fever; maintain a minimum six-foot distance from one another; sneeze and cough into their elbow; and not shake hands or engage in unnecessary physical contact; and
- g. Any additional social distancing measures being implemented.

Repeated, confirmed failure to comply with Social Distancing Protocol may lead to closure of non-compliant businesses.

11. **Special allowance for completion of firearm sales.** Under California law persons wishing to purchase a firearm must complete a background check and waiting period, and all sales must be completed in-person. It is not feasible, therefore, for the Health Officer to require that firearm sales be conducted on-line only. To accommodate persons who initiated the purchase of a firearm at a store located within the County before March 20, 2020 (i.e., the day firearm stores were ordered to be closed by the Health Officer), firearm stores and purchasers may engage in the actions necessary to complete firearm purchases initiated before March 20, 2020, provided that:
- a. All activities, including the transfer of possession of any firearm, occur by appointment only, and only the purchaser and one person on behalf of the store shall be present;
 - b. The firearm store shall remain closed to the general public; and
 - c. Social Distancing Requirements shall be followed to the greatest extent feasible.
12. **Partial list of non-essential businesses and facilities ordered to close.** The intent and structure of this Order is to list Essential Businesses that may remain open subject to rigorous conditions designed to prohibit the spread of COVID-19

to the greatest extent feasible and to require all other businesses to close. For the sake of clarity, a list of business types that have been ordered to close as Non-Essential is set forth below. However, it is emphasized that the list below is not intended to be exclusive, and the fact that a business type is not listed below is not intended to imply that it is authorized to stay open as an Essential Business, Healthcare Operation, Essential Governmental Function or Service or Essential Infrastructure:

- a. Bars and nightclubs that do not serve food.
- b. Movie theaters, live performance venues, bowling alleys and arcades.
- c. Gyms, fitness centers and aquatic centers.
- d. Wineries, breweries and tap rooms that provide tastings.
- e. All swimming pools, spas, hot tubs, saunas, steam rooms and similar facilities, except those located at a single-family residence, which shall be used only by members of a household residing at the single-family residence.
- f. All public and private campgrounds and recreational vehicle (RV) parks, except that persons who certify that their RV is their primary residence may be permitted to stay in the RV park. All persons residing in an RV shall comply with all Orders otherwise applicable to residents.
- g. Clothing stores.
- h. Sporting goods stores.
- i. Jewelry stores.
- j. Fabric stores.
- k. Toy and game stores.
- l. Book stores.
- m. Arts and crafts stores.
- n. Pawn brokers.
- o. Gun stores.
- p. Bait and tackle shops.
- q. Furniture stores.
- r. Home decor and party decorations stores.
- s. Tobacco and vaping stores.
- t. Pet grooming.
- u. Hair or nail salons; barbershops.

13. **Partial list of non-essential activities ordered to cease.** The intent and structure of this Order is to list essential activities that may continue subject to rigorous conditions designed to prohibit the spread of COVID-19 to the greatest extent

feasible and to require all other activities to cease. For the sake of clarity, a list of activities that have been ordered to cease as non-essential is set forth below. However, it is emphasized that the list below is not intended to be exclusive and the fact that an activity is not listed below is not intended to imply that an activity is authorized:

- a. Door-to-Door Solicitations. Door-to-door solicitations, whether for purposes of sales of goods or services, charitable contributions, signature-gathering or any other commercial or noncommercial purpose.
14. **[Reserved]**
15. **Admittance to Long-Term Care Facilities.** Long-Term Care Facilities may not refuse to admit any person who has been diagnosed with or treated for COVID-19 after that person has been discharged from a health care facility and approved for admittance to a Long-Term Care Facility by the Ventura County Public Health Department.
- a. For purposes of this section, “Long-Term Care Facility” means a long-term care facility, skilled nursing facility, intermediate care facility, congregate living health facility, nursing facility, hospice facility, residential care facility for the elderly, residential facility, or community care facility as defined in Health and Safety Code sections 1250, 1502, 1503.5 and 1569, and regulations promulgated thereunder, as they may be amended from time to time.
16. **Hospitals and Long-Term Care Facilities.** The Health Officer recognizes the authority of the guidance documents “Hospital Holding Unit Guidance for COVID-19” and “Long-Term Care Facility Guidance for Preventing and Managing COVID-19” (the current versions of which are available at www.vcemergency.com) and strongly advises all hospitals and Long-Term Care Facilities (as that term is defined in section 15 of this Order) to comply with the guidance.
17. **Definitions and exemptions.**
- For the purposes of this Order:
- a. Essential Activities. Persons may leave their places of residence only to perform one of the following “Essential Activities” (but persons at high risk

of severe illness from COVID-19 and persons who are sick are urged to stay in their places of residence to the extent possible except as necessary to seek medical care):

- (1) To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members (including pets), such as, by way of example, obtaining medical supplies or medication, visiting a health care professional or obtaining supplies needed to work from a place of residence.
- (2) To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example, canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish and poultry and any other household consumer products, and products necessary to maintain the safety, sanitation and essential operation of places of residence.
- (3) To engage in funeral services, provided the following restrictions are observed:
 - (i) For indoor services, where the body of the deceased is present for viewing or in a closed casket, members of the deceased's household and the relatives of the deceased within the second degree (including in-laws) may gather for the activity provided that Social Distancing Requirements are followed and that no more than five persons gather inside the facility at a single time. Stable groups of five persons (i.e., persons may not substitute in or out of the group) may rotate within the facility providing protocols are implemented to sanitize the facilities between each group visit.
 - (ii) For graveside services, members of the deceased's household and the relatives of the deceased within the second degree (including in-laws) may gather for the activity provided that Social Distancing Requirements are followed and that no more than 10 persons gather.
- (4) To engage in a wedding ceremony, provided that Social Distancing Requirements are followed to the greatest extent feasible and that no more than 10 persons (who need not be from the same household or living unit), in addition to the couple to be married and the officiant, gather in a stable group.

- (5) To attend a gathering of any size to observe or participate in live or virtual presentations to the gathering, such as faith-based services, concerts, plays, political speeches, movies and similar activities, provided that all of the following protocols are followed:
- (i) all activity must occur outdoors;
 - (ii) all persons attending the activity must be inside a motor vehicle occupied only by persons from the same household or living unit, not exceeding five persons;
 - (iii) all motor vehicles at the gathering must maintain a distance of six feet from all other vehicles;
 - (iv) the motor vehicle windows must be closed at all times during the event;
 - (v) all persons must remain in the vehicle in which they arrived at all times during the event;
 - (vi) no restroom facilities shall be made available to persons at the facility during the event;
 - (vii) no tangible items of any kind, including food products, may be transferred to persons in the motor vehicles;
 - (viii) notwithstanding the above, one or more persons, not exceeding five, may enter nearby buildings as necessary to putting on the presentation; and
 - (ix) all Social Distancing Requirements shall be complied with to the greatest extent feasible.
- (6) To engage in outdoor activity, provided the persons comply with Social Distancing Requirements, such as, by way of example, golfing, tennis, pickle-ball, walking, hiking, running, bicycling, pleasure driving and working around their places of residence, including gardening.
- (i) To provide accommodations for persons who wish to golf as a form of outdoor activity, public and private golf courses may operate provided they strictly enforce Social Distancing Requirements and enforce the following additional protocols:
- (a) Motorized carts are not allowed;
 - (b) No more than four golfers (who need not be from the same household or living unit), are allowed per group and each group must be stable (i.e., persons may not substitute in or out

- of the group);
 - (c) A distance of at least 30 feet shall be maintained between groups of golfers at all times;
 - (d) All ball washers shall be covered and flag pins shall be removed and the cup on each green shall be inverted or otherwise installed to eliminate high-frequency touch surfaces on the greens and tees;
 - (e) Persons may use a driving range provided that range balls are properly sanitized before distribution to customers (stand-alone golf driving ranges may also operate) ;
 - (f) Practice putting greens shall remain closed;
 - (g) The “Pro Shop” or similar facility designed for the sale of golf-related equipment and supplies shall remain closed; and
 - (h) The snack shop(s) and restaurant(s) shall remain closed.
- (7) To perform work providing products and services at an Essential Business or to otherwise carry out activities specifically permitted in this Order, including Minimum Basic Operations and limited business operations.
- (8) To care for a family member or pet in another household.
- (9) To prepare and present a live-stream or other virtual communication by an organization or association to its members, including worship services. Staff of organizations or associations (who need not be of the same household or living unit), including faith-based organizations, may gather in a single space at the same time solely for the sole purpose of preparing and presenting live-stream or other virtual communications provided that the number of such staff is the fewest necessary to prepare and present those communications, but in no event in excess of ten (10) persons, and that Social Distancing Requirements are followed.

Anti-gathering clause. It is the intent of this Order that individual persons be permitted to engage in the above Essential Activities. Where an activity listed above expressly allows a specified number of persons to engage in an activity together, the number of persons expressly stated in the listed activity shall prevail, notwithstanding any other provision in this Order. Except as expressly permitted, however, all public and private gatherings of any number of persons occurring outside of a household or living unit are

prohibited. Nothing in this paragraph prohibits a gathering of two or more persons as necessary to perform or work for Essential Businesses, Essential Governmental Functions or Services, Minimum Basic Operations, or limited business operations. Further, nothing in this paragraph prohibits members of a single household or living unit from engaging in Essential Travel or Essential Activities together.

- b. Healthcare Operation. Persons may leave their places of residence to work for or obtain services at any “Healthcare Operation,” including hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other licensed healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers or any related and/or ancillary healthcare services, including blood donation centers.
- (1) “Healthcare Operation” includes professional services provided by chiropractors, acupuncturists, veterinarians and all healthcare services provided to animals.
 - (2) “Healthcare Operation” does not include fitness and exercise gyms, aquatic centers and similar facilities.
 - (3) This exemption shall be construed broadly to avoid any impacts to the delivery of healthcare, broadly defined.
- c. Essential Infrastructure. Persons may leave their places of residence to provide any services or perform any work necessary to the operations and maintenance of “Essential Infrastructure,” which means and includes, but is not limited to, public works construction, construction of housing (in particular affordable housing or housing for persons experiencing homelessness), construction of agricultural structures, airport and port operations, military installations, water, sewer, gas, electrical, oil and gas production and refining including associated businesses and activities, roads and highways, public transportation, solid waste collection and removal, funeral homes and cemeteries, internet and telecommunications systems (including the provision of essential global, national and local infrastructure for computing services, business infrastructure, communications and web-based services), provided that they carry out those services or that work in compliance with Social Distancing Requirements, to the extent possible. All U.S. Department of Defense activities are categorically exempt from this Order.

- d. Essential Governmental Functions or Services. Government functions or services performed by first responders, emergency management personnel, emergency dispatchers, court personnel, law enforcement personnel, and others who need to perform essential governmental functions or services, as such may be determined by the governmental entity performing those functions or services, shall be considered “Essential Governmental Functions or Services.” All persons who perform Essential Governmental Functions or Services are categorically exempt from this Order while performing such governmental functions or services. Further, nothing in this Order shall prohibit any person from performing or accessing Essential Governmental Functions or Services. Each governmental entity shall identify and designate appropriate employees or contractors to continue providing and carrying out any Essential Governmental Functions or Services. All Essential Governmental Functions or Services shall be performed in compliance with Social Distancing Requirements, to the extent possible.
- e. Essential Businesses. “Essential Businesses” means:
- (1) Healthcare Operations and Essential Infrastructure;
 - (2) Grocery stores, certified farmers’ markets, farm and produce stands, supermarkets, food banks, convenience stores and other establishments engaged in the retail sale of canned or frozen food, dry goods, beverages, fresh fruits and vegetables, pet supply, fresh meats, fish and poultry and any other household consumer products (such as cleaning and personal care products). This includes stores that sell groceries and also sell other non-grocery products and products necessary to maintaining the safety, sanitation and essential operation of places of residence;
 - (3) Any form of agricultural production and processing, including the cultivation of products for personal consumption or use, including farming and services provided by farmworkers, ranching, livestock, and fishing, as well as business activities that support production and processing by providing essential agricultural supplies and services, including transportation, manufacturing, equipment and services such as cooling, storing, packaging and distribution of such products for wholesale or retail sale, provided that, to the extent possible, such businesses comply with Social Distancing Requirements and

- otherwise provide for the health and safety of their employees;
- (4) Businesses that provide food, shelter and social services and other necessities of life for economically disadvantaged, compromised or otherwise needy persons;
 - (5) Newspapers and television, radio and other media services;
 - (6) Gas stations and auto-supply, auto-repair and related facilities;
 - (7) Banks and related financial institutions;
 - (8) Hardware stores;
 - (9) Plumbers, electricians, exterminators, house-cleaners, gardeners and other service providers who provide services that are necessary to maintain the safety, sanitation and essential operation of places of residence, Essential Activities and Essential Businesses;
 - (10) Businesses providing mailing and shipping services, including post office boxes;
 - (11) Educational institutions, including public and private K-12 schools, colleges and universities, for purposes of facilitating distance learning or performing essential functions, in compliance with Social Distancing Requirements, to the greatest extent possible;
 - (12) Laundromats, drycleaners and laundry service providers;
 - (13) Restaurants and other facilities that prepare and serve food, but only for delivery, pick-up or drive-thru. Schools and other entities that typically provide free food services to students or members of the public may continue to do so under this Order on the condition that the food is provided to students or members of the public on a pick-up and take-away basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site;
 - (14) Drive-thru car washes, provided the service is automated and no

- attendants or employees are involved in servicing the vehicles;
- (15) Businesses that supply other Essential Businesses with the support or supplies necessary to operate, including, by way of example, businesses that manufacture products for ultimate use in a Healthcare Operation;
 - (16) Businesses that ship or deliver groceries, food, goods or services directly to places of residence. This exemption shall not be used to allow for manufacturing or assembly of non-essential products or for other functions besides those necessary to the delivery operation;
 - (17) Airlines, taxis and other private transportation providers providing transportation services necessary for Essential Activities and other purposes expressly authorized in this Order;
 - (18) Home-based care for seniors, adults or children;
 - (19) Residential facilities and shelters for seniors, adults and children;
 - (20) Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities;
 - (21) Childcare facilities providing services that enable employees exempted in this Order to work as permitted. Childcare facilities must operate under the following mandatory conditions:
 - (i) Childcare must be carried out in stable groups of 12 or fewer (“stable” means that the same 12 or fewer children are in the same group each day).
 - (ii) Children shall not change from one group to another.
 - (iii) If more than one group of children is cared for at one facility, each group shall be in a separate room. Groups shall not mix with each other.
 - (iv) Childcare providers shall remain solely with one group of children.
 - (22) Hotels, motels, bed-and-breakfast establishments and other businesses that provide transient occupancy for visitors to the County, provided that such businesses require their patrons to stay in place as otherwise required by this Order.

- (23) Commercial construction provided that such activity implements Social Distancing Requirements to the extent feasible and otherwise provides for the health and safety of employees.
 - (24) Bicycle stores, including the sales of bicycles, parts and supplies, and the repair of bicycles. Bicycle rentals are not allowed.
 - (25) Service providers that enable residential real estate transactions (including rentals, leases and home sales), including, but not limited to, real estate agents, escrow agents, notaries and title companies, provided that appointments and other residential viewing must only occur virtually or, if virtual viewing is not feasible, by appointment with no more than two visitors at a time, both of whom must reside within the same household or living unit and one individual showing the unit (except in-person visits are not allowed when the occupant is present in the residence).
 - (26) Automobile dealerships and similar businesses with a primary business of automobile sales. In-person sales and long-term leasing transactions are allowed, as well as the operation of repair shops and auto-parts supply stores. Automobile rentals are not allowed. "Automobiles" include cars, trucks, recreational vehicles, motorcycles and motorized scooters.
 - (27) Household appliance stores.
 - (28) Shoe repair shops; in-person sales of other goods and services not allowed.
 - (29) Boat yards and other businesses that provide for safety, security and sanitation of boats stored at docks and marinas, including the repair of boats.
- f. Minimum Basic Operations. "Minimum Basic Operations" means and includes the following, provided that employees comply with Social Distancing Requirements, to the extent possible, while carrying out such operations:
- (1) The minimum necessary activities to maintain the value of the business's inventory, ensure security, process payroll and employee

benefits, or for related functions.

- (2) The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their places of residence.
- g. Essential Travel. “Essential Travel” means and includes travel within or without the County, or between the various counties, for any of the following purposes, subject to Social Distancing Requirements:
- (1) Any travel related to the provision of or access to Essential Activities (including outdoor activities), Essential Governmental Functions or Services, Essential Businesses, Minimum Basic Operations or limited business operations.
 - (2) Travel to care for elderly persons, minors, dependents, persons with disabilities or other vulnerable persons.
 - (3) Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals and any other related services.
 - (4) Travel to return to a place of residence from outside the County.
 - (5) Travel required by law enforcement or court order.
 - (6) Travel required for non-residents to return to their places of residence outside the County.
 - (7) Travel engaged in interstate commerce and otherwise subject to the provisions of the Commerce Clause of the United States Constitution.
- h. Hotels, etc. Places of residence include hotels, motels, shared rental units and similar facilities.
- i. Business. The terms “business” and “businesses” as used in this Order include any for-profit, non-profit or educational entities (including sole proprietorships, corporations, firms, partnerships, limited liability companies, joint stock companies, associations and other organizations of


persons), regardless of the nature of their services or the functions they perform.

- j. **Social Distancing Requirements.** “Social Distancing Requirements” means and includes maintaining at least a six-foot physical distance from other persons, washing hands with soap and water for at least 20 seconds or using hand sanitizer as frequently as possible, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces and not shaking hands.
18. **Commercial laboratory test results.** All commercial laboratories that test persons in the County for the presence of COVID-19 must report all test results (whether positive or negative) to the Ventura County Public Health Department laboratory within eight hours of receiving the test results.
19. **Compliance.** The violation of any provision of this Order constitutes a threat to public health and a public nuisance per se. Pursuant to Health and Safety Code sections 101040 and 120175, Civil Code section 3494 and Code of Civil Procedure section 731, the Health Officer or any other authorized County of Ventura official may enforce any violation of this Order and abate the public nuisance by obtaining injunctive relief from a court of competent jurisdiction. In addition, pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order.
20. **Violation may constitute unfair competition.** Any person that, after notice, operates, manages, maintains or occupies or continues to operate, manage, maintain or occupy, any business in violation of this Order, may, in addition or in the alternative to any other civil and criminal penalties allowed by law, be subject to liability under the Unfair Competition Law (chapter 5 of part 2 of division 7 of the Business and Professions Code, commencing at section 17200), and subject to civil penalties and other relief as provided therein, for each act or practice in violation of the Orders, or any of them.
21. **Most Restrictive Provisions of County and State Health Orders Enforcable.** This Order is issued in light of the March 19, 2020, State Shelter Order, which set baseline statewide restrictions on non-residential business activities effective until further notice, as well as the Governor's March 19, 2020 Executive Order N-33-20 directing California residents to follow the State Shelter Order. This County Health Officer Order adopts in certain respects more stringent restrictions addressing the

particular facts and circumstances in this County, which are necessary to control the public health emergency as it is evolving within the County and the south coast region. Where a conflict exists between this Order and any state public health order related to the COVID-19 pandemic, the most restrictive provision controls.

- 22. **Effective date and time.** This Order shall become effective and operative at 11:59 p.m. on April 20, 2020, and will continue to be in effect until 11:59 p.m. on May 15, 2020, or until it is extended, rescinded, superseded or amended in writing by the Health Officer.
- 23. **Continuing assessment.** The Health Officer will continue to assess the quickly evolving situation, may issue additional orders related to COVID-19 and will review this Order within two weeks of its effective date.
- 24. **Copies of Order.** Copies of this Order shall promptly be: (1) made available at the County of Ventura Public Health Office, 2240 East Gonzalez Road, Suite 210, Oxnard, California, 93036; (2) posted on the Ventura County Public Health Department website (available at www.vchca.org/ph); and (3) provided to any member of the public requesting a copy of this Order.
- 25. **Severability.** If any provision of this Order or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:


Robert Levin, M.D.
Ventura County Health Officer

Dated: April 20, 2020

Attachment: Appendix A: Social Distancing Protocol

4/26/2020

WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020



WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020

11 March 2020

Good afternoon.

In the past two weeks, the number of cases of COVID-19 outside China has increased 13-fold, and the number of affected countries has tripled.

There are now more than 118,000 cases in 114 countries, and 4,291 people have lost their lives.

Thousands more are fighting for their lives in hospitals.

In the days and weeks ahead, we expect to see the number of cases, the number of deaths, and the number of affected countries climb even higher.

4/26/2020

WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020

WHO has been assessing this outbreak around the clock and we are deeply concerned both by the alarming levels of spread and severity, and by the alarming levels of inaction.

We have therefore made the assessment that COVID-19 can be characterized as a pandemic.

Pandemic is not a word to use lightly or carelessly. It is a word that, if misused, can cause unreasonable fear, or unjustified acceptance that the fight is over, leading to unnecessary suffering and death.

Describing the situation as a pandemic does not change WHO's assessment of the threat posed by this virus. It doesn't change what WHO is doing, and it doesn't change what countries should do.

We have never before seen a pandemic sparked by a coronavirus. This is the first pandemic caused by a coronavirus.

And we have never before seen a pandemic that can be controlled, at the same time.

WHO has been in full response mode since we were notified of the first cases.

And we have called every day for countries to take urgent and aggressive action.

We have rung the alarm bell loud and clear.

===

As I said on Monday, just looking at the number of cases and the number of countries affected does not tell the full story.

Of the 118,000 cases reported globally in 114 countries, more than 90 percent of cases are in just four countries, and two of those – China and the Republic of Korea - have significantly declining epidemics.

81 countries have not reported any cases, and 57 countries have reported 10 cases or less.

4/26/2020

WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020

We cannot say this loudly enough, or clearly enough, or often enough: all countries can still change the course of this pandemic.

If countries detect, test, treat, isolate, trace, and mobilize their people in the response, those with a handful of cases can prevent those cases becoming clusters, and those clusters becoming community transmission.

Even those countries with community transmission or large clusters can turn the tide on this virus.

Several countries have demonstrated that this virus can be suppressed and controlled.

The challenge for many countries who are now dealing with large clusters or community transmission is not whether they can do the same – it's whether they will.

Some countries are struggling with a lack of capacity.

Some countries are struggling with a lack of resources.

Some countries are struggling with a lack of resolve.

We are grateful for the measures being taken in Iran, Italy and the Republic of Korea to slow the virus and control their epidemics.

We know that these measures are taking a heavy toll on societies and economies, just as they did in China.

All countries must strike a fine balance between protecting health, minimizing economic and social disruption, and respecting human rights.

WHO's mandate is public health. But we're working with many partners across all sectors to mitigate the social and economic consequences of this pandemic.

This is not just a public health crisis, it is a crisis that will touch every sector – so every sector and every individual must be involved in the fight.

4/26/2020

WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020

I have said from the beginning that countries must take a whole-of-government, whole-of-society approach, built around a comprehensive strategy to prevent infections, save lives and minimize impact.

Let me summarize it in four key areas.

First, prepare and be ready.

Second, detect, protect and treat.

Third, reduce transmission.

Fourth, innovate and learn.

I remind all countries that we are calling on you to activate and scale up your emergency response mechanisms;

Communicate with your people about the risks and how they can protect themselves – this is everybody's business;

Find, isolate, test and treat every case and trace every contact;

Ready your hospitals;

Protect and train your health workers.

And let's all look out for each other, because we need each other.

===

There's been so much attention on one word.

Let me give you some other words that matter much more, and that are much more actionable.

4/26/2020

WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020

Prevention.

Preparedness.

Public health.

Political leadership.

And most of all, people.

We're in this together, to do the right things with calm and protect the citizens of the world. It's doable.

I thank you.

Subscribe to the WHO newsletter →

STAY WELL AT HOME

ORDER OF THE VENTURA COUNTY HEALTH OFFICER

ORDER PROHIBITING ALL GATHERINGS, ADDING TO THE LIST OF ESSENTIAL BUSINESSES, AND REQUIRING IMPLEMENTATION OF SOCIAL DISTANCING PROTOCOLS

DATE OF ORDER: APRIL 9, 2020

Please read this Order carefully. This Order supplements the Health Officer’s Orders dated March 17, 20 and 31, 2020. All prior Orders issued by the Health Officer remain in effect except where inconsistent with the provisions of this Order, in which case the provisions of this Order shall apply.

Pursuant to Health and Safety code section 120295 et seq., violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment or both.

PURSUANT TO SECTIONS 101040, 101085 AND 120175 OF THE HEALTH AND SAFETY CODE, THE HEALTH OFFICER OF VENTURA COUNTY HEREBY ORDERS AS FOLLOWS:

1. **Intent.** The intent of this Order is to ensure that the maximum number of people stay in their places of residence to the maximum extent feasible to slow the spread of COVID-19 and mitigate the impact of the COVID-19 pandemic on the delivery of critical healthcare services to those in need. All provisions of this Order must be interpreted to effectuate this intent.
2. **Summary of this Order.** This Order supplements and amends existing orders by, among other things: (a) prohibiting all gatherings, no matter the size, outside of places of residences with limited exceptions; (b) adding certain businesses to the list of essential businesses; (c) requiring essential businesses to adopt and implement social distancing protocols; (d) providing guidance for hospital holding units and long-term care facilities; and (e) declaring that violations of Health Officer Orders constitute a nuisance.
3. **All Gatherings prohibited.** Notwithstanding any other Order, all public and private gatherings of two or more persons occurring outside a single household or living unit are prohibited, except for limited purposes expressly permitted in this Order. This section supersedes and replaces Section 5 of the March 20, 2020, Order.
 - a. “Gathering” means and is defined as any event or convening that brings together two or more persons in a single room or single space at the same time, including, but not limited to, an auditorium, stadium, golf course, arena, theater, church, casino, conference room, meeting hall, cafeteria, drive-in theater, parking lot, or any other indoor or outdoor space used for non-essential purposes, including, but not limited to, movies, church services, swap meets or

similar purposes.

b. Nothing in this section prohibits members of a single household or living unit from engaging in Essential Travel or Essential Activities together.

c. Nothing in this section prohibits an event or convening that brings together two or more people as necessary to operate an Essential Business or to perform Essential Governmental Functions or Services.

d. Gatherings of 10 or fewer persons are permitted at graveside funeral services.

e. Staff of organizations or associations, including faith-based organizations, may gather in a single space for the sole purpose of preparing and facilitating live-stream or other virtual communications with their members, including worship services, provided that the number of such staff is the fewest necessary to prepare and facilitate those communications, but in no event in excess of seven persons.

4. Additions to List of Essential Businesses. The following subsections are added to the list of essential businesses set forth in section 7, subpart (e) of the March 20, 2020, Order:

(xxiv) Bicycle repair and supply shops. Bicycle shops may engage in the sale of bicycles on-line only and provided that all bicycles are delivered to a place of residence or Essential Business.

(xxv) Service providers that enable residential real estate transactions (including rentals, leases and home sales), including, but not limited to, real estate agents, escrow agents, notaries, and title companies, provided that appointments and other residential viewings must only occur virtually or, if virtual viewing is not feasible, by appointment with no more than two visitors at a time, both whom must reside within the same household or living unit, and one individual showing the unit (except in-person visits are not allowed when the occupant is present in the residence).

(xxvi) Automotive dealerships may engage in the purchase and sale of automobiles (including cars, trucks, motorcycles and motorized scooters) on-line only and provided that all vehicles are delivered to a place of residence or Essential Business.

5. All Essential Businesses must have Social Distancing Protocol. All Essential Businesses must prepare and post by no later than April 12, 2020, a “Social Distancing Protocol” for each of their facilities in the County frequented by the public or employees. The Social Distancing Protocol must be posted at or near the entrance of the relevant facility and shall be easily viewable by the public and employees. A copy of the Social Distancing Protocol must also be provided to each employee performing work at the facility. All Essential Businesses shall implement the Social Distancing Protocol and provide evidence of its implementation to any authority enforcing this Order upon demand. Completion and posting of the form attached hereto as Appendix A: Social Distancing Protocol will be compliant with this Order. The

Social Distancing Protocol must explain how the business is achieving the following, as applicable:

- a. Limiting the number of persons who can enter into the facility and work areas at any one time to ensure that persons in the facility and work areas can easily maintain a minimum six-foot distance from one another at all times, except as required to complete the Essential Business activity;
- b. Where lines may form at a facility, marking increments of six feet, at a minimum, establishing where individuals must stand to maintain adequate social distancing;
- c. Providing hand sanitizer, soap and water, or other effective disinfectant at or near the entrance of the facility and in other appropriate areas for use by the public and employees and in locations where there is high-frequency employee interaction with the public (e.g., cashiers);
- d. Providing for contactless payment systems or, if not feasible to do so, providing for disinfecting all payment portals, pens and styluses after each use;
- e. Regularly cleaning and disinfecting other high-touch surfaces;
- f. Posting a sign at the entrance of the facility and work area informing the public and employees that they should avoid entering the facility if they have a cough or fever; maintain a minimum six-foot distance from one another; sneeze and cough into their elbow; and not shake hands or engage in unnecessary physical contact; and
- g. Any additional social distancing measures being implemented.

6. Hospitals and Long-Term Care Facilities. The Health Officer recognizes the authority of the guidance documents “Hospital Holding Unit Guidance for COVID-19” and “Long-Term Care Facility Guidance for Preventing and Managing COVID-19” (the current versions of which are available at www.vcemergency.com) and strongly advises all hospitals and Long-Term Care Facilities (as that term is defined in section 7.a of the March 31, 2020, Order) to comply with the guidance.

7. Violation may constitute unfair competition. Any person that, after notice, operates, manages, maintains or occupies, or continues to operate, manage, maintain or occupy, any business in violation of this Order, in addition or in the alternative to any other civil and criminal penalties allowed by law, be subject to liability under the Unfair Competition Law (chapter 5 of part 2 of division 7 of the Business and Professions Code, commencing at section 17200) and subject to civil penalties and other relief as provided therein, for each act or practice in violation of the Orders, or any of them.

8. Compliance. The violation of any provision of this Order constitutes a threat to public health and a public nuisance per se. Pursuant to Health and Safety Code sections 101040 and 120175, Civil Code section 3494 and Code of Civil Procedure section 731, the Health Officer

or any other authorized County official may enforce any violation of this Order and abate the public nuisance by obtaining injunctive relief from a court of competent jurisdiction. In addition, pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order.

9. Effective date and time. This Order shall become effective and operative at 11:59 p.m. on April 9, 2020, and will continue to be in effect until 11:59 p.m. on April 19, 2020, or until it is extended, rescinded, superseded or amended in writing by the Health Officer.

10. Continuing assessment. The Health Officer will continue to assess the quickly evolving situation regarding the spread of COVID-19, may issue additional orders related to COVID-19 and will review this Order prior to its expiration.

11. Copies of Order. Copies of this Order shall promptly be: (1) made available at the County of Ventura Public Health Office, 2240 East Gonzalez Road, Suite 210, Oxnard, California, 93036; (2) posted on the County Public Health Department website (available at www.vchca.org/ph); and (3) provided to any member of the public requesting a copy of this Order.

12. Severability. If any provision of this Order, or the application thereof to any person or circumstance, is held to be invalid by a court of competent jurisdiction, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED



Robert Levin, M.D.
Ventura County Health Officer

Dated: April 9, 2020

Attachment: Appendix A: Social Distancing Protocol

STAY WELL AT HOME

ORDER OF THE VENTURA COUNTY HEALTH OFFICER

ORDER EXTENDING THE HEALTH OFFICER’S ORDER DATED MARCH 17, 2020, AND IMPOSING ADDITIONAL LIMITATIONS ON ACTIVITIES AND BUSINESSES

DATE OF ORDER: MARCH 31, 2020

Please read this Order carefully. This Order extends the expiration date of the Health Officer’s March 17, 2020, Order to April 19, 2020, and imposes additional limitations on the activities of persons and entities. The Health Officer’s March 20, 2020, Order remains in place, except where inconsistent with more restrictive limitations set out in this Order.

Pursuant to Health and Safety Code section 120295 et seq., violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both.

PURSUANT TO SECTIONS 101040, 101085 AND 120175 OF THE HEALTH AND SAFETY CODE, THE HEALTH OFFICER OF VENTURA COUNTY HEREBY ORDERS AS FOLLOWS:

1. Intent. The intent of this Order is to (a) extend the duration of the Health Officer’s Order dated March 17, 2020, to April 19, 2020; (b) keep the Health Officer’s March 20, 2020, Order in place except that any more restrictive limitations in this Order shall control; (c) impose new and additional limitations on the activities of persons and entities that are more restrictive than the existing orders; and (d) clarify that a violation of the Health Officer’s Orders by a business may subject the business to liability under the state’s unfair competition law as well as other civil and criminal penalties.

The main intent of all Orders, including this Order, is to limit the spread of COVID-19 to the maximum extent possible by keeping all persons in their places of residence to the maximum extent possible. Failure to comply with any of the provisions of these Orders constitutes an imminent threat to public health.


2. March 17, 2020, and March 20, 2020, Orders. This Order supplements and extends the Orders dated March 17, 2020, and March 20, 2020, both of which shall remain in full force and effect, except where inconsistent with more restrictive limitations set out in this Order, for the duration of this Order.
3. Procedures for take-out restaurants and entities. Licensed, permanent food facilities that have been allowed under the current Orders to prepare and offer food via delivery service, pick-up or drive-thru must comply with the following procedures:

- a. Containers required. All food must be completely contained in a suitable container before being transferred to a customer. For example, ice cream cones are not allowed; ice cream scoops in a covered container are allowed.
 - b. Must consume food away from premises. The exception for take-out food activities is designed to enable persons who are confined to their places of residence to obtain prepared food to take back to their places of residence for consumption. The take-out food shall not be consumed anywhere within the line-of-sight of a person standing in front of the facility that sold the food.
 - c. Six-foot spacing must be maintained. All persons waiting in line or otherwise congregating outside a food facility selling food via take-out, delivery or drive-thru shall maintain a distance of at least six feet from all other persons. Current Orders already require that all persons inside the facility must maintain a distance of at least six feet from other persons.
4. Essential Businesses must limit activities to essential goods and services. The March 20, 2020, Order required all businesses, except Essential Businesses, to close. The primary purpose for this exception is to provide support for persons required to stay at home or work from home. In some cases, business types were deemed essential because they supported the maintenance of Essential Infrastructure, Essential Governmental Functions or Services, or Healthcare Operations. However, it is determined that the activities of businesses deemed to be Essential Businesses should be limited to the provision of those goods and services essential to the overall intent of the Health Officer's Orders. Therefore:
 - a. Grocery stores, certified farmers' markets, farm and produce stands, supermarkets, convenience stores and other establishments that sell food, beverages, pet supplies or household products (such as cleaning and personal care products) necessary to the safe, sanitary and essential operation of places of residence, that are open to the public, shall not sell any goods other than those described in this subsection (a). The sale of items not listed herein, such as clothing, jewelry, sporting goods, furniture, etc., is prohibited.
 - b. Only businesses whose primary business is the sale of food, beverages, pet supplies or household products (such as cleaning and personal care products) qualify as an Essential Business under subdivision (a) above. For example, a tobacco or vape store that sells a minimal amount of snacks and water as a side business does not qualify as a grocery store, convenience store or similar establishment. Items, the sale of which constitutes less than 33 percent of a business's gross sales over the last six months, are deemed to be minimal.
 - c. Automobile dealerships may remain open only to operate repair shops and/or auto parts supply stores. Showroom facilities shall be closed, and on-premise sales activities shall cease.
5. Swimming pools and hot tubs to close. The following facilities shall be closed to all persons: All swimming pools, spas, hot tubs, saunas, steam rooms and similar facilities, except those located at a single-family residence, which shall be used only by members of the household residing at the single-family residence.

6. Campgrounds and RV parks to close. All public and private campgrounds and recreational vehicle (RV) parks are to close, except that persons who certify that their RV is their primary residence may be permitted to stay in the RV park. All persons residing in an RV shall comply with all Orders otherwise applicable to residents.
7. Admittance to long-term care facilities. Long-Term Care Facilities may not refuse to admit any person who has been diagnosed with or treated for COVID-19 after that person has been discharged from a health care facility and approved for admittance to a Long-Term Care Facility by the Ventura County Public Health Department.
 - a. For purposes of this section, “Long-Term Care Facility” means a long-term care facility, skilled nursing facility, intermediate care facility, congregate living health facility, nursing facility, hospice facility, residential care facility for the elderly, residential facility, or community care facility as defined in Health and Safety Code sections 1250, 1502, 1503.5 and 1569, and regulations promulgated thereunder, as they may be amended from time to time.
8. Door-to-door solicitations must cease. Door-to-door solicitations, whether for purposes of sales of goods or services, charitable contributions, signature-gathering or any other commercial or noncommercial purpose, do not constitute Essential Activities or Essential Businesses pursuant to the Order dated March 20, 2020, and, if currently occurring, are occurring in violation of that Order and shall immediately cease.
9. Retail food and beverage facilities. The Public Health Officer recognizes the authority of the Ventura County Environmental Health Division as stated in “Coronavirus COVID-19 Guidance for Food Facilities,” and strongly advises all food and beverage facilities to comply with the guidance.
10. Definition of businesses. The terms “business” and “businesses” as used in this Order and the Orders dated March 17, 2020, and March 20, 2020, include any for-profit, non-profit or educational entities (including sole proprietorships, corporations, firms, partnerships, limited liability companies, joint stock companies, associations and other organizations of persons), regardless of the nature of their services or the functions they perform.
11. Violation may constitute unfair competition. Any person that, after notice, operates, manages, maintains or occupies, or continues to operate, manage, maintain or occupy, any business in violation of this Order, the Order dated March 17, 2020, or the Order dated March 20, 2020, may, in addition or in the alternative to any other civil and criminal penalties allowed by law, be subject to liability under the Unfair Competition Law (chapter 5 of part 2 of division 7 of the Business and Professions Code, commencing at section 17200), and subject to civil penalties and other relief as provided therein, for each act or practice in violation of the Orders, or any of them.

- 12. Compliance. The violation of any provision of this Order constitutes a threat to public health. Pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order.
- 13. Effective date and time. This Order shall become effective and operative at 11:59 p.m. on March 31, 2020, and will continue to be in effect until 11:59 p.m. on April 19, 2020, or until it is extended, rescinded, superseded or amended in writing by the Health Officer.
- 14. Continuing assessment. The Health Officer will continue to assess the quickly evolving situation regarding the spread of COVID-19, may issue additional orders related to COVID-19 and will review this Order within two weeks of its effective date.
- 15. Copies of Order. Copies of this Order shall promptly be: (1) made available at the County of Ventura Public Health Office, 2240 East Gonzalez Road, Suite 210, Oxnard, California, 93036; (2) posted on the County Public Health Department website (available at www.vchca.org/ph); and (3) provided to any member of the public requesting a copy of this Order.
- 16. Severability. If any provision of this Order or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:



 Robert Levin, M.D.
 Ventura County Health Officer

Dated: March 31, 2020

STAY WELL AT HOME

ORDER OF THE VENTURA COUNTY HEALTH OFFICER

ORDER DIRECTING PERSONS LIVING IN THE COUNTY OF VENTURA TO STAY AT THEIR PLACES OF RESIDENCE AND RESTRICTING NON-ESSENTIAL ACTIVITIES IN RESPONSE TO COVID-19

DATE OF ORDER: MARCH 20, 2020

Please read this Order carefully. This Order supplements the Health Officer’s Order dated March 17, 2020, and the Governor’s Executive Order N-33-20 dated March 19, 2020. All prior orders of the Health Officer remain in place.

PURSUANT TO SECTIONS 101040, 101085 AND 120175 OF THE HEALTH AND SAFETY CODE, THE HEALTH OFFICER OF VENTURA COUNTY HEREBY ORDERS AS FOLLOWS:

1. Intent. Consistent with the Governor’s Executive Order N-33-20, the intent of this Order is to ensure that the maximum number of persons stay in their places of residence to the maximum extent feasible, while enabling essential services to continue, to slow the spread of COVID-19 to the maximum extent possible. When persons need to leave their places of residence, whether to obtain or perform vital services, or to otherwise facilitate authorized activities necessary for continuity of social and commercial life, they should at all times reasonably possible comply with Social Distancing Requirements as defined below. All provisions of this Order should be interpreted to effectuate this intent and to be consistent with and in furtherance of the Governor’s Executive Order N-33-20. Failure to comply with any of the provisions of this Order constitutes an imminent threat to public health.
2. Persons to stay in places of residence. All persons currently living within Ventura County are ordered to stay at their places of residence, as required by the Governor’s Executive Order N-33-20, subject to the exemptions set forth in this Order. This Order applies to all persons in the incorporated cities and the entire unincorporated area of Ventura County (the “County”). To the extent persons are outside of their places of residence, they must at all times as reasonably possible maintain a physical distance of at least six feet from any other person.

Persons of all ages may leave their places of residence for the purpose of physical activity by themselves or with members of their household in compliance with Social Distancing Requirements, such as walking, running, bicycling or working around their places of residence, including gardening. Persons experiencing homelessness are exempt from this section, but are strongly urged to obtain shelter, and governmental and other entities are strongly urged to make such shelter available as soon as possible and to the maximum extent practicable (and to use Social Distancing Requirements in their operation).

3. Exemptions to the order to stay in places of residence. Except for persons governed by section 1 of the Health Officer's Order dated March 17, 2020, persons may leave their places of residence only for Essential Activities and Essential Governmental Functions or Services or to operate or work at Essential Businesses. (All capitalized terms in this Order are defined in section 7 below.)
4. Businesses to close. All businesses with a facility in the County, except Essential Businesses, are required to cease all activities at facilities located within the County except Minimum Basic Operations. For clarity, businesses may continue operations consisting exclusively of employees or contractors performing activities at their own places of residence. All Essential Businesses are strongly encouraged to remain open. To the greatest extent feasible, Essential Businesses shall comply with Social Distancing Requirements, including for any customers standing in line. For the purposes of this Order, businesses as used in this section include any for-profit, non-profit or educational entities, regardless of the nature of their services, the functions they perform, or their corporate or entity structure.
5. Gatherings of more than 10 persons prohibited. All public and private gatherings of more than 10 persons who are not part of a single household or living unit are prohibited, except for gatherings as part of the operation of an Essential Business. Nothing in this Order prohibits the gathering of members of a household or living unit within a place of residence or the operation of a shelter for persons experiencing homelessness.
6. Travel prohibited. All travel, including, but not limited to, travel on motorcycle, automobile or public transit, except for Essential Travel and Essential Activities, is prohibited. Persons may use public transit only for purposes of performing Essential Activities or to travel to and from work at Essential Businesses or to maintain, provide or receive Essential Governmental Functions or Services. Persons riding on public transit must comply with Social Distancing Requirements, to the greatest extent feasible. This Order allows travel into or out of the County to perform Essential Activities, operate Essential Businesses or to maintain or provide Essential Governmental Functions or Services.
7. Definitions and exemptions.

For the purposes of this Order:

- a. Essential Activities. Persons may leave their places of residence only to perform any of the following "Essential Activities" (but persons at high risk of severe illness from COVID-19 and persons who are sick are urged to stay in their places of residence to the extent possible except as necessary to seek medical care):
 - i. To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members (including pets), such as, by way of example, obtaining medical supplies

- or medication, visiting a health care professional, or obtaining supplies needed to work from a place of residence.
- ii. To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example, canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish and poultry, and any other household consumer products, and products necessary to maintain the safety, sanitation, and essential operation of places of residence.
 - iii. To engage in outdoor activity, provided the persons comply with Social Distancing Requirements, such as, by way of example, walking, hiking, running, bicycling or yard work.
 - iv. To perform work providing products and services at an Essential Business or to otherwise carry out activities specifically permitted in this Order, including Minimum Basic Operations.
 - v. To care for a family member or pet in another household.
- b. Healthcare Operation. Persons may leave their places of residence to work for or obtain services at any “Healthcare Operation,” including hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other licensed healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, or any related and/or ancillary healthcare services, including blood donation centers. “Healthcare Operation” also includes veterinary care and all healthcare services provided to animals. This exemption shall be construed broadly to avoid any impacts to the delivery of healthcare, broadly defined. “Healthcare Operation” does not include fitness and exercise gyms, aquatic centers and similar facilities.
- c. Essential Infrastructure. Persons may leave their places of residence to provide any services or perform any work necessary to the operations and maintenance of “Essential Infrastructure,” which means and includes, but is not limited to, public works construction, construction of housing (in particular affordable housing or housing for persons experiencing homelessness), airport and port operations, military installations, water, sewer, gas, electrical, oil and gas production and refining including associated businesses and activities, roads and highways, public transportation, solid waste collection and removal, funeral homes and cemeteries, internet, and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services), provided that they carry out those services or that work in compliance with Social Distancing Requirements, to the extent possible. All U.S. Department of Defense activities are categorically exempt from this Order.
- d. Essential Governmental Functions or Services. Government functions or services performed by first responders, emergency management personnel, emergency dispatchers, court personnel, and law enforcement personnel, and others who need to perform essential governmental functions or services, as such may be

determined by the governmental entity performing those functions or providing such services, shall be considered “Essential Governmental Functions or Services.” All persons who perform Essential Governmental Functions or Services are categorically exempt from this Order. Further, nothing in this Order shall prohibit any person from performing or accessing Essential Governmental Functions or Services. Each governmental entity shall identify and designate appropriate employees or contractors to continue providing and carrying out any Essential Governmental Functions or Services. All Essential Governmental Functions or Services shall be performed in compliance with Social Distancing Requirements, to the extent possible.

- e. Essential Businesses. “Essential Businesses” means:
- i. Healthcare Operations and Essential Infrastructure;
 - ii. Grocery stores, certified farmers’ markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of canned or frozen food, dry goods, beverages, fresh fruits and vegetables, pet supply, fresh meats, fish and poultry, and any other household consumer products (such as cleaning and personal care products). This includes stores that sell groceries and also sell other non-grocery products, and products necessary to maintaining the safety, sanitation and essential operation of places of residence;
 - iii. Any form of agricultural production and processing, including the cultivation of products for personal consumption or use, including farming and services provided by farmworkers, ranching, livestock, and fishing, as well as business activities that support production and processing by providing essential agricultural supplies and services, including transportation, manufacturing, equipment, and services such as cooling, storing, packaging, and distribution of such products for wholesale or retail sale, provided that, to the extent possible, such businesses comply with Social Distancing Requirements and otherwise provide for the health and safety of their employees;
 - iv. Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged, compromised or otherwise needy persons;
 - v. Newspapers and television, radio, and other media services;
 - vi. Gas stations and auto-supply, auto-repair, and related facilities;
 - vii. Banks and related financial institutions;
 - viii. Hardware stores;
 - ix. Plumbers, electricians, exterminators and other service providers who provide services that are necessary to maintaining the safety, sanitation and essential operation of places of residence, Essential Activities and Essential Businesses;
 - x. Businesses providing mailing and shipping services, including post office boxes;
 - xi. Educational institutions, including public and private K-12 schools, colleges, and universities, for purposes of facilitating distance learning or

- performing essential functions, in compliance with Social Distancing Requirements, to the greatest extent possible;
- xii. Laundromats, drycleaners and laundry service providers;
 - xiii. Restaurants and other facilities that prepare and serve food, but only for delivery or carry out. Schools and other entities that typically provide free food services to students or members of the public may continue to do so under this Order on the condition that the food is provided to students or members of the public on a pick-up and take-away basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site;
 - xiv. Businesses that supply products needed for persons to work from their places of residence;
 - xv. Businesses that supply other Essential Businesses with the support or supplies necessary to operate, including, by way of example, businesses that manufacture products for ultimate use in a Healthcare Operation;
 - xvi. Businesses that ship or deliver groceries, food, goods or services directly to places of residence;
 - xvii. Airlines, taxis and other private transportation providers providing transportation services necessary for Essential Activities and other purposes expressly authorized in this Order;
 - xviii. Home-based care for seniors, adults or children;
 - xix. Residential facilities and shelters for seniors, adults and children;
 - xx. Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities;
 - xxi. Childcare facilities providing services that enable employees exempted in this Order to work as permitted. Childcare facilities must operate under the following mandatory conditions:
 - 1. Childcare must be carried out in stable groups of 12 or fewer (“stable” means that the same 12 or fewer children are in the same group each day).
 - 2. Children shall not change from one group to another.
 - 3. If more than one group of children is cared for at one facility, each group shall be in a separate room. Groups shall not mix with each other.
 - 4. Childcare providers shall remain solely with one group of children.
 - xxii. Hotels, motels, bed-and-breakfast establishments and other businesses that provide transient occupancy for visitors to the County, provided that such businesses require their patrons to stay in place as otherwise required by this Order.
 - xxiii. Commercial construction provided that such activity implements Social Distancing Requirements to the extent feasible and otherwise provides for the health and safety of employees.

- f. Minimum Basic Operations. “Minimum Basic Operations” means and includes the following, provided that employees comply with Social Distancing Requirements, to the extent possible, while carrying out such operations:
 - i. The minimum necessary activities to maintain the value of the business’s inventory, ensure security, process payroll and employee benefits, or for related functions.
 - ii. The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their places of residence.

 - g. Essential Travel. “Essential Travel” means and includes travel within or without the County, or between the various counties, for any of the following purposes, subject to Social Distancing Requirements:
 - i. Any travel related to the provision of or access to Essential Activities, Essential Governmental Functions or Services, Essential Businesses or Minimum Basic Operations.
 - ii. Travel to care for elderly persons, minors, dependents, persons with disabilities, or other vulnerable persons.
 - iii. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services.
 - iv. Travel to return to a place of residence from outside the County.
 - v. Travel required by law enforcement or court order.
 - vi. Travel required for non-residents to return to their places of residence outside the County.
 - vii. Travel engaged in interstate commerce and otherwise subject to the provisions of the Commerce Clause of the United States Constitution.

 - h. Hotels, etc. Places of residence include hotels, motels, shared rental units and similar facilities.

 - i. Social Distancing Requirements. “Social Distancing Requirements” means and includes maintaining at least a six-foot physical distance from other persons, washing hands with soap and water for at least 20 seconds or using hand sanitizer as frequently as possible, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands.
8. Commercial laboratory test results. All commercial laboratories that test persons in the County for the presence of COVID-19 must report all test results (whether positive or negative) to the County Public Health Department laboratory within eight hours of receiving the test results.
9. Compliance. The violation of any provision of this Order constitutes a threat to public health. Pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order.

- 10. Effective date and time. This Order shall become effective and operative at 11:59 p.m. on March 20, 2020, and will continue to be in effect until 11:59 p.m. on April 19, 2020, or until it is extended, rescinded, superseded or amended in writing by the Health Officer.
- 11. Continuing assessment. The Health Officer will continue to assess the quickly evolving situation, may issue additional orders related to COVID-19 and will review this Order within two weeks of its effective date.
- 12. Copies of Order. Copies of this Order shall promptly be: (1) made available at the County of Ventura Public Health Office, 2240 East Gonzalez Road, Suite 210, Oxnard, California, 93036; (2) posted on the County Public Health Department website (available at www.vchca.org/ph); and (3) provided to any member of the public requesting a copy of this Order.
- 13. Severability. If any provision of this Order or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.
- 14. March 17, 2020, Order. This Order supplements the Order dated March 17, 2020, which remains in full force and effect pursuant to its terms.

IT IS SO ORDERED:



Robert Levin, M.D.
Ventura County Health Officer

Dated: March 20, 2020

Pursuant to Health and Safety Code section 120295 et seq., violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both.

**HEALTH OFFICER ORDER FOR THE CONTROL OF COVID-19
DIRECTING VULNERABLE INDIVIDUALS LIVING IN
THE COUNTY TO SHELTER AT THEIR PLACE OF RESIDENCE,
RESTRICTIONS OF CERTAIN BUSINESSES, AMONG OTHER ORDERS
DATE OF ORDER: MARCH 17, 2020**

Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both, pursuant to Health and Safety Code section 120295 et seq.

WHEREAS, the intent of this Order is to strengthen the steps the County of Ventura has already taken to protect our residents and particularly the most vulnerable in our population from COVID-19; and

WHEREAS, on March 15, 2020 Governor Gavin Newsom announced that California is taking additional measures to protect those most at risk of serious, life-threatening complications from COVID-19, including urging those most vulnerable to COVID-19 to socially isolate at home, such as people age 65 and older and those with underlying medical conditions that make them more susceptible to serious illness from the coronavirus; and

WHEREAS, the intent of this Order is to ensure that specified individuals self-isolate in their places of residence to the maximum extent feasible to slow the spread of COVID-19 to the maximum extent possible, and all provisions of this Order should be interpreted to effectuate this intent; and

WHEREAS, social isolation is considered useful as a tool to control the spread of pandemic viral infections; and

WHEREAS, social isolation is the shared responsibility of all individuals in the County; and

WHEREAS, this Order is issued based on evidence of increasing occurrence of COVID-19 within the County and scientific evidence that the age, condition, and health of a significant portion of the population of the County places it at risk for serious health complications, including death, from COVID-19; and

WHEREAS, the scientific evidence shows that at this stage of the emergency, it is essential to slow virus transmission as much as possible to protect the most vulnerable and to prevent the health care system from being overwhelmed and that one proven way to slow the transmission is to limit interactions among people to the greatest extent practicable;

WHEREAS, by reducing the spread of the COVID-19 virus, this Order also helps preserve critical and limited healthcare capacity in the County; and

WHEREAS, this Order comes after the release of substantial guidance from the Centers for Disease Control and Prevention, the California Department of Public Health, and other public

health officials throughout the United States and around the world, including a variety of prior orders to combat the spread and harms of COVID-19;

NOW, THEREFORE, PURSUANT TO SECTIONS 101040, 101085 AND 120175 OF THE HEALTH AND SAFETY CODE, IT IS HEREBY ORDERED AS FOLLOWS:

1. All individuals currently living within Ventura County, equal to or older than 75 years of age, or equal to or older than 70 years of age with an active or unstable comorbidity, are ordered to shelter at their place of residence from March 18, 2020 to April 1, 2020. To the extent such individuals are using shared or outdoor spaces, they must at all times as reasonably possible maintain physical distancing of at least six feet from any other person. Exceptions shall only exist as necessary to seek medical care, nutrition, or to perform essential work in healthcare or government.
2. All permanent food facilities, as defined by Health and Safety Code § 113849, may only prepare and offer food that is provided to customers via delivery service, via pick-up for takeout dining, and via drive-thru. Bars and nightclubs that offer food to consumers may remain open only for purposes of continuing to prepare and offer food to consumers via delivery service, via pick-up, or via drive-thru. Permanent food facilities that provide and offer food to consumers for pick up must require patrons or groups of patrons who are ordering food and beverages to be and remain at least six (6) feet apart from each other while inside the facility.
3. The following types of businesses are ordered to close (March 18, 2020 to April 1, 2020):
 - a. Bars and nightclubs that do not serve food.
 - b. Movie theaters, live performance venues, bowling alleys, and arcades.
 - c. Gyms, and fitness centers, and aquatic centers.
 - d. Wineries, breweries, and tap rooms that provide tastings.
4. This Order is issued in accordance with, and incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Newsom, the March 12, 2020 Declaration of Local Health Emergency issued by the Health Officer, the March 17, 2020 Resolution of the Board of Supervisors of the County of Ventura Proclaiming a Local Emergency and Ratifying and Extending the Declaration of a Local Health Emergency, the March 12, 2020 State of California Executive Order N-25-20, and the March 16, 2020 California Department of Public Health guidance on Retail Food, Beverage, and Other Related Service Venues.
5. The violation of any provision of this Order constitutes a threat to public health. Pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029, the Health Officer requests that the Sheriff and all chiefs of police in the County ensure compliance with and enforce this Order.

6. This Order shall become effective at 12:01 a.m. on March 18, 2020 and will continue to be in effect until 11:59 p.m. on April 1, 2020, or until it is extended, rescinded, superseded, or amended in writing by the Health Officer.
7. The Health Officer will continue to assess the quickly evolving situation and may issue additional Orders related to COVID-19.
8. Copies of this Order shall promptly be: (1) made available at the County of Ventura Public Health Office at 2240 East Gonzalez Road, ste. 210, Oxnard, California 93036; (2) posted on the County Public Health Department website (available at www.vchca.org/ph); and (3) provided to any member of the public requesting a copy of this Order.
9. If any provision of this Order or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:



Robert Levin, M.D.
Ventura County Health Officer

Dated: March 17, 2020

1 Ronda Baldwin-Kennedy, Esq. (SB #302813)
2 Jerome A. Clay, Esq. (SB #327175)
3 **LAW OFFICE OF RONDA BALDWIN-KENNEDY**
4 5627 Kanan Rd. #614
5 Agoura Hills, CA 91301
6 Phone: (951) 268-8977
7 Fax: (702) 974-0147
8 Email: ronda@lorbk.com

9 Raymond M. DiGuiseppe (SB# 228457)
10 law.rmd@gmail.com
11 The DiGuiseppe Law Firm, P.C.
12 4320 Southport-Supply Road, Suite 300
13 Southport, North Carolina 28461
14 Phone: 910-713-8804
15 Fax: 910-672-7705

16 Attorneys for Plaintiffs

17 **UNITED STATES DISTRICT COURT**
18 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

19 DONALD MCDOUGALL, an
20 individual; JULIANA GARCIA, an
21 individual; SECOND AMENDMENT
22 FOUNDATION; CALIFORNIA GUN
23 RIGHTS FOUNDATION; and
24 FIREARMS POLICY COALITION,
25 INC.,

26 Plaintiffs,

27 vs.

28 COUNTY OF VENTURA,
CALIFORNIA; BILL AYUB, in his
official capacity; WILLIAM T. FOLEY,
in his official capacity, ROBERT
LEVIN, in his official capacity; and
VENTURA COUNTY PUBLIC
HEALTH CARE AGENCY,

Case No. 2:20-cv-02927

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Defendants.

Plaintiff Donald McDougall, *et al.* (“Plaintiffs”), by and through counsel of record, bring this complaint for injunctive and declaratory relief against the named Defendants, and allege as follows:

INTRODUCTION

1. California’s local governments, whether legislatively or by executive decree, cannot simply suspend the Constitution. Authorities may not, by decree or otherwise, enact and/or enforce a suspension or deprivation of constitutional liberties. And they certainly may not use a public health crisis as political cover to impose bans and restrictions on rights they do not like.

2. Firearm and ammunition product manufacturers, retailers, importers, distributors, and shooting ranges are essential businesses that provide essential access to constitutionally protected fundamental, individual rights. If firearms and ammunition could be purchased online like other constitutionally protected artifacts, such as paper, pens, ink, and technology products that facilitate speech, then individuals could simply purchase what they need and have the items delivered to their doorsteps. But because of an onerous and complicated federal, state, and local regulatory scheme, people in California cannot exercise their Second Amendment right to keep and bear arms without going in person to such

1 essential businesses—at least once for ammunition, and at least twice for firearms.

2 3. In California, individuals are required to purchase and transfer
3 firearms and ammunition through state and federally licensed dealers in face-to-
4 face transactions or face serious criminal penalties. Shuttering access to arms, the
5 ammunition required to use those arms, and the ranges and education facilities that
6 individuals need to learn how to safely and competently use arms, necessarily
7 closes off the Constitutional right to learn about, practice with, and keep and bear
8 those arms. By forcing duly licensed, essential businesses to close or eliminate key
9 services for the general public, government authorities are foreclosing the only
10 lawful means to buy, sell, and transfer firearms and ammunition available to
11 typical, law-abiding individuals in California. Such a prohibition on the right to
12 keep and bear arms is categorically unconstitutional.

13
14
15
16
17 4. The circumstances posed by the COVID-19 Novel Coronavirus
18 outbreak present challenges to all of us, including the government. Responding to
19 those challenges, for example, some law enforcement officials are releasing
20 inmates from jails. With governments having no legal duty to protect the people
21 they serve, and with no guarantee that law enforcement can or will respond to 911
22 calls during this crisis or after it (let alone in time to prevent a crime), people who
23 choose to exercise their fundamental, individual rights are not part of the crisis;
24 rather, they are responding rationally to the impacted caused by the crisis.
25
26
27
28

1 5. Such governmental action during the height of an acknowledged crisis
2 also violates the constitutional checks and balances that are the hallmark of limited
3 government and separation of powers. This suit challenges not only the underlying
4 orders and enforcement policies for their blatant violations of enumerated
5 constitutional rights, it also challenges the manner in which those policies were
6 enacted. It is a bedrock principle of our constitutional order that legislatures may
7 not enact overbroad and effectively bound-less laws that give unfettered discretion
8 to executive agencies to ‘figure out’ the details later, while also ‘passing the buck’
9 to those executive agencies to make and enforce the policies that impact the
10 people’s lives, liberty, and property.

11 6. The need for self-defense during uncertain times is precisely when
12 Plaintiffs and Plaintiffs’ members must be able to exercise their fundamental rights
13 to keep and bear arms. The challenges we all face because of the COVID-19
14 Coronavirus, or any other such emergency, does not, cannot, and must not justify
15 or excuse government infringements upon fundamental human rights. The
16 declaratory and injunctive relief that Plaintiffs have been forced to seek through
17 this action is necessary to uphold this bedrock principle of the United States
18 Constitution.

19
20
21
22
23
24
25
26
27
28

1 **PARTIES**

2 *Individual Plaintiffs*

3
4 7. Plaintiff Donald McDougall is a natural person, a citizen of the United
5 States, and a resident of Ventura County, California. Plaintiff McDougall is not
6 prohibited from possessing or acquiring arms, including firearms and ammunition,
7
8 under state and federal law. Plaintiff McDougall holds a valid California Carry
9 Concealed Weapons License (“CCW”). Plaintiff McDougall is concerned about his
10 safety and the safety of his family, wants to exercise his right to keep and bear
11 arms – including firearms, ammunition, magazines, and appurtenances – and would
12 do so, but for the reasonable and imminent fear of arrest and criminal prosecution
13 under Defendants’ laws, policies, orders, practices, customs, and enforcement, and
14 because Defendants’ orders and actions have closed firearm and ammunition
15 retailers and ranges.

16
17
18
19 8. Plaintiff Garcia is a natural person, a citizen of the United States, and
20 a resident of Ventura County, California. Plaintiff Garcia is not prohibited from
21 possessing or acquiring arms, including firearms and ammunition, under state and
22 federal law. Plaintiff Garcia does not hold a valid California Firearm Safety
23 Certificate (“FSC”) but wishes to obtain one. Plaintiff Garcia is concerned about
24 her safety and the safety of her family, wants to exercise her right to keep and bear
25 arms – including firearms, ammunition, magazines, and appurtenances – and would
26
27
28

1 do so, but for the reasonable and imminent fear of arrest and criminal prosecution
2 under Defendants’ laws, policies, orders, practices, customs, and enforcement, and
3 because Defendants’ orders and actions have closed firearm and ammunition
4 retailers and ranges.
5

6
7 ***Institutional Plaintiffs***

8 9. Plaintiff Second Amendment Foundation, Inc. (“SAF”) is a nonprofit
9 educational foundation incorporated under the laws of Washington with its
10 principal place of business in Bellevue, Washington. SAF seeks to preserve the
11 effectiveness of the Second Amendment through education, research, publishing,
12 and legal action programs focused on the Constitutional right to possess firearms,
13 and the consequences of gun control. SAF has over 650,000 members and
14 supporters nationwide, including thousands of members in California. SAF brings
15 this action on behalf of itself and its members. Individual Plaintiffs are members of
16 SAF.
17

18
19
20 10. Plaintiff California Gun Rights Foundation (“CGF”) is a nonprofit
21 foundation incorporated under the laws of California with its principal place of
22 business in Sacramento, California. CGF serves its members, supporters, and the
23 public through educational, cultural, and judicial efforts to defend and advance
24 Second Amendment and related rights. CGF has thousands of members and
25 supporters in California, including members in Defendants’ jurisdiction and the
26
27
28

1 Individual Plaintiffs herein. The interpretation and enforcement of the Second
2 Amendment directly impacts CGF’s organizational interests, as well as the rights
3 of CGF’s members and supporters. CGF has expended and diverted resources, and
4 has been adversely and directly harmed, because of Defendants’ laws, policies,
5 practices, and customs challenged herein. CGF brings this action on behalf of
6 itself, its members, supporters who possess all the indicia of membership, and
7 similarly situated members of the public.
8
9

10
11 11. Plaintiff Firearms Policy Coalition, Inc. (“FPC”) is a nonprofit
12 organization incorporated under the laws of Delaware with a place of business in
13 Sacramento, California. The purposes of FPC include defending and promoting the
14 People’s rights – especially but not limited to First and Second Amendment rights
15 – advancing individual liberty and restoring freedom. FPC serves its members and
16 the public through legislative advocacy, grassroots advocacy, litigation and legal
17 efforts, research, education, outreach, and other programs. FPC’s has members in
18 the State of California, including members in Defendants’ respective jurisdiction
19 and the Individual Plaintiffs herein. FPC represents its members and supporters—
20 who include gun owners, individuals who wish to acquire firearms and
21 ammunition, licensed California firearm retailers, shooting ranges, trainers and
22 educators, and others—and brings this action on behalf of itself, its members,
23 supporters who possess all the indicia of membership, and similarly situated
24
25
26
27
28

1 members of the public. FPC has expended and diverted resources, and is adversely
2 and directly harmed, because of Defendants’ laws, policies, orders, practices, and
3
4 customs challenged herein.

5 *Defendants*

6
7 12. Defendant County of Ventura, California is a local governmental
8 entity organized under the Constitution and laws of the State of California,
9 possessing legal personhood within the meaning of 42 U.S.C. § 1983. The County
10 is responsible for executing and administering its laws, orders, customs, practices,
11 and policies at issue in this lawsuit.
12

13
14 13. Defendant Bill Ayub is the Sheriff of Defendant Ventura County,
15 California and head of Ventura County Sheriff’s Office. As the Sheriff, he is
16 responsible within the County for the enforcement and execution of the laws,
17 orders, policies, practices, customs, and actions at issue in this lawsuit. Defendant
18 Ayub is sued in his official capacity.
19

20
21 14. Defendant William T. Foley is the Director of the Ventura County
22 Public Health Care Agency, which issues and enforces some of Defendant Ventura
23 County’s laws, and related California Government and Health and Safety Codes,
24 including those at issue herein. Defendant Foley is sued in his official capacity.
25

26
27 15. Defendant Robert Levin is the Public Health Medical Director and
28 Health Officer for Defendant County of Ventura, California. Defendant Levin

1 issued and enforces the Defendant County’s Order. On information and belief,
2 Defendant Levin reports to Defendant Foley. Defendant Levin is sued in his
3
4 official capacity.

5 16. The Ventura County Public Health Care Agency is the department
6 responsible for public health in Ventura County, which issues and enforces some of
7
8 Defendant Ventura County’s Orders and laws, and related California Government
9 and Health and Safety Codes, including those at issue herein.

10
11 **JURISDICTION AND VENUE**

12 17. This Court has jurisdiction over all claims for relief pursuant to 28
13 U.S.C. §§ 1331, 1343, 2201, and 2202, and 42 U.S.C. §§ 1983 and 1988, as this
14
15 action seeks to redress the deprivation under color of the laws, statutes, ordinances,
16 regulations, customs, and usages of the State of California, of the rights, privileges
17
18 or immunities secured by the United States Constitution.

19 18. Venue lies in this Court under 28 U.S.C. § 1391, as the events giving
20 rise to Plaintiffs’ causes of action arose or exist in this District in which the action
21
22 is brought.

23 **STATEMENT OF FACTS COMMON TO ALL CLAIMS**
24 *Constitutional Background*

25 19. The Second Amendment to the United States Constitution provides:
26
27 “A well-regulated Militia being necessary to the security of a free State, the right of
28 the people to keep and bear Arms shall not be infringed.”

1 20. The Second Amendment “guarantee[s] the individual right to possess
2 and carry weapons in case of confrontation.” *District of Columbia v. Heller*, 554
3 U.S. 570, 592 (2008). And it “elevates above all other interests the right of law-
4 abiding, responsible citizens to use arms in defense of hearth and home.” *Id.* at 635.
5

6 21. The Second Amendment is fully applicable to the States through the
7 Fourteenth Amendment’s Due Process and Privileges or Immunities Clauses.
8 *McDonald v. City of Chicago*, 561 U.S. 742, 750 (2010); *id.* at 805 (Thomas, J.,
9 concurring). In *McDonald*, the Supreme Court held “that the Second Amendment
10 right is fully applicable to the States.” *Id.* at 750. And Justice Thomas further held
11 that the “right to keep and bear arms is a privilege of American citizenship that
12 applies to the States through the Fourteenth Amendment’s Privileges or Immunities
13 Clause.” *Id.* at 806.
14

15 22. Article IV, § 2, Cl. I of the United States Constitution provides: “The
16 citizens of each state shall be entitled to all privileges and immunities of citizens in
17 the several states.”
18

19 23. The Fifth Amendment to the United States Constitution provides in
20 the pertinent part:
21

22 No person shall ... be deprived of life, liberty, or
23 property, without due process of law...

24 24. The Fourteenth Amendment to the United States Constitution provides
25 in pertinent part:
26
27
28

1 No state shall make or enforce any law which shall
2 abridge the privileges or immunities of citizens of the
3 United States; nor shall any state deprive any person of
4 life, liberty, or property, without due process of law; nor
5 deny to any person within its jurisdiction the equal
6 protection of the laws.

7 25. Individuals have a right to travel outside their county of residence.

8 26. Individuals have a right to keep and bear arms, including but not
9 limited to, buying, selling, transferring, transporting, carrying, and practicing safety
10 and proficiency with firearms, ammunition, magazines, and appurtenances, under
11 the Second and Fourteenth Amendments to the United States Constitution.

12 27. In 2008, the United States Supreme Court held that the District of
13 Columbia’s requirement that permitted firearms within the home, but required that
14 said firearms in the home be kept inoperable, made it impossible for citizens to use
15 firearms for the core lawful purpose of self-defense and was hence
16 unconstitutional. *District of Columbia v. Heller*, 554 U.S. 570, 630 (2008).

17 28. In 2010, the United States Supreme Court held that—the Second
18 Amendment right to keep and bear arms is—fundamental to our scheme of ordered
19 liberty and, therefore, incorporated against the states through the Due Process
20 Clause of the Fourteenth Amendment. *McDonald v. Chicago*, 130 S. Ct. 3020,
21 3036 (2010).

22 29. The “central” – but not only – holding of the Supreme Court in *Heller*
23 was “that the Second Amendment protects a personal right to keep and bear arms
24
25
26
27
28

1 for lawful purposes, most notably for self-defense within the home.” *McDonald*,
2 561 U.S. at 780. “The very enumeration of the right takes out of the hands of
3 government—even the Third Branch of Government—the power to decide on a
4 case-by-case basis whether the right is really worth insisting upon.” *Heller*, 554
5 U.S. at 634.
6

7
8 30. A two-part test, and tiered scrutiny generally, is inappropriate for laws
9 that infringe upon the Second Amendment right to keep and bear arms, including
10 the Orders and enforcement actions at issue in this case.
11

12 31. The fundamental, individual right to keep and bear loaded, operable
13 firearms in the home includes the right to lawfully acquire firearms, ammunition,
14 magazines, and appurtenances.
15

16 32. Individuals have a right to buy, sell, transfer, and practice with arms,
17 including but not limited to, firearms, ammunition, magazines, and required
18 appurtenances.
19

20 33. Licensed firearm and ammunition retailers and shooting ranges are
21 necessary to individuals’ lawful acquisition of firearms and ammunition, including
22 but not limited to complying with federal and state background check
23 requirements, due to the onerous and complicated web of regulatory schemes that
24 prohibit the exercise of the constitutional right to keep and bear arms without going
25
26
27
28

1 in person to these essential businesses – at least once for ammunition and at least
2 twice for firearms.

3
4 **FACTS COMMON TO ALL CLAIMS**

5 ***State and Federal Orders***

6
7 34. On or about March 4, 2020, Governor Newsom proclaimed a State of
8 Emergency as a result of COVID-19.

9
10 35. On March 19, 2020, Governor Gavin Newsom signed Executive
11 Order N-33-20,¹ directing all individuals living in California to “stay home or at
12 their place of residence except as needed to maintain continuity of operations of the
13 federal critical infrastructure sectors.” Executive Order N-33-20 is in place until
14 further notice.

15
16 36. The Governor’s N-33-20 directed all California residents “to heed”
17 the directives of the State Public Health Officer, Sonia Angell, and incorporated
18 into the Executive Order Director Angell’s Order of the same date.²

19
20 37. Director Angell’s Order states that all people in California must stay
21 home people “except as needed to maintain continuity of operations of the federal
22

23
24 ¹ Executive Department, State of California, Governor Gavin Newsom Executive
25 Order N-33-20, <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf>.

26 ² Order of the State Public Health Officer, Mar. 19, 2020, <https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Health%20Order%203.19.2020.pdf>.

1 critical infrastructure sectors, as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>.”

2
3
4 38. An express purpose of Angell’s Order is to “establish consistency
5 across” – i.e., throughout – “the state.”

6
7 39. Notably, on March 28, 2020, the Department of Homeland Security,
8 Cyber-Infrastructure Division (“CISA”), issued an updated “ADVISORY
9 MEMORANDUM ON IDENTIFICATION OF ESSENTIAL CRITICAL
10 INFRASTRUCTURE WORKERS DURING COVID-19 RESPONSE,” online at
11 <https://bit.ly/cisa-guidance-2020-3-28>, under its Web page for “Guidance on the
12 Essential Critical Infrastructure Workforce” during the COVID-19 pandemic.³
13
14 While the CISA’s guidance is advisory in nature, its findings and conclusions are
15 inherently entitled to great weight in this context, particularly since they were
16 “developed, in collaboration with other federal agencies, State and local
17 governments, and the private sector” for the specific purpose of “help[ing] State,
18 local, tribal and territorial officials as they work to protect their communities, while
19 ensuring continuity of functions critical to public health and safety, as well as
20 economic and national security.” To that very end, CISA specifically determined
21
22
23
24

25
26 ³ Guidance on the Essential Critical Infrastructure Workforce,
27 [https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-](https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce)
28 [workforce](https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce).

1 that “[w]orkers supporting the operation of firearm or ammunition product
2 manufacturers, retailers, importers, distributors, and shooting ranges” fall squarely
3 within the “critical infrastructure workforce.”
4

5 ***Statutory Background***

6
7 40. In California, a violation of a statute is a misdemeanor unless
8 specified to be punishable otherwise. California Penal Code Prelim. Prov. 19.4
9 (‘When an act or omission is declared by a statute to be a public offense and no
10 penalty for the offense is prescribed in any statute, the act or omission is
11 punishable as a misdemeanor.’)
12

13
14 41. Under California law and regulations, individuals must acquire
15 modern firearms from duly licensed firearm retailers. *See generally* Penal Code
16 sections 27545; 28050, et seq.
17

18
19 42. Under California law and regulations, and with few very limited
20 exceptions, individuals must acquire or otherwise transfer and take possession of
21 ammunition from duly licensed firearm and/or ammunition retailers. *See generally*
22 Penal Code sections 30342, et seq.; 30370, et seq.

23
24 43. Under California law and regulations, individuals must acquire a valid
25 Firearm Safety Certificate in order to acquire and take possession of firearms. *See*
26 *generally* Penal Code section 26840.
27
28

1 44. Government Code section 26620 states: “The office of county director
2 of emergency services shall be held ex officio by the county sheriff.”

3
4 45. Government Code section 41601 states:

5 For the suppression of riot, public tumult, disturbance of
6 the peace, or resistance against the laws or public
7 authorities in the lawful exercise of their functions, and
8 for the execution of all orders of the local health officer
9 issued for the purpose of preventing the spread of any
10 contagious, infectious, or communicable disease, the
11 chief of police has the powers conferred upon sheriffs by
12 general law and in all respects is entitled to the same
13 protection.

14 46. Government Code section 101029 states:

15 The sheriff of each county, or city and county, may
16 enforce within the county, or the city and county, all
17 orders of the local health officer issued for the purpose of
18 preventing the spread of any contagious, infectious, or
19 communicable disease. Every peace officer of every
20 political subdivision of the county, or city and county,
21 may enforce within the area subject to his or her
22 jurisdiction all orders of the local health officer issued for
23 the purpose of preventing the spread of any contagious,
24 infectious, or communicable disease. This section is not a
25 limitation on the authority of peace officers or public
26 officers to enforce orders of the local health officer.
27 When deciding whether to request this assistance in
28 enforcement of its orders, the local health officer may
consider whether it would be necessary to advise the
enforcement agency of any measures that should be taken
to prevent infection of the enforcement officers.

29 47. Government Code section 101030 states:

30 The county health officer shall enforce and observe in the
unincorporated territory of the county, all of the

1 following: (a) Orders and ordinances of the board of
2 supervisors, pertaining to the public health and sanitary
3 matters[,] (b) Orders, including quarantine and other
4 regulations, prescribed by the department[, and] (c)
5 Statutes relating to public health.

6 48. As shown below, County and County Health Officer Defendants’
7 Orders, enforced by Defendant sheriffs and police chiefs, among others, commonly
8 state:

9 Pursuant to Government Code sections 26602 and 41601
10 and Health and Safety Code section 101029, the Health
11 Officer requests that the Sheriff and all chiefs of police in
12 the County ensure compliance with and enforce this
13 Order. The violation of any provision of this Order
14 constitutes an imminent threat and menace to public
15 health, constitutes a public nuisance, and is punishable by
16 fine, imprisonment, or both.

17 49. Under Defendants’ laws, Orders, and enforcement policies, practices,
18 customs, and actions it is a crime for individuals to leave their homes and go to and
19 from, e.g., firearms and ammunition retailers and shooting ranges in order to
20 comply with state laws regarding the FSC certificate requirement, as well as
21 federal and state laws regarding the purchase and transfer of firearms and
22 ammunition. And under the Defendants’ Orders and enforcement policies, it is a
23 crime for, e.g., firearm and ammunition retailers, shooting ranges, and FSC test
24 service providers to operate them.
25

26 **Ventura County Orders**
27
28

1 50. On March 17, 2020, Defendant Levine issued an order directing all
2 residents of the County to shelter in place and restrict conduct (the “March 17
3 Order”).⁴

4
5 51. On March 20, 2020, Defendant Levine issued an additional order
6 supplementing and extending the March 17, 2020 Order and directing all residents
7 of the County to continue to shelter in place and restrict conduct until April 19,
8 2020 (the “March 20 Order”).⁵

9
10
11 52. On March 31, 2020, Defendant Levine issued an additional order
12 supplementing and extending the March 17 and March 20 Orders and directing all
13 residents of the County to continue to shelter in place and restrict conduct until
14 April 19, 2020 (the “March 31 Order”).⁶

15
16 53. On April 9, 2020, Defendant Levine issued yet an additional order,
17 supplementing and amending the existing March 17, March 20, and March 31
18

19
20
21
22
23
24 _____
24 ⁴ https://vcportal.ventura.org/CEO/VCNC/2020-03-17_Ventura_County_Public_Health_Order.pdf.

25
26 ⁵ <https://s30623.pcdn.co/wp-content/uploads/2020/03/StayWellAtHomeOrder.pdf>.

27 ⁶ https://vcportal.ventura.org/covid19/docs/March_31_2020_Order.pdf.

1 Orders (the “April 9 Order”).⁷ Furthermore, the April 9 Order bans all gatherings,
2 and added three types of businesses to the list of “Essential Businesses”.

3
4 54. Under the Orders, the operation of firearm and ammunition retailers
5 and shooting ranges are not “Essential Businesses,” and individuals going to and
6 from them is not “Essential Travel.”

7
8 55. Notably, the March 20 Order prohibits travel unless it is related to
9 “Essential Travel” or “Essential Activities” as defined by the Order. Such travel
10 and activities do not include departing Ventura County to a surrounding one for the
11 purposes of obtaining firearms and/or ammunition.

12
13 56. Pursuant to Section 8 of the April 9 Order, Defendant Sheriff Ayub
14 and all chiefs of police of the County are tasked with the enforcement of the
15 provisions set forth in the Order.

16
17 57. Section 8 (Compliance) of the April 9 Order states:
18
19 The violation of any provision of this Order constitutes a
20 threat to public health and public nuisance per se...
21 [p]ursuant to Government Code sections 26602 and
22 4160I and Health and Safety Code section 101029, the
23 Health Officer requests that the Sheriff and all chiefs of
24 police in the County ensure compliance with and enforce
25 this Order.

26
27 ⁷ [https://vcportal.ventura.org/covid19/docs/2020-04-](https://vcportal.ventura.org/covid19/docs/2020-04-09_COVID19_PH_Order_April_9_2020.pdf)
28 [09_COVID19_PH_Order_April_9_2020.pdf](https://vcportal.ventura.org/covid19/docs/2020-04-09_COVID19_PH_Order_April_9_2020.pdf).

1 58. On information and belief, Defendants are actively enforcing their
2 Orders, shuttering businesses and thus individuals’ access to arms, the ammunition
3 required to use those arms, and the ranges and education facilities that individuals
4 need to learn how to safely and competently use arms by forcing firearm and
5 ammunition product manufacturers, retailers, importers, distributors, and shooting
6 ranges within the County of Ventura to close their doors and stop performing sales
7 and transfers of firearms and ammunition.
8
9

10
11 59. Plaintiff McDougall would like to take possession of a firearm that he
12 ordered which is currently in the possession of a licensed firearm dealer. Plaintiff
13 McDougall would also like to retrieve a firearm that is in the possession of a
14 licensed gunsmith. Plaintiff McDougall is not prohibited from possessing firearms
15 under state or federal law. Furthermore, Plaintiff McDougall possesses a California
16 Carry Concealed Weapons License (“CCW”). He can take possession of a
17 purchased firearm and ammunition upon the completion of a background check.
18 However, due to Defendants’ Orders and enforcement actions, he is unable to
19 retrieve his firearms and unable to acquire ammunition.
20
21

22
23 60. Plaintiff Garcia would like to purchase a firearm and ammunition for
24 self-defense. Plaintiff Garcia is not prohibited from possessing firearms under state
25 or federal law. Plaintiff Garcia does not possess a FSC but desires to obtain one.
26 However, due to Defendants’ Orders and enforcement actions, she is unable to
27
28

1 obtain a FSC nor able to purchase a self-defense firearm and ammunition. Plaintiff
2 Garcia cannot purchase either firearms or ammunition except through a licensed
3 firearms dealer and/or licensed ammunition vendor under California law.

5 61. Plaintiffs McDougall and Garcia, Plaintiffs’ members, and similarly
6 situated individuals are being prevented from exercising their fundamental,
7 individual right to keep and bear arms for self-defense.

9 62. Plaintiffs McDougall and Garcia, and Plaintiffs’ members, and
10 similarly situated individuals are being prevented from traveling outside Ventura
11 County to exercise their fundamental, individual right to keep and bear arms for
12 self-defense.
13
14

15
16 **COUNT ONE**
17 **DEPRIVATION OF CIVIL RIGHTS**
18 **RIGHT TO KEEP AND BEAR ARMS**
19 **U.S. CONST., AMENDS. II AND XIV, 42 U.S.C. § 1983**

20 63. Plaintiffs incorporate herein by reference the foregoing paragraphs as
21 if fully set forth herein.

22 64. There is an actual and present controversy between the parties.

23
24 65. Defendants’ orders, directives, policies, practices, customs, and
25 enforcement actions prohibit law-abiding individuals from purchasing firearms and
26 ammunition for the purpose of protecting themselves and their families (or for any
27 other purpose). Independently and collectively, these stand as a bar on firearms
28

1 acquisition, ownership, and proficiency training at shooting ranges, and thus
2 amount to a categorical ban on and infringement of the right to keep and bear arms
3
4 and the privileges and immunities of citizenship.

5 66. Plaintiffs, Plaintiffs' Members, and those similarly situated to them,
6
7 seek to exercise their right to keep and bear arms for self-defense of themselves
8
9 and their families, especially in times of crisis such as this.

10 67. As to all claims made in a representative capacity herein, there are
11
12 common questions of law and fact that substantially affect the rights, duties, and
13
14 liabilities of many similarly-situated California residents and visitors who
15
16 knowingly or unknowingly are subject to the California statutes, regulations,
17
18 policies, practices, and customs in question.

19 68. The relief sought in this action is declaratory and injunctive in nature,
20
21 and the action involves matters of substantial public interest. Considerations of
22
23 necessity, convenience, and justice justify relief to individual and institutional
24
25 Plaintiffs in a representative capacity. Further, to the extent it becomes necessary
26
27 or appropriate, the institutional Plaintiffs are uniquely able to communicate with
28
29 and provide notice to their thousands of California members and constituents who
30
31 are or would be party to any identifiable class of individuals for whose benefit this
32
33 Court may grant such relief.

1 69. Local governments do not have the power to categorically prohibit the
2 keeping and bearing of arms by law-abiding people, nor can they close off the
3 channels of access by which individuals lawfully obtain, transfer, and practice
4 proficiency and safety with firearms and ammunition – even for brief periods of
5 time.
6

7
8 70. Arbitrariness and animus exists within the Defendants’ Orders and
9 enforcement actions, as the Orders classify as “essential” a variety of businesses
10 which have no clear connection to *essential* goods and services (let alone expressly
11 constitutionally protected goods and services), particularly in a time of crisis.
12

13 71. For example, “convenience stores, and other establishments engaged
14 in the retail sale of unprepared food, canned food, dry goods, non-alcoholic
15 beverages, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, as
16 well as hygienic products and household consumer products necessary for personal
17 hygiene or the habitability, sanitation, or operation of residences” are deemed to
18 expressly fall within this protected category of “Essential” businesses. So too are
19 “auto-supply” stores, businesses that provide “that provide food, shelter, and social
20 services, and other necessities of life for economically disadvantaged or otherwise
21 needy individuals,” and hardware stores.
22
23
24
25

26 72. But, according to Defendants, firearm and ammunition retailers and
27 shooting ranges are not essential, even though their connection to the *essentials* of
28

1 life in a crisis – securing the fundamental right of defense of the self and home
2 through all lawful means – is crystal clear, as highlighted in CISA’s published
3
4 guidelines and the Constitution itself.

5 73. In California, individuals are required to purchase and transfer
6
7 firearms and ammunition through state and federally licensed dealers in face-to-
8
9 face transactions or face serious criminal penalties.

10 74. Shuttering access to arms, the ammunition required to use those arms,
11
12 and the ranges and education facilities that individuals need to learn how to safely
13
14 and competently use arms, necessarily closes off the Constitutional right to learn
15
16 about, practice with, and keep and bear those arms.

17 75. By forcing duly licensed, essential businesses to close or eliminate
18
19 key services for the general public, government authorities are foreclosing the only
20
21 lawful means to buy, sell, and transfer firearms and ammunition available to
22
23 typical, law-abiding individuals in California.

24 76. Because firearm and ammunition transfers must be facilitated by a
25
26 licensed dealer, Defendants’ orders, directives, policies, practices, customs, and
27
28 enforcement actions amount to a ban on purchasing and transferring firearms and
29
30 ammunition. As a result, law-abiding citizens who wish to comply with state laws
31
32 – by submitting to, for example, background checks, waiting period laws, in-person

1 transfers and safety tests and demonstrations – are foreclosed from acquiring
2 firearms and ammunition legally.

3
4 77. Moreover, Defendants’ laws, orders, policies, practices, customs,
5 enforcement actions, and omissions criminalize and penalize conduct including but
6 not limited to an individual’s leaving their home, going to, and coming from a
7 firearm and/or ammunition retailer, violating Plaintiffs’, Plaintiffs’ members, and
8 similarly situated individuals’ rights.

9
10
11 78. Plaintiffs reasonably fear that Defendants will enforce against them
12 their Orders and Defendants’ related policies, practices, and customs.

13
14 79. Institutional Plaintiffs reasonably fear that Defendants will enforce
15 against their members – including Individual Plaintiffs and similarly situated
16 persons – the challenged orders, laws, policies, practices, and customs.

17
18 80. Defendants’ laws and ongoing enforcement and threats of
19 enforcement of their respective Orders and directives violate the Second and
20 Fourteenth Amendments.

21
22 81. Defendants’ Orders, laws, policies, practices, customs, and ongoing
23 enforcement and threats of enforcement of their various orders and directives
24 against the Plaintiffs, the Plaintiffs’ members and customers, and similarly situated
25 members of the public, which prevent the Plaintiffs, Plaintiffs’ members, and
26 similarly situated members of the public from exercising their rights, including the
27
28

1 purchase, sale, transfer of, and training with constitutionally protected arms,
2 ammunition, magazines, and appurtenances, are thus causing injury and damage
3 that is actionable under 42 U.S.C. § 1983.
4

5 **COUNT TWO**
6 **DEPRIVATION OF CIVIL RIGHTS**
7 **RIGHT TO TRAVEL**
8 **U.S. CONST., ART. IV § 2; AMENDS. V, XIV, 42 U.S.C. § 1983**

9 82. Plaintiffs incorporate by reference the foregoing paragraphs as if fully
10 set forth herein.

11 83. Article IV, Section 2, Clause 1 of the United States Constitution
12 requires that “[t]he Citizens of each State shall be entitled to all Privileges and
13 Immunities of Citizens in the several States.” The Privileges and Immunities
14 Clause provides important protections for non-residents who enter the state to
15 obtain employment, or for any other purposes, including the right to travel. *Saenz*
16 *v. Roe*, 526 U.S. 489, 502 (1999).
17
18

19 84. The right to freely travel is fundamental; founded on the guarantees of
20 substantive due process under the Fifth and Fourteenth Amendments as it is both
21 implicit in the concept of ordered liberty *and* deeply rooted in this County’s history
22 and tradition. “[T]he right of locomotion, the right to remove from one place to
23 another according to inclination, is an attribute of liberty ... secured by the 14th
24 amendment.” *Williams v. Fears*, 179 U.S. 270, 274 (1900); *Kent v. Dulles*, 357
25
26
27
28

1 U.S. 116 (1958)(“The right to travel is a part of the ‘liberty’ of which the citizen
2 cannot be deprived without the due process of law under the Fifth Amendment.”).

3
4 85. The right to move freely about one's neighborhood or town, even by
5 automobile, is “implicit in the concept of ordered liberty” and “deeply rooted in the
6 Nation's history.” *Lutz v. City of York, Pa.*, 899 F.2d 255, 268 (3d Cir. 1990).

7
8 86. It would be meaningless to describe the right to travel between states
9 as a fundamental precept of personal liberty and not to acknowledge a correlative
10 constitutional right to travel within a state.

11
12 *King v. New Rochelle Mun. Hous. Auth.*, 442 F.2d 646, 648 (2d Cir. 1971).

13
14 87. The right to travel in a state and between states is especially important
15 when the travel is related to the exercise of other fundamental rights, such as the
16 right to keep and bear arms.

17
18 88. Defendants’ laws and ongoing enforcement and threats of
19 enforcement of their various orders and directives against the Plaintiffs, the
20 Plaintiffs’ members and customers, and similarly situated members of the public,
21 as well as their ongoing policies and practices are arbitrary and capricious,
22 overbroad, effectively bound-less, fail to provide adequate notice, and place
23 Plaintiffs, Plaintiffs’ members and customers, and similarly situated members of
24 the public at risk of serious criminal and civil liability, including arrest,
25 prosecution, loss of rights, fines, and, with respect to the Retailer Plaintiffs, loss of
26
27
28

1 their licenses. Defendants’ orders and actions violate Plaintiffs’, Plaintiffs’
2 members, and similarly situated members of the public’s right to travel, and are
3
4 thus causing injury and damage that is actionable under 42 U.S.C. § 1983.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiffs pray for the following relief:
7

8 1. A declaratory judgment that the Defendants’ Orders, laws,
9 enforcement policies, practices, customs, and actions individually and collectively:
10

11 (1) prohibit the operation of firearm and ammunition product manufacturers,
12 retailers, importers, distributors, shooting ranges, and FSC test providers; (2) deny
13

14 individuals the right and ability to travel to, access, and use firearm and
15 ammunition product retailers, FSC test providers, and shooting ranges to acquire,
16

17 take possession of, and practice proficiency with constitutionally protected items;
18 (3) deny individuals the right and ability to travel to and from firearm and
19

20 ammunition product manufacturers, retailers, importers, distributors, shooting
21 ranges, and FSC test providers so that individuals can acquire, taken possession of,
22

23 and practice proficiency with constitutionally protected items; and (4) violate Art.
24 IV, § 2 of and the Second, Fifth, and Fourteenth Amendments to the United States
25

26 Constitution;

27 2. A preliminary and permanent injunction restraining Defendants and
28 their officers, agents, servants, employees, and all persons in concert or

1 participation with them who receive notice of the injunction, from enforcing
2 Defendants' Orders and laws, enforcement policies, practices, customs, and actions
3 that individually and collectively: (1) prohibit the operation of firearm and
4 ammunition product manufacturers, retailers, importers, distributors, shooting
5 ranges, and FSC test providers; (2) deny individuals the right and ability to travel
6 to, access, and use firearm and ammunition product retailers, FSC test providers,
7 and shooting ranges to acquire, take possession of, and practice proficiency with
8 constitutionally protected items; (3) deny individuals the right and ability to travel
9 to and from firearm and ammunition product manufacturers, retailers, importers,
10 distributors, shooting ranges, and FSC test providers so that individuals can
11 acquire, taken possession of, and practice proficiency with constitutionally
12 protected items; and (4) violate Art. IV, § 2 of and the Second, Fifth, and
13 Fourteenth Amendments to the United States Constitution;

14
15
16
17
18
19 3. Nominal damages⁸ against Defendants;
20
21

22 ⁸ Plaintiffs herein give notice that pre-litigation investigation is continuing in this
23 urgent and expedited matter and that this complaint may be further amended to add
24 additional claims and requests for relief, including but not limited to actual
25 damages, once the facts are more fully developed. Additionally, counsel for the
26 institutional plaintiffs are continuing to investigate the claims of additional
27 potential parties with substantially similar claims who may also suffer
28 constitutional and economic damages as a result of the individual and/or collective
orders and/or enforcement actions of Defendants named herein.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

4. All other and further legal and equitable relief, including injunctive relief, against Defendants as necessary to effectuate the Court’s judgment, or as the Court otherwise deems just and equitable; and,

5. Attorney’s fees and costs pursuant to 42 U.S.C. § 1988 and any other applicable law.

Respectfully submitted this 14th day of April 2020.

/s/ Ronda Baldwin-Kennedy
Ronda Baldwin-Kennedy

/s/ Raymond DiGuiseppe
Raymond DiGuiseppe

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 20-CV-02927-CBM-(ASx) Date March 31, 2020

Title *Donald McDougall v. County of Ventura California*

Present: The Honorable CONSUELO B. MARSHALL, UNITED STATES DISTRICT JUDGE

YOLANDA SKIPPER
Deputy Clerk

NOT REPORTED
Court Reporter

Attorneys Present for Plaintiff:

Attorneys Present for Defendant:

NONE PRESENT

NONE PRESENT

Proceedings:

**IN CHAMBERS- ORDER RE EX PARTE APPLICATION FOR
TEMPORARY RESTRAINING ORDER (DKT. NOS. 9, 10)**

On March 30, 2020, Plaintiff Donald McDougall applied *ex parte* for an order temporarily restraining Defendant County of Ventura, California (the "County") from ordering the closure of gun stores pursuant to the County's "Stay Well At Home" order (the "County Order"), dated March 20, 2020. (*See* Dkt. No. 9-1 ("TRO") at p. 1:2-4; Dkt. No. 1, Exh. 1 (County Order).) The County Order was issued to "ensure that the maximum number of persons stay in their places of residence to the maximum extent feasible" in order to combat the spread of the COVID-19 virus. (County Order ¶ 1.) To achieve this goal, the County Order requires, amongst other things, persons currently living in Ventura County "to stay at their places of residence," businesses "to cease all activities at facilities within the County," and to cease traveling within the County. (*Id.* ¶¶ 2, 4, 6.) The County Order designates certain activities and industries as "Essential Activities" and "Essential Businesses," and exempts those categories from its prohibitions. (*Id.* ¶¶ 7(a)-(g).) The County Order remains effective until April 19, 2020, or until it is "extended, rescinded, superseded, or amended in writing by the Health Officer" of the County. (*Id.* ¶ 10.) Plaintiff alleges gun stores are categorized "as a non-essential business" and are therefore prohibited from operating.

Plaintiff purchased a handgun from the Camarillo Gun store on or about March 9, 2020. (Dkt. No. 9, Exh. 1 (McDougall Decl.) at ¶ 2.) By law, the purchaser of the firearm must wait 10 days from the time of purchase to pick up the firearm from the store, during which a background check of the purchaser is conducted. *See* Cal. Penal Code § 16815 ("No firearm shall be delivered ... [w]ithin 10 days of the application to purchase[.]"). The purchaser then has 30 days to retrieve the purchased firearm. *See* Cal. Penal Code § 28220(f). During the 10-day waiting period for the handgun Plaintiff purchased, Plaintiff alleges the County Order was enacted and required all gun stores in Ventura County to close until further notice. (*Id.* at p. 1:14-26.) Plaintiff declares he cannot have his background check processed while the gun store is closed, retrieve the handgun he purchased, or purchase additional ammunition or firearms. (McDougall Decl. at ¶¶ 2-3.)

Federal Rule of Civil Procedure 65(b)(1) provides:

The court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if: (A) specific facts in an affidavit ... clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and (B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

Fed. R. Civ. P. 65(b)(1). In this case, Plaintiff states that he provided notice to the Defendant by email. Assuming that notice satisfies Rule 65(b), then the Court must analyze the merits of the requested TRO. The standard for issuing a TRO is similar to the standard for issuing a preliminary injunction, and requires the party seeking relief to show (1) that he is likely to succeed on the merits, (2) that he is likely to suffer irreparable harm in the absence of injunctive relief, (3) that the balance of equities is in his favor, and (4) that injunctive relief is in the public interest. See *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008).

To evaluate the merits of a Second Amendment claim, the Ninth Circuit “asks whether the challenged law burdens conduct protected by the Second Amendment; and (2) if so, what level of scrutiny should be applied.” *Fyock v. Sunnyvale*, 779 F.3d 991, 996 (9th Cir. 2015) (quotation omitted). The Court employs intermediate scrutiny if the challenged regulation does not place a substantial burden on that right. *Id.* at 988-999.

Here, Plaintiff argues strict scrutiny applies because his rights under the Second and Fourteenth Amendments of the United States Constitution have been violated as a result of the County Order because he has not been provided information concerning his background check or commencement of the 10-day waiting period to retrieve his firearm and cannot travel outside Ventura County to purchase a firearm or ammunition elsewhere, thereby burdening his ability to acquire a handgun. Although the County Order may implicate the Second Amendment by impacting “the ability of law-abiding citizens to possess the ‘quintessential self-defense weapon’ – the handgun,” *Fyock*, 779 F.3d at 999 (quoting *District of Columbia v. Heller*, 554 U.S. 570, 629 (2008)), this Court finds that intermediate scrutiny is appropriate because the County Order “is simply not as sweeping as the complete handgun ban at issue in *Heller*.” *Id.* The County Order does not specifically target handgun ownership, does not prohibit the ownership of a handgun outright, and is temporary. Therefore, the burden of the County Order on the Second Amendment, if any, is not substantial, so intermediate scrutiny is appropriate.

To survive intermediate scrutiny, the County Order must promote a “substantial government interest that would be achieved less effectively absent the regulation.” *Id.* at 1000. Plaintiff does not dispute that mitigation of the spread of the COVID-19 virus is a compelling interest, but offers no evidence or argument disputing the County's determination that its mitigation effort would be as effective without closure of non-essential businesses. Therefore, Plaintiff has not demonstrated he is likely to succeed on the merits of his claim.

Plaintiff also fails to demonstrate that the requested injunctive relief is in the public interest or that the balance of the equities favors the grant of an injunction. As in *Winter*, this case involves “complex, subtle, and professional decisions” by the County, which are entitled to deference. *Id.* at 24. Furthermore, while the public interest is served by protecting Second Amendment rights, the public interest is also served by protecting the public health by limiting the spread of a virulent disease. Under these facts, Plaintiff has not demonstrated that the balance of the equities and public interest favors the injunction.

Therefore, the Court **DENIES** Plaintiff's request for a temporary restraining order.

IT IS SO ORDERED.

1 Ronda Baldwin-Kennedy, Esq. (SB #302813)
2 Jerome A Clay, Esq. (327175)
3 Law Office of Ronda Baldwin-Kennedy
4 5627 Kanan Rd. #614
5 Agoura Hills, CA 91301
6 Ph: (951) 268-8977
7 Fax: (702) 974-0147
8 Email: ronda@lorbk.com

9 Attorney for: Plaintiffs Donald McDougall

10 **UNITED STATES DISTRICT COURT FOR THE**
11 **CENTRAL DISTRICT OF CALIFORNIA-WESTERN DIVISION**

12 Donald McDougall an Individual;
13 Plaintiffs,
14 v.
15 COUNTY OF VENTURA CALIFORNIA,
16 Does 1-20 and Roes 1-20
17 Defendant.

CASE NO.

**COMPLAINT FOR INJUNCTIVE
RELIEF VIOLATION OF U.S. CONST
(42 U.S.C.A. § 1983 (West))**

(JURY TRIAL DEMANDED)

18
19
20 Come Now the Plaintiff, Donald McDougall by and through undersigned counsel, and complain of
21 the Defendant as follows:

22 **THE PARTIES**

- 23 1. Plaintiff Donald McDougall (Plaintiff) is a natural person and a citizen of the United States
24 residing in Camarillo, California county of Ventura.
25 2. Defendant County of Ventura (Ventura County) is a county organized under the
26 Constitution and laws of the State of California.

JURISDICTION AND VENUE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.A. § 131,1343,2201,2202 (West), 42 U.S.C.A. § 1983.
- 4. Venue lies in this Court pursuant to 28 U.S.C.A. § 1391 (West).

INTRODUCTION

- 5. This lawsuit is a 42 U.S.C.A. § 1983 action seeking declaratory and injunctive relief from the Ventura County Stay Well at Home Order of the Ventura County Health Officer deprivation of Plaintiff and Ventura County residents’ 14th Amendment right to due process and infringement on Plaintiff’s Second Amendment rights.
- 6. On March 19, 2020 Governor Newsom issued Executive Order N-33-20 directing all residents immediately heed current State and public health directives to stay at home.
- 7. Under the executive Order all non-essential businesses were ordered closed.
- 8. Under the executive Order law enforcement and private security was deemed an essential workforce.
- 9. March 20th, 2020 Ventura County Health Officer issued a Stay Well at Home Order which ordered all non- essential business closed.
- 10. Stay Well at Home Order in Paragraph 7(e)(15) defines an essential business as businesses that supply other essential businesses with the support or supplies necessary to operate.
- 11. Ventura County deemed Gun Stores as a non-essential business.
- 12. Gun Stores supplies, products needed for law enforcement and private security both which are essential businesses/workforce.
- 13. In California, individuals are required to purchase and transfer firearms and ammunition through state and federally licensed dealers.
- 14. Furthermore, the Second Amendment guarantees citizens the right to keep and bear arms.
- 15. The right to bear arms is a fundamental right enumerated in the Second Amendment.
- 16. The various Orders that have been put in place by Ventura County and the Ventura County Health Officer Robert Levin, MD are unconstitutionally vague, over burdensome, and overly broad, and violate the Second and Fourteenth Amendment rights of Plaintiff and similarly situated Ventura County residents.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

17. This order essentially bans the sale of guns in Ventura County.

LEGAL AUTHORITIES AND STANDARD OF REVIEW
STRICT SCRUTINY

U.S. Const. amend. II AND XIV

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

19. The Second Amendment “guarantee[s] the individual right to possess and carry weapons in case of confrontation.” [District of Columbia v. Heller](#) (2008) 554 U.S. 570, 592 [128 S.Ct. 2783, 171 L.Ed.2d 637]. And it “elevates above all other interests the right of law-abiding, responsible citizens to use arms in defense of hearth and home.” [Id.](#) at p. 635.

20. The Second Amendment is fully applicable to the States through the Fourteenth Amendment’s Due Process and Privileges or Immunities Clauses. [McDonald v. City of Chicago, Ill.](#) (2010) 561 U.S. 742, 750 [130 S.Ct. 3020, 177 L.Ed.2d 894]; [id.](#) at p. 805 (Thomas, J., concurring).

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

22. Plaintiff alleges violations under the Second and Fourteenth Amendment are fundamental rights under the U.S. Constitution and therefore Strict Scrutiny should be used to analyze the infringement. With Strict scrutiny, Ventura County must show a compelling governmental interest, narrowly tailored to achieve the goal, and the least restrictive way to achieve that goal.

23. Ventura County may have a compelling government interest, to ensure that the Maximum number of persons stay indoors in order to slow the spread of COVID-19 to the maximum extent possible. (see exhibit a) However, Ventura County did not narrowly tailor and took the most restrictive way to achieve that goal, by closing gun stores. There are least restrictive ways to achieve that goal, Ventura County, allows other business such as

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

drycleaners to remain open using measure such as social distancing, or having customers shop by appointment. None of these measures were taken prior to closing the gun stores.

EXECUTIVE ORDER N-33-20

24. Effective March 19, 2020, Governor Gavin Newsom signed Executive Order N-33-20, directing all individuals living in California to “stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors.” This Order is in place until further notice. The Executive Order provides that Californians working in critical infrastructure sectors may continue their work because of the importance of these sectors to Californians’ health and well-being. The Executive Order includes a list of Essential Workforce/Critical Infrastructure¹ which named law enforcement and private security as an essential workforce.

STAY WELL AT HOME ORDER OF THE VENTURA COUNTY HEALTH OFFICER

25. Effective March 20, 2020, Robert Levin M.D., Ventura County Health Officer signed the Stay Well at Home Order (Exhibit A) which incorporated Executive Order N-33-20, directing all individuals living in Ventura County to “*Stay at their place of residence as required by the Governor’s Executive Order N-33-20, subject to the exemptions set forth in this order*” Further, the Stay Well at Home Order §3 list exemptions to the Order which states in part “*Persons may leave their places of residence only for Essential Activities...to operate or work at Essential Businesses*” §7 (e) (15) defines an essential business as “*Businesses that supply other Essential Businesses with the support or supplies necessary to operate...*”

26. Gun stores provide supplies necessary for the operation of private security and law enforcement, however if gun stores are closed they are not made available to the essential workforce.

¹ <https://covid19.ca.gov/img/EssentialCriticalInfrastructureWorkers.pdf>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

27. Further, the order states that violations of the Stay Well at Home Order are a misdemeanor punishable by imprisonment, fine, or both under California Health and Section Code 120295 *et seq.*

STATEMENT OF FACTS

28. In California, individuals are required to purchase and transfer firearms and ammunition through state and federally licensed dealers.

29. Under Federal and State law anyone in California, individuals are required to complete a background check with a 10 day wait period. Once 10 days has passed the purchaser has 30 days to pick up their firearm and complete the transfer documents.

30. Further, it is required that prior to the purchaser removing the firearm from the licensed gun store they do so with a gunlock and gun box. These items are also available for purchased at a gun store.

31. Mr. McDougall, purchased a firearm from a Gun Store within the County of Ventura. During the mandatory waiting period, the Executive order N-33-20 and Stay Well at Home Orders were enacted.

32. The County of Ventura upon advice from County Counsel Leroy Smith declared all Gun Stores within the county limits were non-essential and thereby forcing the gun stores to close.

33. After the closure Plaintiff has been unable to pick up his purchased firearm; Mr. McDougal and similarly situated Ventura county residents’ constitutional rights under the second amendment are currently being violated.

**FIRST CAUSE OF ACTION-CLOSING OF GUN STORES
RIGHT TO KEEP AND BEAR ARMS**

[U.S. Const. amend. II AND XIV 42 U.S.C.A. § 1983](#)

34. Plaintiffs incorporate herein by reference paragraphs 1 through 32 as if fully set forth herein.

35. The Second Amendment right is incorporated as against the states and their political subdivisions pursuant to the Due Process Clause of the Fourteenth Amendment.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

36. The Second Amendment right to keep and bear arms is a privilege and immunity of United States citizenship which, pursuant to the Fourteenth Amendment, states and their political subdivisions may not violate.

37. By the closing gun stores, Ventura County currently maintain and actively enforce a set of laws, customs, practices, and policies under color of state law which deprive individuals, including Plaintiff, of their right to keep and bear arms, in violation of the Second and Fourteenth Amendments to the United States Constitution.

38. These closures are essentially banning firearm sales in Ventura County.

39. Plaintiff and similarly situated Ventura County residents are thus damaged in violation of [42 U.S.C.A. § 1983](#). Plaintiff is therefore entitled to declaratory and permanent injunctive relief against continued enforcement and maintenance of Ventura County’s unconstitutional customs, policies, and practices.

40. Executive Order N-33-20, Safer at Home Order For Control of COVID- 19 the Ventura County’s policies, practices, and customs prohibit law-abiding individuals from purchasing firearms and ammunition for the purpose of protecting themselves and their families (or for any other purpose). Independently and collectively, these acts stand as a bar on firearms acquisition and ownership and amount to a categorical ban on and infringement of the right to keep and bear arms and the privileges and immunities of citizenship.

**SECOND CAUSE OF ACTION – NEW FIREARM PURCHASE
EQUAL PROTECTION**

[U.S. Const. amend. XIV 42 U.S.C.A. § 1983](#)

41. Paragraphs 1 through 39 are incorporated as though fully stated herein.

42. By forcing gun stores to close Ventura County currently maintain and actively enforce a set of laws, customs, practices, and policies under color of state law which deprive individuals, including the Plaintiff, of their right to equal protection of the laws, in violation of the Fourteenth Amendment to the United States Constitution. Plaintiff and similarly situated Ventura County residence are thus damaged in violation of [42 U.S.C.A. § 1983](#).

43. Ventura County Residents who wish to purchase firearms post Executive Order N-33-20 and The Stay Well at Home Order are unable to purchase firearms, as other Ventura County Residents were able to do so pre Orders.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

44. Plaintiff is therefore entitled to declaratory and permanent injunctive relief against continued enforcement of unconstitutional customs, policies, and practices.

45. Plaintiffs incorporate herein by reference paragraphs 1 through 34 as if fully set forth herein.

INJUNCTIVE RELIEF-STANDARD

46. Plaintiffs incorporate herein by reference paragraphs 1 through 43 as if fully set forth herein.

47. Plaintiffs are entitled to preliminary injunctive relief if they show: (1) likely success on the merits; (2) likely irreparable harm absent preliminary relief; (3) the balance of equities tips in their favor; and (4) an injunction is in the public’s interest. [Pimentel v. Dreyfus](#) (9th Cir. 2012) 670 F.3d 1096, 1105–06; [Sierra Forest Legacy v. Rey](#) (9th Cir. 2009) 577 F.3d 1015, 1021. Under our “sliding scale” approach, a stronger showing of one element may offset a weaker showing of another, as long as plaintiffs “establish that irreparable harm is likely.” All for [Alliance for the Wild Rockies v. Cottrell](#) (9th Cir. 2011) 632 F.3d 1127, 1131.

48. Plaintiff enjoys a fundamental right to keep and bear arms. [McDonald, supra](#), 561 U.S. 742,130S.Ct. 3020, 2010 (2010) (majority op.), at *113 (Thomas, J.). “[T]he inherent right of self-defense has been central to the Second Amendment right.” [District of Columbia, supra](#), 128 S.Ct. at p. 2817.

49. However, if gun stores are not open and made available to the essential workforce Plaintiff and similarly situated residence of Ventura County they will continue to suffer irreparable harm.

50. There is no way to quantify, in terms of money damages, the inability to engage in protected Second Amendment activity such as the purchase of firearms.

51. Plaintiff will prevail on the merits as Ventura County closures of gun stores violate Plaintiff’s and similarly situated Ventura County resident’s second amendment rights.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief:

1. Plaintiff request a preliminary and permanent injunction restraining Ventura County and their officers, agents, servants, employees, and all persons in concert or participation with them who receive notice of the injunction, from enforcing Stay

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Well at Home Order on gun stores situated within Ventura County and Ventura County’s policies, practices, and customs that individually and/or collectively prohibit the purchase and sale of firearms and ammunition;

2. An injunction directing Ventura County and their officers, agents, servants, employees, and all persons in concert or participation with them who receive notice of the injunction, to cease and desist enacting or enforcing any Order or declaration that firearm and ammunition retailers are not an essential business, or, in the alternative, an injunction preventing Ventura County from enforcing their laws, policies, practices, and customs that prevent individuals from buying and selling arms in accordance with State and federal laws;
3. Nominal damages against Ventura County;
4. All other and further relief, including injunctive relief, against Ventura County as necessary to effectuate the Court’s judgment, or as the Court otherwise deems just and equitable; and,
5. Attorney’s fees and costs pursuant to [42 U.S.C.A. § 1988 \(West\)](#) and any other applicable law. Attorney Fees and Costs pursuant to [42 U.S.C.A. § 1988](#); Costs of suit; and
6. Any other further relief as the Court deems just and appropriate.

Dated: March 28, 2020

/S/ Ronda Baldwin-Kennedy
Ronda Baldwin-Kennedy, Esq.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA (Western Division - Los Angeles)
CIVIL DOCKET FOR CASE #: 2:20-cv-02927-CBM-AS**

Donald McDougall v. County of Ventura California, et al
Assigned to: Judge Consuelo B. Marshall
Referred to: Magistrate Judge Alka Sagar
Case in other court: 9th CCA, 20-56220
Cause: 15:0053(b) Prelim & Perm Inj Relief & Other Equitable Rel

Date Filed: 03/28/2020
Date Terminated: 10/21/2020
Jury Demand: Plaintiff
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Donald McDougall
an individual

represented by **Jerome A Clay**
Law Office of Jerome A Clay
5250 Claremont Avenue Suite 221
Stockton, CA 95207
209-603-9852
Fax: 510-280-2841
Email: jclay7@sbcglobal.net
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ronda Baldwin-Kennedy
Law Office of Ronda Baldwin-Kennedy
5627 Kanan Road, Suite 614
Agoura Hills, CA 91301-3358
951-268-8977
Fax: 702-974-0147
Email: ronda@lorbk.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Adam J Kraut
Firearms Policy Coalition
1215 K Street 17th Floor
Sacramento, CA 95814
916-476-2342

Email: akraut@fpclaw.org
PRO HAC VICE
ATTORNEY TO BE NOTICED

Raymond Mark DiGuiseppe
DiGuiseppe Law Firm PC
4320 Southport-Supply Road Suite 300
Southport, NC 28461
910-713-8804
Fax: 910-672-7705
Email: law.rmd@gmail.com
ATTORNEY TO BE NOTICED

Plaintiff

Juliana Garcia
an individual

represented by **Jerome A Clay**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Raymond Mark DiGuiseppe
(See above for address)
ATTORNEY TO BE NOTICED

Ronda Baldwin-Kennedy
(See above for address)

Plaintiff

Second Amendment Foundation

represented by **Jerome A Clay**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ronda Baldwin-Kennedy
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Raymond Mark DiGuiseppe
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

California Gun Rights Foundation

represented by **Jerome A Clay**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ronda Baldwin-Kennedy
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Raymond Mark DiGuiseppe
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Firearms Policy Coalition, Inc.

represented by **Jerome A Clay**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ronda Baldwin-Kennedy
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Raymond Mark DiGuiseppe
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

County of Ventura California

represented by **Leroy Smith**
Ventura County Counsel
County Government Center
800 South Victoria Avenue Suite LC 1830
Ventura, CA 93009-0001
805-654-2581

Fax: 805-654-2185
Email: leroy.smith@ventura.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Charmaine Buehner
Ventura County Superior Court
800 South Victoria Avenue
Ventura, CA 93009
805-654-2588
Email: charmaine.buehner@ventura.org
TERMINATED: 09/18/2020

Emily T Gardner
Ventura County Counsel
800 South Victoria Avenue Room 1830
Ventura, CA 93009
805-654-2573
Fax: 805-654-2185
Email: emily.gardner@ventura.org
ATTORNEY TO BE NOTICED

Defendant

Does
1-20

represented by **Charmaine Buehner**
(See above for address)
TERMINATED: 09/18/2020

Defendant

Roes
1-20

represented by **Charmaine Buehner**
(See above for address)
TERMINATED: 09/18/2020

Defendant

Bill Ayub

represented by **Leroy Smith**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Charmaine Buehner
(See above for address)

TERMINATED: 09/18/2020

Emily T Gardner
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

William T Foley

represented by **Leroy Smith**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Charmaine Buehner
(See above for address)
TERMINATED: 09/18/2020

Emily T Gardner
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Robert Levin

represented by **Leroy Smith**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Charmaine Buehner
(See above for address)
TERMINATED: 09/18/2020

Emily T Gardner
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Ventura County Public Health Care Agency

represented by **Leroy Smith**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Charmaine Buehner

(See above for address)

*TERMINATED: 09/18/2020***Emily T Gardner**

(See above for address)

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
03/28/2020	1	COMPLAINT Receipt No: ACACDC-25894242 - Fee: \$400. (Attachments: # 1 Exhibit Stay Well at home Order, # 2 Civil Cover Sheet) (Attorney Ronda Baldwin-Kennedy added to party Donald McDougall(pty:bkmov))(Baldwin-Kennedy, Ronda) (Entered: 03/28/2020)
03/28/2020	2	Request for Clerk to Issue Summons on Complaint (Attorney Civil Case Opening) 1 Donald McDougall. (Baldwin-Kennedy, Ronda) (Entered: 03/28/2020)
03/29/2020	3	NOTICE of Change of address by Ronda Baldwin-Kennedy attorney for Movant Donald McDougall. Changing attorneys address to Ronda Baldwin-Kennedy. Filed by Movant Donald McDougall. (Baldwin-Kennedy, Ronda) (Entered: 03/29/2020)
03/30/2020	4	NOTICE OF ASSIGNMENT to District Judge Consuelo B. Marshall and Magistrate Judge Alka Sagar. (esa) (Entered: 03/30/2020)
03/30/2020	5	NOTICE OF DEFICIENCIES in Attorney Case Opening. The following error(s) was found: No Notice of Interested Parties has been filed. A Notice of Interested Parties must be filed with every partys first appearance. See Local Rule 7.1-1. Counsel must file a Notice of Interested Parties immediately. Failure to do so may be addressed by judicial action, including sanctions. See Local Rule 83-7. Other error(s) with document(s): A temporary restraining order (TRO) flag was indicated, but no TRO document was filed. (esa) (Entered: 03/30/2020)
03/30/2020	6	NOTICE OF DEFICIENCIES in Request to Issue Summons. The following error(s) was found: The caption of the summons must match the caption of the complaint verbatim. If the caption is too large to fit in the space provided, enter the name of the first party and then write see attached.Next, attach a face page of the complaint or a second page addendum to the Summons. The summons cannot be issued until this defect has been corrected. Please correct the defect and re-file your request. (esa) (Entered: 03/30/2020)
03/30/2020	7	NOTICE of Interested Parties (Baldwin-Kennedy, Ronda) (Entered: 03/30/2020)
03/30/2020	8	Request for Clerk to Issue Summons on Deficiency in Attorney Case Opening - optional html form,, 5 Donald McDougall. (Baldwin-Kennedy, Ronda) (Entered: 03/30/2020)
03/30/2020	9	First EX PARTE APPLICATION for Temporary Restraining Order Donald McDougall. (Attachments: # 1 Memorandum, # 2 Declaration) (Baldwin-Kennedy, Ronda) (Entered: 03/30/2020)

03/31/2020	10	First EX PARTE APPLICATION to Ex Parte Application for TRO First EX PARTE APPLICATION for Temporary Restraining Order 9 Donald McDougall. (Baldwin-Kennedy, Ronda) (Entered: 03/31/2020)
03/31/2020	11	21 DAY Summons Issued re Complaint (Attorney Civil Case Opening) 1 as to Defendant County of Ventura California. (shb) (Entered: 03/31/2020)
04/01/2020	12	MINUTES (IN CHAMBERS) ORDER RE EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER [DKT. NOS. 9, 10], by Judge Consuelo B. Marshall: The Court DENIES Plaintiffs request for a temporary restraining order. See order for further details. (shb) (Entered: 04/01/2020)
04/01/2020	13	STANDING ORDER upon filing of the complaint by Judge Consuelo B. Marshall. READ THIS ORDER CAREFULLY. It controls this case and may differ in some respects from the Local Rules. (ys) (Entered: 04/01/2020)
04/06/2020	14	First APPLICATION for Order for Pro Hac Vice Donald McDougall. (Baldwin-Kennedy, Ronda) Modified on 4/7/2020 (shb). (Entered: 04/06/2020)
04/07/2020	15	APPLICATION of Non-Resident Attorney Adam Kraut, Esq. to Appear Pro Hac Vice on behalf of Plaintiff Donald McDougall (Pro Hac Vice Fee - \$400.00 Previously Paid on 4/6/2020, Receipt No. 25977589) Donald McDougall. (Attachments: # 1 Proposed Order) (Baldwin-Kennedy, Ronda) (Entered: 04/07/2020)
04/08/2020	16	NOTICE of Deficiency in Electronically Filed Pro Hac Vice Application RE: APPLICATION of Non-Resident Attorney Adam Kraut, Esq. to Appear Pro Hac Vice on behalf of Plaintiff Donald McDougall (Pro Hac Vice Fee - \$400.00 Previously Paid on 4/6/2020, Receipt No. 25977589) 15 . The following error(s) was/were found: Local Rule 83-2.1.3.2(a) Applicant resides in California. (Thrasher, Lupe) (Entered: 04/08/2020)
04/08/2020	17	ORDER by Judge Consuelo B. Marshall: granting 15 Non-Resident Attorney Adam J Kraut APPLICATION to Appear Pro Hac Vice on behalf of Donald McDougall, designating Ronda Baldwin-Kennedy as local counsel. (lom) (Entered: 04/14/2020)
04/13/2020	18	ORDER by Judge Consuelo B. Marshall: Denying 15 Non-Resident Attorney Adam J Kraut APPLICATION to Appear Pro Hac Vice on behalf of Plaintiff pursuant to L.R. 83-2.1.3.2 previous application listed indicate Applicant is regularly employed or engaged in a business, professional, or other similar activities in California. IT IS HEREBY FURTHER ORDERED that the pro hac vice application fee, if paid, not be refunded. (shb) (Entered: 04/14/2020)
04/14/2020	19	First AMENDED COMPLAINT against Defendants All Defendants amending Complaint (Attorney Civil Case Opening) 1 (Baldwin-Kennedy, Ronda) (Entered: 04/14/2020)
04/14/2020	20	First NOTICE OF MOTION AND MOTION for Preliminary Injunction re Gun Store Closure . Motion Donald McDougall. Motion set for hearing on 5/12/2020 at 10:00 AM before Judge Consuelo B. Marshall. (Attachments: # 1 Memorandum, # 2 Declaration Donald McDougall, # 3 Declaration Juliana Garcia, # 4 Declaration Alan Gottlieb, # 5 Declaration Gene Hoffman, # 6 Declaration Brandon Combs, # 7 Declaration Ronda Baldwin-Kennedy) (Baldwin-Kennedy, Ronda) (Entered: 04/14/2020)
04/15/2020	21	NOTICE TO FILER OF DEFICIENCIES in Electronically Filed Documents RE: Amended Complaint/Petition 19 , First NOTICE OF MOTION AND MOTION for Preliminary Injunction re Gun Store Closure . Motion 20 . The following error(s) was/were found: Proposed Document was not submitted as separate attachment. Case number is incorrect or missing. Other error(s) with document(s): The case number is missing the judge initials. The complete case number is 2:20-cv-02927-CBM

		(ASx). In response to this notice, the Court may: (1) order an amended or correct document to be filed; (2) order the document stricken; or (3) take other action as the Court deems appropriate. You need not take any action in response to this notice unless and until the Court directs you to do so. (shb) (Entered: 04/15/2020)
04/16/2020	22	Request for Clerk to Issue Summons on Amended Complaint/Petition 19 Donald McDougall. (Baldwin-Kennedy, Ronda) (Entered: 04/16/2020)
04/17/2020	23	21 DAY Summons Issued re First Amended Complaint/Petition 19 as to Defendants Bill Ayub, County of Ventura California, William T Foley, Robert Levin, Ventura County Public Health Care Agency. (shb) (Entered: 04/17/2020)
04/21/2020	24	STIPULATION to Continue Hearing on Motion for Preliminary Injunction from May 12, 2020 to May 19, 2020 Re: First NOTICE OF MOTION AND MOTION for Preliminary Injunction re Gun Store Closure . Motion 20 filed by Defendants Bill Ayub, County of Ventura California, William T Foley, Robert Levin, Ventura County Public Health Care Agency. (Attachments: # 1 Proposed Order to Continue Hearing and Briefing Schedule)(Attorney Charmaine Hilton Buehner added to party Bill Ayub(pty:dft), Attorney Charmaine Hilton Buehner added to party County of Ventura California(pty:dft), Attorney Charmaine Hilton Buehner added to party William T Foley(pty:dft), Attorney Charmaine Hilton Buehner added to party Robert Levin(pty:dft), Attorney Charmaine Hilton Buehner added to party Ventura County Public Health Care Agency(pty:dft)) (Buehner, Charmaine) (Entered: 04/21/2020)
04/22/2020	25	ORDER CONTINUING BRIEFING SCHEDULE AND HEARING ON PLAINTIFFS MOTION FOR 24 PRELIMINARY INJUNCTION by Judge Consuelo B. Marshall: Having reviewed the stipulation of the parties and good cause appearing thereon, the hearing on plaintiffs, Donald McDougall, Juliana Garcia, Second Amendment Foundation, California Gun Rights Foundation, and Firearms Policy Coalition, Inc., motion for preliminary injunction shall take place on July 28, 2020, at 10:00 a.m. Defendants, County of Ventura, Sheriff William Ayub, Dr. Robert Levin and Director William T. Foley are directed to file any opposition to the motion for preliminary injunction in accordance with Local Rule 7-9. (shb) (Entered: 04/22/2020)
04/23/2020	26	Notice of Appearance or Withdrawal of Counsel: for attorney Raymond Mark DiGuiseppe counsel for Plaintiffs California Gun Rights Foundation, Firearms Policy Coalition, Inc., Juliana Garcia, Donald McDougall, Second Amendment Foundation. Adding Raymond M. DiGuiseppe as counsel of record for All Plaintiffs for the reason indicated in the G-123 Notice. Filed by Plaintiffs Donald McDougall, et al.. (Attorney Raymond Mark DiGuiseppe added to party California Gun Rights Foundation(pty:pla), Attorney Raymond Mark DiGuiseppe added to party Firearms Policy Coalition, Inc.(pty:pla), Attorney Raymond Mark DiGuiseppe added to party Juliana Garcia(pty:pla), Attorney Raymond Mark DiGuiseppe added to party Donald McDougall(pty:pla), Attorney Raymond Mark DiGuiseppe added to party Second Amendment Foundation(pty:pla)) (DiGuiseppe, Raymond) (Entered: 04/23/2020)
04/24/2020	27	Second EX PARTE APPLICATION for Temporary Restraining Order as to closure of retail firearm and ammunition businesses filed by Plaintiff Juliana Garcia. (Attachments: # 1 Memorandum) (Attorney Ronda Baldwin-Kennedy added to party Juliana Garcia(pty:pla)) (Baldwin-Kennedy, Ronda) (Entered: 04/24/2020)
04/27/2020	28	MINUTE IN CHAMBERS SCHEDULING ORDER RE DKT NOS. 20 AND 27 by Judge Consuelo B. Marshall: The Court GRANTS Plaintiff's request for an expedited hearing. The Court vacates the July 28, 2020 hearing date for the motion for preliminary injunction. (Dkt No. 25). Pursuant to Local Rule 65-1, the Court sets the hearing on the motion for preliminary injunction for May 19, 2020 at 10:00 a.m. Defendant's must file an opposition on or before May 5, 2020. Plaintiffs may file a

		reply on or before May 12, 2020. Defendants are hereby ordered to file an opposition addressing their position regarding Plaintiff's second ex parte application for a temporary restraining on or before April 28, 2020 at 4:00 p.m. (shb). Modified on 4/27/2020 (shb). (Entered: 04/27/2020)
04/28/2020	29	MEMORANDUM in Opposition to Second EX PARTE APPLICATION for Temporary Restraining Order as to closure of retail firearm and ammunition businesses 27 filed by Defendants Bill Ayub, County of Ventura California, William T Foley, Robert Levin, Ventura County Public Health Care Agency. (Attachments: # 1 Request for Judicial Notice with Exhibits, # 2 Declaration Charmaine H. Buehner)(Buehner, Charmaine) (Entered: 04/28/2020)
04/30/2020	30	MINUTES IN CHAMBERS - ORDER RE PLAINTIFFS' SECOND EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER, 27 by Judge Consuelo B. Marshall: The Court DENIES the TRO and GRANTS the order to show cause why this TRO should not issue, in accordance with Local Rule 65-1. The Court consolidates the hearings on the orders to show cause why the temporary restraining orders should not issue and Plaintiffs motion for a preliminary injunction, per the Courts scheduling order dated April 27, 2020. (See Dkt. No. 28.) The Court will consider evidence from both parties supporting their positions at the expedited hearing for the issuance of a preliminary injunction. See order for further details. (shb) (Entered: 04/30/2020)
04/30/2020	31	MINUTE IN CHAMBERS-ORDER AND NOTICE TO ALL PARTIES by Judge Consuelo B. Marshall: Counsel are hereby notified that pursuant to the Judge's directive, the fees in Order 18 filed on April 13, 2020, are hereby ordered refunded forthwith. (shb) (Entered: 04/30/2020)
05/05/2020	32	MEMORANDUM in Opposition to First NOTICE OF MOTION AND MOTION for Preliminary Injunction re Gun Store Closure . Motion 20 <i>Opposition to Motion for Preliminary Injunction</i> filed by Defendants Bill Ayub, County of Ventura California, William T Foley, Robert Levin, Ventura County Public Health Care Agency. (Attachments: # 1 Request for Judicial Notice with Exhibits, # 2 Objections to Evidence in support of Motion)(Buehner, Charmaine) (Entered: 05/05/2020)
05/06/2020	33	NOTICE TO FILER OF DEFICIENCIES in Electronically Filed Documents RE: MEMORANDUM in Opposition to Motion, 32 . The following error(s) was/were found: Case number is incorrect or missing. Other error(s) with document(s): The case number is incorrect. The correct case number is 2:20-cv-02927 CBM (ASx). In response to this notice, the Court may: (1) order an amended or correct document to be filed; (2) order the document stricken; or (3) take other action as the Court deems appropriate. You need not take any action in response to this notice unless and until the Court directs you to do so. (shb) (Entered: 05/06/2020)
05/08/2020	34	First STIPULATION for Hearing re on Defendants' Motion to Dismiss First Amended Complaint, First STIPULATION for Extension of Time to File Response to First Amended Complaint filed by Defendants Bill Ayub, County of Ventura California, William T Foley, Robert Levin, Ventura County Public Health Care Agency. (Attachments: # 1 Proposed Order)(Buehner, Charmaine) (Entered: 05/08/2020)
05/11/2020	35	SCHEDULING NOTICE by Judge Consuelo B. Marshall. The Court sets a telephonic hearing on the preliminary injunction on Tuesday, May 19, 2020 at 10:00 a.m.THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (vcr) TEXT ONLY ENTRY (Entered: 05/11/2020)
05/11/2020	36	ORDER by Judge Consuelo B. Marshall, re Stipulation for Extension of Time to File Response/Reply, 34 . Having reviewed the stipulation of the parties and good cause appearing thereon, the hearing on defendants, County of Ventura, Sheriff William

		Ayub, Dr. Robert Levin and Director William Foley (collectively Defendants), motion to dismiss the First Amended Complaint (MTD) shall take place on June 30, 2020, at 10:00 a.m. The time for Defendants to respond to the First Amended Complaint shall be 28 days before the date set for the hearing on the MTD in accordance with Local Rule 6-1. Plaintiffs, Donald McDougall, Juliana Garcia, Second Amendment Foundation, California Gun Rights Foundation and Firearms Policy Coalition, Inc., opposition to the MTD shall be filed on or before 21 days before the date set for the hearing on the MTD in accordance with Local Rule 7-9. Any reply filed by Defendants shall be due on or before 14 days before the date set for the hearing in accordance with Local Rule 7-10. (shb) (Entered: 05/12/2020)
05/12/2020	37	REPLY in support of First NOTICE OF MOTION AND MOTION for Preliminary Injunction re Gun Store Closure . Motion 20 filed by Plaintiff Donald McDougall. (Attachments: # 1 Exhibit, # 2 Exhibit)(Baldwin-Kennedy, Ronda) (Entered: 05/12/2020)
05/12/2020	38	EXHIBIT Filed filed by Plaintiff Donald McDougall. <i>Exhibit 3</i> as to Reply (Motion related) 37 . (Baldwin-Kennedy, Ronda) (Entered: 05/12/2020)
05/13/2020	39	NOTICE of Issuance of STAY WELL VC ORDER to Safely Reopen Ventura County, with Exh. A (May 7, 2020 Order); Exh. B (State Guidelines); and Exh. C (County FAQ) filed by Defendants Bill Ayub, County of Ventura California, William T Foley, Robert Levin, Ventura County Public Health Care Agency. (Buehner, Charmaine) (Entered: 05/13/2020)
05/18/2020	40	Notice of Withdrawal of Motion for Preliminary Injunction, 20 filed by Plaintiff California Gun Rights Foundation, Firearms Policy Coalition, Inc., Juliana Garcia, Donald McDougall, Second Amendment Foundation. (DiGuissepe, Raymond) (Entered: 05/18/2020)
05/18/2020	41	MINUTES IN CHAMBERS-ORDER AND NOTICE TO ALL PARTIES by Judge Consuelo B. Marshall withdrawing 20 MOTION for Preliminary Injunction: Counsel are hereby notified that pursuant to the Judge's directive, the Plaintiff's notice of withdrawal of motion 40 is granted. The telephonic hearing re the motion for preliminary injunction 20 re gun store closure, currently set for May 19, 2020, is hereby withdrawn and take off calendar. (bm) (Entered: 05/18/2020)
06/02/2020	42	NOTICE OF MOTION AND MOTION to Dismiss Case filed by Defendants Bill Ayub, County of Ventura California, Does, William T Foley, Robert Levin, Roes, Ventura County Public Health Care Agency. Motion set for hearing on 6/30/2020 at 10:00 AM before Judge Consuelo B. Marshall. (Attachments: # 1 Request for Judicial Notice with Exhibits 1 to 28, # 2 Declaration Charmaine H. Buehner, # 3 Proposed Order) (Attorney Charmaine Hilton Buehner added to party Does(pty:dft), Attorney Charmaine Hilton Buehner added to party Roes(pty:dft)) (Buehner, Charmaine) (Entered: 06/02/2020)
06/09/2020	43	PLAINTIFFS' OPPOSITION re: NOTICE OF MOTION AND MOTION to Dismiss Case 42 filed by Plaintiff Donald McDougall. (Baldwin-Kennedy, Ronda) (Entered: 06/09/2020)
06/09/2020	44	REQUEST FOR JUDICIAL NOTICE <i>IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO DISMISS FIRST AMENDED COMPLAINT</i> filed by Plaintiff Donald McDougall. (Baldwin-Kennedy, Ronda) (Entered: 06/09/2020)
06/16/2020	45	REPLY in support of NOTICE OF MOTION AND MOTION to Dismiss Case 42 filed by Defendants Bill Ayub, County of Ventura California, Does, William T Foley, Robert Levin, Roes, Ventura County Public Health Care Agency. (Attachments: # 1 Supplemental Request for Judicial Notice with Exhibit 1)(Buehner, Charmaine) (Entered: 06/16/2020)

06/26/2020	46	MINUTE IN CHAMBERS - NOTICE TO ALL PARTIES OF COURT ORDER by Judge Consuelo B. Marshall: On the Courts own motion, the defendants motion to dismiss 42 , currently scheduled for June 30, 2020, is hereby ordered continued to August 4, 2020 at 10:00 a.m. (shb) (Entered: 06/26/2020)
07/29/2020	47	NOTICE of Issuance of Additional Public Health Orders & the Continued Operation of Gun Stores filed by Defendant Bill Ayub, County of Ventura California, Does, William T Foley, Robert Levin. (Buehner, Charmaine) (Entered: 07/29/2020)
07/30/2020	48	MINUTE IN CHAMBERS NOTICE TO ALL PARTIES OF COURT ORDER by Judge Consuelo B. Marshall: On the Court's own motion, the defendant's motion to dismiss, 42 , currently scheduled for August 4, 2020, is ordered continued to September 22, 2020 at 9:00 a.m. IT IS SO ORDERED. (shb) (Entered: 07/30/2020)
09/17/2020	49	REQUEST FOR JUDICIAL NOTICE re NOTICE OF MOTION AND MOTION to Dismiss Case 42 in Support of Plaintiffs' Opposition to Motion to Dismiss filed by Plaintiffs California Gun Rights Foundation, Firearms Policy Coalition, Inc., Juliana Garcia, Donald McDougall, Second Amendment Foundation. (Attachments: # 1 Exhibit A, # 2 Exhibit B)(DiGuissepe, Raymond) (Entered: 09/17/2020)
09/17/2020	50	MINUTES IN CHAMBERS-ORDER AND NOTICE TO ALL PARTIES by Judge Consuelo B. Marshall: The Court finds that defendant's motion to dismiss plaintiff's first amended complaint 42 , currently set for hearing on September 22, 2020, is appropriate for decision without oral argument. Accordingly, this motion is taken UNDER SUBMISSION and the hearing is vacated. No appearances are necessary on September 22, 2020. A written order will issue. IT IS SO ORDERED. (shb) (Entered: 09/17/2020)
09/18/2020	51	Notice of Appearance or Withdrawal of Counsel: for attorney Charmaine Hilton Buehner counsel for Defendants Bill Ayub, County of Ventura California, Does, William T Foley, Robert Levin, Roes, Ventura County Public Health Care Agency. Charmaine H. Buehner is no longer counsel of record for the aforementioned party in this case for the reason indicated in the G-123 Notice. Filed by Defendant County of Ventura. (Buehner, Charmaine) (Entered: 09/18/2020)
09/18/2020	52	Notice of Appearance or Withdrawal of Counsel: for attorney Emily T Gardner counsel for Defendants Bill Ayub, County of Ventura California, William T Foley, Robert Levin, Ventura County Public Health Care Agency. Adding Emily T. Gardner as counsel of record for Defendants County of Ventura (also erroneously sued as Ventura County Public Health Care Agency), Sheriff William Ayub (erroneously sued as Bill Ayub, Robert Levin and William T. Foley for the reason indicated in the G-123 Notice. Filed by defendants County of Ventura, et al.. (Attorney Emily T Gardner added to party Bill Ayub(pty:dft), Attorney Emily T Gardner added to party County of Ventura California(pty:dft), Attorney Emily T Gardner added to party William T Foley(pty:dft), Attorney Emily T Gardner added to party Robert Levin(pty:dft), Attorney Emily T Gardner added to party Ventura County Public Health Care Agency(pty:dft))(Gardner, Emily) (Entered: 09/18/2020)
10/21/2020	53	ORDER RE: MOTION TO DISMISS CASE (DKT. NO. 42) by Judge Consuelo B. Marshall. The Court GRANTS the motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) with prejudice. (lom) (Entered: 10/22/2020)
10/21/2020	54	JUDGMENT by Judge Consuelo B. Marshall. Pursuant to the Court's Order RE: Motion to Dismiss Case 53 ,IT IS ADJUDGED that the First Amended Complaint is dismissedwith prejudice. (MD JS-6, Case Terminated). (lom) (Entered: 10/22/2020)
11/19/2020	55	NOTICE OF APPEAL to the 9th Circuit Court of Appeals filed by Plaintiff California Gun Rights Foundation, Firearms Policy

		Coalition, Inc., Juliana Garcia, Donald McDougall, Second Amendment Foundation. Appeal of Order on Motion to Dismiss Case 53 , Judgment 54 . (Appeal Fee - \$505 Fee Paid, Receipt No. ACACDC-29102833.) (Attachments: # 1 Representation Statement, # 2 Order, # 3 Judgment)(DiGuiseppe, Raymond) (Entered: 11/19/2020)
11/19/2020	56	NOTIFICATION from Ninth Circuit Court of Appeals of case number assigned and briefing schedule. Appeal Docket No. 20-56220 assigned to Notice of Appeal to 9th Circuit Court of Appeals 55 as to Plaintiffs California Gun Rights Foundation, Firearms Policy Coalition, Inc., Juliana Garcia, Donald McDougall, Second Amendment Foundation. (jp) (Entered: 11/20/2020)
02/24/2021	57	NOTICE Notice re Reporter's Transcripts filed by Plaintiff California Gun Rights Foundation, Firearms Policy Coalition, Inc., Juliana Garcia, Donald McDougall, Second Amendment Foundation. <i>No Reporter's Transcripts Necessary</i> (DiGuiseppe, Raymond) (Entered: 02/24/2021)

PACER Service Center			
Transaction Receipt			
02/25/2021 14:23:53			
PACER Login:	rmdllp1749	Client Code:	
Description:	Docket Report	Search Criteria:	2:20-cv-02927-CBM-AS End date: 2/25/2021
Billable Pages:	11	Cost:	1.10