

No. 20-56233

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

JONAH MARTINEZ, et al.,

Plaintiffs–Appellants,

v.

ALEX VILLANUEVA, et al.,

Defendants–Appellees.

On Appeal From The United States District Court
For The Central District of California
Case No. 2:20-cv-02874-AB-SK
The Honorable André Birotte Jr.

APPELLANTS’ EXCERPTS OF RECORD

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Under Federal Rules of Appellate Procedure for the Ninth Circuit, Rule 30-1, Plaintiffs-Appellants Jonah Martinez, Jason Montes, Alan Kushner, Tom Watt, A Place to Shoot, Inc., Weyland-Yutani LLC, The Target Range, Second Amendment Foundation, California Gun Rights Foundation, National Rifle Association of America, and Firearms Policy Coalitions, Inc., by and through their attorney of record, confirm the contents and form of Appellants' Excerpts of Record.

Date: March 5, 2021

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

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CERTIFICATE OF SERVICE

I hereby certify that on March 5, 2021, an electronic PDF of Appellants' Excerpts of Record, Volume I 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.

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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

ADAM BRANDY, an individual;
JONAH MARTINEZ, an individual;
DAEMION GARRO, an individual;
DG 2A ENTERPRISES INC., d.b.a.
GUN WORLD; JASON MONTES, an
individual; WEYLAND-YUTANI LLC,
d.b.a. MATCH GRADE GUNSMITHS;
ALAN KUSHNER, an individual; THE
TARGET RANGE; TOM WATT, an
individual; A PLACE TO SHOOT, INC.;
SECOND AMENDMENT
FOUNDATION; CALIFORNIA GUN
RIGHTS FOUNDATION; NATIONAL
RIFLE ASSOCIATION OF AMERICA;
and FIREARMS POLICY COALITION,
INC.,

Plaintiffs,

Case No. 2:20-cv-02874-AB-AK

vs.

ALEX VILLANUEVA, in his official capacity as Sheriff of Los Angeles County, California, and in his capacity as the Director of Emergency Operations; BARBARA FERRER, in her official capacity as Director of Los Angeles County Department Of Public Health; COUNTY OF LOS ANGELES,

Defendants.

REPRESENTATION STATEMENT

The following identifies the parties and their respective counsel:

PLAINTIFFS:

Jonah Martinez, Jason Montes, Weyland-Yutani LLC, d.b.a. Match Grade Gunsmiths, Alan Kushner, The Target Range, Tom Watt, A Place to Shoot, Inc., Second Amendment Foundation, California Gun Rights Foundation, National Rifle Association of America, and Firearms Policy Coalitions, Inc.¹

¹ Because Plaintiffs Adam Brandy, Daemion Garro, DG 2A Enterprises Inc., d.b.a. Gun World, who are parties to the order and judgment, *do not* enter a notice of appeal, they are not represented in this appeal.

PLAINTIFFS' COUNSEL:

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DEFENDANTS

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Dated: November 19, 2020

/s/ Raymond M. DiGuiseppe
Raymond M. DiGuiseppe

Attorney for Plaintiffs

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

<p>ADAM BRANDY, an individual; et al.,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">vs.</p> <p>ALEX VILLANUEVA, in his official capacity as Sheriff of Los Angeles County, California, and in his capacity as the Director of Emergency Operations; et al.,</p> <p style="text-align: center;">Defendants.</p>	<p>) Case No. 2:20-cv-02874-AB-SK</p> <p>) Honorable Andre Birotte, Jr.</p> <p>)</p> <p>) JUDGMENT</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>
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The Court having entered an Order on October 20, 2020, granting the Motion for Judgment on the Pleadings by Defendants County of Los Angeles, Sheriff Alex Villanueva, and Barbara Ferrer, and dismissing with prejudice the claims brought by Plaintiffs Adam Brandy, Jonah Martinez, Daemion Garro, DG 2A Enterprises Inc., d.b.a. Gun World, Jason Montes, Weyland-Yutani LLC, d.b.a. Match Grade Gunsmiths, Alan Kushner, The Target Range, Tom Watt, A Place to Shoot, Inc., Second Amendment Foundation, California Gun Rights Foundation, National Rifle Association of America, and Firearms Policy Coalition, Inc.:

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IT IS ORDERED AND ADJUDGED that judgment be entered on all claims in favor of Defendants County of Los Angeles, Sheriff Alex Villanueva, and Barbara Ferrer, and against Plaintiffs Adam Brandy, Jonah Martinez, Daemion Garro, DG 2A Enterprises Inc., d.b.a. Gun World, Jason Montes, Weyland-Yutani LLC, d.b.a. Match Grade Gunsmiths, Alan Kushner, The Target Range, Tom Watt, A Place to Shoot, Inc., Second Amendment Foundation, California Gun Rights Foundation, National Rifle Association of America, and Firearms Policy Coalition, Inc.

Dated: November 09, 2020



Honorable André Birotte, Jr.
United States District Court Judge

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.: 20-cv-02874-AB-SK

Date: October 20, 2020

Title: *Adam Brandy, et al. v. Alex Villanueva, et al.*

Present: The Honorable **ANDRÉ BIROTTE JR., United States District Judge**

Carla Badirian
Deputy Clerk

N/A
Court Reporter

Attorney(s) Present for Plaintiff(s):
None Appearing

Attorney(s) Present for Defendant(s):
None Appearing

Proceedings: [In Chambers] ORDER GRANTING DEFENDANTS’ MOTION FOR JUDGMENT ON THE PLEADINGS (ECF 56)

I. INTRODUCTION

Before the Court is Defendants’ County of Los Angeles, Sheriff Alex Villanueva, and Barbara Ferrer’s (“Defendants”) Motion for Judgment on the Pleadings. (ECF 56.) The Court determined that no hearing was necessary and took the matter under submission. For the reasons stated below, the Court **GRANTS** Defendants’ Motion.

II. BACKGROUND

A. The Instant Action

On March 27, 2020, Plaintiffs Adam Brandy, Daemion Garr, DG2A Enterprises, Inc., d.b.a. Gun World, Second Amendment Foundation, California Gun Rights Foundation, National Rifle Association of America, and Firearms Policy Coalition (collectively, “Plaintiffs”) brought suit against Defendants Alex

Villanueva, Gavin Newsom, Sonia Y. Angell, Barbara Ferrer, and County of Los Angeles alleging Second Amendment violations. (ECF 1.) On March 29, 2020, Plaintiffs filed a First Amended Complaint (“FAC”) seeking injunctive and declaratory relief (ECF 9), and on April 6, 2020, this Court denied Plaintiffs’ *ex parte* application for a temporary restraining order as to the enforcement of firearm business closure orders. (See ECFs 14, 29.)

Currently, Defendants County of Los Angeles, Sheriff Alex Villanueva, and Barbara Ferrer have moved for judgment on the pleadings as to Plaintiffs’ FAC. (ECF 56). Plaintiffs opposed and Defendants filed a reply.

B. Public Health Orders

The timeline of the relevant health orders is as follows: On March 4, 2020, the Governor of California, Gavin Newsom, declared a state of emergency in California as a result of the spread of COVID-19, a dangerous illness caused by SARS-CoV-2 (i.e., the novel coronavirus). (ECF 14-2, 21.)

On March 19, 2020, Governor Newsom signed Executive Order N-33-20, which ordered “all individuals living in the State of California to stay at home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors[.]” (ECF 14-2.) Noting that “[t]he federal government has identified 16 critical infrastructure sectors,” Executive Order N-33-20 states that “Californians working in those 16 critical infrastructure sectors may continue their work” (*Id.*) The Executive Order further provides that the Public Health Officer “may designate additional sectors as critical in order to protect the health and well-being of all Californians.” (*Id.*) On March 26, Governor Newsom publicly stated that he would defer to local sheriffs as to whether firearms and ammunition retailers constitute essential businesses that may remain open. (ECF 23-2.)

On the same day, March 19, 2020, the County of Los Angeles Department of Public Health issued the “Safer at Home Order for Control of COVID-19” (“County Order”). (ECF 14-2.) Pursuant to the County Order, the Los Angeles Health Officer ordered, among other things, the closure of all non-essential retail businesses, including all indoor malls and indoor shopping centers. (*Id.*) On March 30, 2020, Los Angeles County Sheriff Alex Villanueva (“Sheriff Villanueva”) publicly announced that the Los Angeles County Sheriff’s Department will treat businesses that sell or repair firearms, or sell ammunition, as essential businesses under the County Order, allowing them to continue operations. (ECF 23-2.)

Sheriff Villanueva’s March 30, 2020 announcement reversed a prior decision to categorize firearms and ammunition retailers as non-essential businesses under the County Order. (*Id.*) As of March 30, 2020, firearm and ammunition retailers were permitted to be open to the public.

The County updated and modified its COVID-19 orders over the next few months, and at no point did it again require or announce the closure of firearm retailers. Specifically, on June 18, 2020, the County issued its “Reopening Safer at Work and in the Community for Control of COVID-19” Order. (ECF 57, Exh. 2.) The June 18, 2020 Order “supersede[d] all prior Safer at Home orders” and enumerated which businesses were deemed high risk and had to remain closed. (*Id.* at 15.) Firearms retailers were not included. “Lower-Risk Retail Businesses” such as firearms retailers were allowed to be open as long as they implemented specific safe reopening protocols. (*Id.* at 15-16.)

The June 18, 2020 Order was later superseded by the August 12, 2020 “Reopening Safer at Work and in the Community for Control of COVID-19” Order which updated information for childcare and educational facilities, but did not alter the language about businesses that could remain open nor did it add firearms retailers to the list of businesses that must be closed. (ECF 57, Exh. 5.)

And on September 4, 2020, the County again issued an Order which only temporarily closed “higher-risk businesses . . . where more frequent and prolonged person-to-person contacts are likely to occur.” (ECF 64, Exh. 11.) Like the previous iterations, this Order did not mandate closure of firearms retailers which were and are still permitted to operate so long as they follow the “Reopening Protocols for Retail Establishments.” (*Id.* at ¶ 9(a).)

III. LEGAL STANDARD

“After the pleadings are closed – but early enough to not delay trial – a party may move for judgment on the pleadings.” Fed. R. Civ. Proc. 12(c). The standard for assessing a Rule 12(c) motion for judgment on the pleadings is the same as the standard for a Rule 12(b)(6) motion to dismiss. *Enron Oil Trading & Trans. Co. v. Walbrook Ins. Co., Ltd.*, 132 F.3d 526, 529 (9th Cir. 1997).

To defeat a Rule 12(b)(6) motion to dismiss, the complaint must provide enough factual detail to “give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). The complaint must also be “plausible on its face,” that is, the “complaint

must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 570). A plaintiff’s “factual allegations must be enough to raise a right to relief above the speculative level.” *Twombly*, 550 U.S. at 555. “The plausibility standard is not akin to a ‘probability requirement,’ but it asks for more than a sheer possibility that a defendant has acted unlawfully.” *Id.* Labels, conclusions, and “a formulaic recitation of the elements of a cause of action will not do.” *Twombly*, 550 U.S. at 555.

A court may dismiss a complaint under Rule 12(b)(6) based on the lack of a cognizable legal theory or the absence of sufficient facts alleged under a cognizable legal theory. *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1988). When ruling on a Rule 12(b)(6) motion, “a judge must accept as true all of the factual allegations contained in the complaint.” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). But a court is “not bound to accept as true a legal conclusion couched as a factual allegation.” *Iqbal*, 556 U.S. at 678 (internal quotation marks omitted).

The court generally may not consider materials other than facts alleged in the complaint and documents that are made a part of the complaint. *Anderson v. Angelone*, 86 F.3d 932, 934 (9th Cir. 1996). However, a court may consider other materials if (1) the authenticity of the materials is not disputed and (2) the plaintiff has alleged the existence of the materials in the complaint or the complaint “necessarily relies” on the materials. *Lee v. City of Los Angeles*, 250 F.3d 668, 688 (9th Cir. 2001) (citation omitted). The court may also take judicial notice of undisputed facts that are contained in extrinsic materials. *Mir v. Little Co. of Mary Hosp.*, 844 F.2d 646, 649 (9th Cir. 1988); *Lee*, 250 F.3d at 689-90.

IV. DISCUSSION

A. Plaintiffs Likely Lack Standing Because Their Second Amendment Claim is Moot.

Defendants seek judgment on the pleadings on the ground that Plaintiffs’ Second Amendment claim against the County Order does not present a case or controversy within the meaning of Article III.

Under Article III, “[a] claim is moot if it has lost its character as a present, live controversy.” *Rosemere Neighborhood Ass’n v. EPA*, 581 F.3d 1169, 1172–73 (9th Cir. 2009). Under the voluntary cessation exception to mootness, however,

“the mere cessation of [allegedly] illegal activity in response to pending litigation does not moot a case, unless the party alleging mootness can show that the allegedly wrongful behavior could not reasonably be expected to recur.” *Id.* (alteration added) (internal quotation marks omitted). Although a statutory change is “usually enough to render a case moot . . . a policy change not reflected in statutory changes or even in changes in ordinances or regulations will not necessarily render a case moot.” *Rosebrock v. Mathis*, 745 F.3d 963, 971 (9th Cir. 2014) (internal quotation marks omitted). As a general matter, courts “are less inclined to find mootness where the new policy . . . could easily be abandoned or altered in the future.” *Id.* at 972. (internal quotation marks omitted).

Defendants argue that Plaintiffs’ Second Amendment claim against the County Order is now moot because Sheriff Villanueva has stated that firearms and ammunition retailers constitute essential businesses under the County Order and thus may remain open. They also argue that the subsequent orders from June, August, and September 2020 have all clearly exempted firearm retailers from closure and have unequivocally foreclosed the possibility that the County will abandon or alter its stance on this matter in the future. Plaintiffs respond arguing that the effects of the alleged violation have not been “completely and irrevocably eradicated” and that their injury is “capable of repetition, yet evading review” such that their claims are not moot.

The County has demonstrated in the six months since it issued its initial order that it will not close firearm retailers even in the absence of a temporary restraining order, nor has the County even hinted at any plans to close firearm retailers in the future. Plaintiffs’ fears and speculation about future possible closures cannot sustain an otherwise moot claim; where “there is no reasonable expectation that the [alleged] wrongs will be repeated, and [] interim relief or events have completely and irrevocably eradicated the effects of the alleged violation” a case is moot. *Barnes v. Healy*, 980 F.2d 572, 580 (9th Cir. 1992).

As such, the Court finds that Plaintiffs’ Second Amendment claim against Defendants has likely lost its character as a present, live controversy and should be dismissed as moot. However, the Court declines to definitively rule on standing and instead will address the merits of this matter.

B. Assuming Plaintiffs Have Standing to Sue, Plaintiffs’ Second Amendment Claim Fails as a Matter of Law Because Any Temporary Closure of Firearms Retailers Served Significant Government Interests and Was Substantially Related to These Interests.

Defendants next argue that all County Orders survive intermediate scrutiny such that Plaintiffs’ claims fail as a matter of law.

To determine the merits of a Second Amendment claim, courts have adopted a two-step inquiry which “(1) asks whether the challenged law burdens conduct protected by the Second Amendment and (2) if so, directs courts to apply an appropriate level of scrutiny.” *See United States v. Chovan*, 735 F.3d 1127, 1136 (9th Cir. 2013). Where it is unclear whether a challenged law burdens conduct protected by the Second Amendment, courts follow a “well-trodden and judicious course” of assuming that the Second Amendment applies and analyzing the regulation under the appropriate level of scrutiny. *See Pena v. Lindley*, 898 F.3d 969, 976 (9th Cir. 2018) (internal quotation marks omitted).

Assuming that the County Orders burden conduct protected by the Second Amendment by “affecting the ability of law-abiding citizens to possess [a handgun],” *Fyock v. Sunnyvale*, 779 F.3d 991, 999 (9th Cir. 2015), intermediate scrutiny is warranted because the County Orders are “simply not as sweeping as the complete handgun ban at issue in [*District of Columbia v. Heller*, 554 U.S. 570 (2008).]” *Id.*; *see also Donald McDougal v. Cty. of Ventura Cal.*, 20-CV-02927-CBM-ASx (C.D. Cal. March 31, 2020) (holding that the City Order is subject to intermediate scrutiny). Indeed, the alleged temporary closure of firearms retailers lasted a total of five days from March 25 to March 30, 2020 in the height of a global pandemic which has killed over 200,000 individuals in the United States alone—this circumstance is wholly distinguishable from a complete handgun ban or other possible governmental infringement on Second Amendment rights.

In applying intermediate scrutiny to the County Orders, the Court must consider (1) whether the government’s stated objective is significant, substantial, or important, and (2) whether there is a reasonable fit between the challenged regulation and the asserted objective. *See Chovan*, 735 F.3d at 1139. The County’s stated objective—reducing the spread of a deadly pandemic—unequivocally constitutes a significant government objective. This disease spreads where “[a]n infected person coughs, sneezes, or otherwise expels aerosolized droplets containing the virus,” (ECF 21), so a five-day closure of non-essential businesses,

including firearms and ammunition retailers, reasonably fits the County’s stated objectives of reducing the spread of this disease.

And because firearms retailers are now open to the public, any current restrictions such as social distancing or face masks also reasonably fit the County objectives such that no violation has occurred—regardless, such restrictions do not prohibit, restrict, or otherwise limit the sale of firearms. Accordingly, Plaintiffs have failed to plausibly allege a Second Amendment claim against Defendants. As such, all claims, including those for declaratory and injunctive relief and for nominal damages, fail as a matter of law.

Finally, because Plaintiffs’ have not provided legally sound explanations for how their FAC could be altered to survive dismissal, the Court declines to grant leave amend. *See Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000) (*en banc*) (leave to amend should not be granted if a pleading “could not possibly be cured by the allegation of other facts”) (internal quotation marks and citations omitted).

V. CONCLUSION

For the reasons stated above, Defendants’ Motion for Judgment on the Pleadings is **GRANTED**. This matter is **DISMISSED WITH PREJUDICE**. The scheduling conference is **VACATED AS MOOT**. Defendants are **ORDERED** to submit a proposed judgment within 14 days of the issuance of this Order.

IT IS SO ORDERED.



REOPENING SAFER AT WORK AND IN THE COMMUNITY FOR CONTROL OF COVID-19

MOVING THE COUNTY OF LOS ANGELES INTO STAGE 3 OF CALIFORNIA'S PANDEMIC RESILIENCE ROADMAP

Revised Order Issued: **September 4, 2020**

Recent Update

9/4/2020—Updated data as of 9/3/2020 and revision dates on “Appendices At-A-Glance,” found on the last page.

9/2/2020—Updated to do the following:

- Align with state policy for the provision of school-based targeted, specialized support for a sub-set of students at schools that are otherwise closed for in-person instruction.
- Clarify use of small group cohorting for providing specialized services to students and supervised care for all children at schools.
- Allow barbershops and hair salons to reopen indoor operations with required modifications.

Please read this Order carefully. Violation of or failure to comply with this Order is a crime punishable by fine, imprisonment, or both. (California Health and Safety Code §120295; Los Angeles County Code § 11.02.080.)

SUMMARY OF THE ORDER: This Revised County of Los Angeles Health Officer Order (Order) supersedes all prior Safer At Home orders (Prior Orders) issued by the County of Los Angeles Health Officer (Health Officer). This Order is issued to comply with State Executive Orders N-33-20 and N-60-20 issued by Governor Gavin Newsom, and the accompanying orders of the State Public Health Officer issued on March 19, May 7, July 13, July 17, 2020, and August 28, 2020.

This Order’s intent is to continue to ensure that County residents remain in their residences as much as practicable, to limit close contact with others outside their household in both indoor and outdoor spaces. All persons who can telework or work from home should continue to do so as much as possible during this pandemic. Further, gatherings of people who are not part of a single household or living unit are prohibited within the County of Los Angeles Public Health Jurisdiction, except for the limited purposes expressly permitted by this Order. This Order allows persons to engage in all permitted activities, as defined by the Order, but requires that persons practice Social (Physical) Distancing, at all times while out in public and wear a cloth face covering over both the nose and mouth when in or likely to be in contact with others, to lower the risks of person-to-person contact for themselves and others.

This Order is issued to align the County of Los Angeles (County) with State Executive Orders and State Health Officer Orders. This Order will be revised in the future to reflect the State Executive Orders and State Public Health Officer Orders and guidance that progressively designate sectors, businesses, establishments, or activities that may reopen with certain modifications, based on health and safety needs and at a pace designed to protect health and safety, and that may also progressively close specific activities and business sectors based on increases in daily reported COVID-19 cases, hospitalizations, and the testing positivity rates. Should local COVID-19 conditions warrant, the Health



ORDER OF THE HEALTH OFFICER

Officer may, after consultation with the Board of Supervisors, issue Orders that are more restrictive than those of the State Public Health Officer. **Changes from the previous Order are highlighted.**

This Order is effective within the County of Los Angeles Public Health Jurisdiction, defined as all cities and unincorporated areas within the County of Los Angeles, with the exception of the cities of Long Beach and Pasadena that must follow their respective City Health Officer orders and guidance. This Order is effective immediately and will continue until further notice.

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

1. This Order supersedes the Health Officer's Prior Orders. In order to immediately address the serious recent regression of COVID-19 Indicators within the County of Los Angeles, which show troubling and substantial increases in new daily reported COVID-19 cases, hospitalizations, and the testing positivity rate, this Order requires the immediate temporary closure of specific activities and business sectors. This Order aligns the County with both the Governor's July 13, 2020, announcement requiring the closure of specific activities and business sectors and the State's **August 28, 2020 issuance of a Blue Print for a Safer Economy, which describes a tiered approach to relaxing and tightening restrictions on activities based upon specified criteria and as permitted by this Order based on County health conditions and circumstances.** The Health Officer will continue to assess the phased reopening allowed by the State Public Health Officer and this Order on an ongoing basis and determine, after consultation with the Board of Supervisors, whether this Order needs to be modified if the public health risk associated with COVID-19 increases in the future.
2. This Order's intent is to continue to ensure that County residents remain in their residences as much as practicable, to limit close contact with others outside their household in both indoor and outdoor spaces. All persons who can telework or work from home should continue to do so as much as possible during this pandemic. Sustained Social (Physical) Distancing and infection control measures will continue slowing the spread of COVID-19 and diminishing its impact on the delivery of critical healthcare services. All provisions of this Order must be interpreted to effectuate that intent. Failure to comply with any of the Order's provisions constitutes an imminent threat and menace to public health, and a public nuisance, and is punishable by fine, imprisonment or both.
3. All persons living within the County of Los Angeles Public Health Jurisdiction should remain in their residences whenever practicable.
 - a) Nothing in this Order prohibits members of a single household or living unit from engaging in permitted activities together. But gatherings of people who are *not* part of a single household or living unit are prohibited within the County of Los Angeles Public Health Jurisdiction, except for the limited purposes expressly permitted by this Order.



- b) People leaving their residences must strictly comply with the Social (Physical) Distancing requirements stated in this Order and specified in guidance or protocols established by the County Department of Public Health. This Order, beginning June 19, 2020, requires all persons wear a cloth face covering over both the nose and mouth whenever they leave their place of residence and are or can be in contact with or walking near or past others who are non-household members in both public and private places, whether indoors or outdoors. This includes wearing a cloth face covering when patronizing a business. Wearing a cloth face covering reduces the risk of transmission to others from people who do not have symptoms and do not know they are infected. The use of face coverings is commonly referred to as “source control.”
 - c) Persons and businesses within the County of Los Angeles Public Health Jurisdiction are required to follow the COVID-19 infection control protocols and guidance provided by the County Department of Public Health. In instances where the County has not provided a specific guidance or protocol, specific guidance or protocols established by the State Public Health Officer shall control.
 - i. In the event that an owner, manager, or operator of any business knows of three (3) or more cases of COVID-19 among their employees within a span of 14 days the employer must report this outbreak to the Department of Public Health at (888) 397-3993 or (213) 240-7821.
 - ii. In the event that an owner, manager, or operator of any business is informed that one or more employees of the business has tested positive for, or has symptoms consistent with COVID-19 (case), the employer must have a protocol to require the case(s) to isolate themselves at home and require the immediate self-quarantine of all employees that had a workplace exposure to the case(s).
 - d) Pursuant to the State of California’s action¹ and the United States District Court Central District of California’s order,² jurisdictions within the County of Los Angeles Public Health Jurisdiction are expected to comply with the provision of hotel and motel rooms for vulnerable people experiencing homelessness through Project Roomkey, which slows the spread of COVID-19 and retains capacity of the healthcare system.
4. All people residing within the County of Los Angeles Public Health Jurisdiction who are age 65 or older and all people of any age who have active or unstable pre-existing health conditions, should remain in their residences as much as possible during the pandemic. People in these categories should leave their residences only when necessary to seek medical care, exercise or obtain food or other necessities. The Health Officer strongly recommends that all employers offer telework or other accommodations to persons who are age 65 or older and all people of any age who have an active or unstable pre-existing health conditions.

¹ Office of Governor Gavin Newsom, Action re: Project Roomkey, 4/3/2020, <https://www.gov.ca.gov/2020/04/03/at-newly-converted-motel-governor-newsom-launches-project-roomkey-a-first-in-the-nation-initiative-to-secure-hotel-motel-rooms-to-protect-homeless-individuals-from-covid-19/>; 2020-21 May Revision to the Governor’s Budget, Project Roomkey, pg. 78-79

² Order re: Preliminary Injunction (Case No. LA CV 20-02291-DOC-KES), LA Alliance for Human Rights et al v. City of Los Angeles et al, States District Court Central District of California, 5/15/2020.



5. All government agencies working in the course and scope of their public service employment are Essential Government Functions.
 - a) All government employees are essential, including but not limited to, health care providers and emergency responders including employees who serve in the following areas: law enforcement; emergency services and management; first responders; fire; search and rescue; juvenile detention; corrections; healthcare services and operations; public health; laboratory or medical testing; mental health; community health; public works; executive management employees serving in these fields; all employees assigned to serve in or support the foregoing fields; and all employees whose services are otherwise needed to assist in a declared emergency.
 - b) While all government employees are essential, the employees identified here, and others called to serve in their Disaster Service Worker capacity, must be available to serve the public or assist in response or continuity of operations efforts during this health crisis to the maximum extent allowed under the law.
 - c) This Order does not, in any way, restrict (a) first responder access to the site(s) named in this Order during an emergency or (b) local, state or federal officers, investigators, or medical or law enforcement personnel from carrying out their lawful duties at the site(s) named in this Order.
 - d) All persons who perform Essential Governmental Functions are categorically exempt from this Order while performing such governmental functions or services. Each governmental entity shall identify and designate appropriate employees, volunteers, or contractors to continue providing and carrying out any Essential Governmental Functions. All Essential Governmental Functions should be performed in compliance with Social (Physical) Distancing Protocol, to the extent possible.
6. This Order does not supersede any stricter limitation imposed by a local public entity within the County of Los Angeles Public Health Jurisdiction.
7. The Health Officer orders the closure of the following types of higher-risk businesses, recreational sites, commercial properties, and activities, where more frequent and prolonged person-to-person contacts are likely to occur:
 - a) Lounges and nightclubs;
 - b) Bars, breweries, tasting rooms, craft distilleries, and wineries that possess a valid low risk restaurant public health permit issued by the County of Los Angeles.
 - c) Brewpubs, craft distilleries and breweries and wineries, with premises set aside for beer and/or wine tasting, that are exempt from the definition of a food facility by California Health and Safety Code Section 113789(c)(5), and do not hold a health permit for preparing and serving food on site.
 - d) Public entertainment venues: movie theaters, live performance theaters, concert venues, theme parks, and festivals;
 - e) Family entertainment centers such as bowling alleys, arcades, miniature golf, and batting cages;



- f) All restaurants, but only for indoor, in-person onsite dining until further notice;
 - g) Cardrooms, satellite wagering facilities, and racetrack onsite wagering facilities until further notice;
 - h) Indoor and outdoor playgrounds for children, except those located within a school or childcare center;
 - i) Indoor portions and exhibits of museums, zoos and aquariums are closed to the public until further notice;
 - j) Hot tubs, steam rooms and saunas not located on a residential property;
 - k) All events and gatherings, unless specifically allowed by this Order.
8. All Essential Businesses, unless specific modifications are required by this Order, may remain open to the public and conduct normal business operations, provided that they implement and maintain the Social (Physical) Distancing Protocol defined in Paragraph 20 and attached to this Order as **Appendix A**. An Essential Business' owner, manager, or operator must prepare and post a Social (Physical) Distancing Protocol for each facility or office located within the County of Los Angeles Public Health Jurisdiction and must ensure that the Essential Business meets all other requirements of the Social (Physical) Distancing Protocol.
9. Lower-Risk Businesses are businesses that are not specified in Paragraph 7 of this Order, and not defined as an Essential Business in Paragraph 18 of this Order. There are five categories of Lower-Risk Businesses that may reopen under this Order: (1) retailers ("Lower-Risk Retail Businesses"), (2) manufacturing and logistics sector businesses that supply Lower-Risk Retail Businesses, (3) Non-Essential office-based businesses (although telework is strongly encouraged), (4) Indoor Malls and Shopping Centers, and (5) hair salons and barbershops. These five categories of Lower-Risk Businesses may reopen subject to the following conditions:
- a) For any Lower-Risk Retail Business that sells goods and services, the owner, manager, or operator must, for each facility located within the County of Los Angeles Public Health Jurisdiction, prior to reopening, prepare, implement and post the Reopening Protocols for Retail Establishments: Opening for In Person Shopping, attached to this Order as **Appendix B**.
 - b) For any non-retail Lower-Risk Business, that is a manufacturing and logistics sector business that supplies Lower-Risk Retail Businesses, the owner, manager, or operator must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol, applicable to the business type or location, attached to this Order as **Appendix C**.
 - c) For any Non-Essential office-based business, all indoor portions and operations must cease in-person operations until further notice. Non-essential office-based businesses whose operations require employees to work from an office worksite, and that this Order does not identify as an Essential Business, Healthcare Operation, or Essential Infrastructure, may operate via telework and for Minimum Basic Operations only. Essential Businesses, Healthcare Operations, or Essential Infrastructure whose operations require that



employees operate from an office worksite, must require employees to telework to the extent feasible and any in-person operations must be in accordance with the required Los Angeles County Department of Public Health Reopening Protocol Office-Based Worksites, attached to this Order as **Appendix D**.

- d) For Indoor Malls and Shopping Centers, defined as: A building with (7) or more sales or retail establishments with adjoining indoor space, all indoor portions and operations remain closed to the public until further notice. Businesses located entirely within the interior of an Indoor Mall or Shopping Center that are not temporarily closed pursuant to Paragraph 7 of this Order, may offer goods and services via outdoor curb-side pick-up. Businesses or activities that are part of an Indoor Mall or Shopping Center and that are not closed pursuant to Paragraph 7 of this Order, but that are accessible by the public from the exterior of the Indoor Mall or Shopping Center may remain open to the public. The owner or operator of the Indoor Mall or Shopping Center must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Protocols for Shopping Center Operators, attached to this Order as **Appendix E**.
- e) Hair salons and barbershops. On September 2, 2020, hair salons and barbershops may reopen for indoor operations at 25% of the salon or shop's maximum occupancy and with required modifications. As permitted by the State, operators are encouraged to continue providing as many services as possible outdoors. The owner, manager, or operator must, prior to reopening for indoor operations, prepare, implement and post the Reopening Protocols for Hair Salons and Barbershops, attached to this Order as **Appendix H**.

9.5. The State Public Health Officer has provided guidance for certain sectors, businesses and activities in Stage 3 of the California Pandemic Resilience Roadmap to conditionally reopen with workplace and operational modifications. The Health Officer, after considering local epidemiological data and after consultation with the Board of Supervisors, approves the reopening of the following specific sectors, businesses and activities subject to the following conditions:

- a) Music, film and television production. Operations for music, film and television production may resume on June 12, 2020. The owner, manager, or operator of music, film and television production must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Music, Film and Television Production, attached to this Order as **Appendix J**, as well as abide by applicable industry-generated protocols.
- b) Day camps. Day camps may reopen on June 12, 2020. Day camp owners and operators must implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Day Camps, attached to this Order as **Appendix K**.
- c) Fitness facilities. Fitness facilities, including private gymnasiums, may be open for outdoor operations only. The indoor portions of Fitness facilities are closed to the public until further notice. The owner, manager, or operator of fitness facilities must, prior to reopening, prepare, implement and post the required



Los Angeles County Department of Public Health Reopening Protocol for Gyms and Fitness Establishments, attached to this Order as **Appendix L**.

- d) Outdoor portions of museums, galleries, botanical gardens, and outdoor facilities at zoos, aquariums, and other similar exhibition spaces (collectively, "Museums") may remain open to the public. The indoor portions of Museums are closed to the public until further notice. The owner, manager, or operator of Museums and exhibition spaces must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Museums, Galleries, Zoos, and Aquariums, attached to this Order as **Appendix M**.
- e) Professional sports without audiences. Professional sports teams and franchises may restart operations and competitions without audiences on June 12, 2020. The owner, manager, or operator of professional sports teams and franchises must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Protocol for Professional Sports Leagues and Facilities Opening for Training Sessions and Spectator-Free Events, attached to this Order as **Appendix N**, as well as abide by applicable industry-generate protocols.
- f) Campgrounds, RV Parks and associated outdoor activities. Campgrounds and recreational vehicle parks may reopen on June 12, 2020. The owner, manager, or operator of campgrounds and RV Parks must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Campgrounds, RV parks and Cabin Rental Units, attached to this Order as **Appendix O**.
- g) Schools (K-12) and School Districts. The County Public Health Officer requires all public and private schools (K-12) and school districts within the County of Los Angeles to conduct distance learning only. Beginning September 14, 2020, K-12 schools may offer in-school services for a small, stable cohort of students with Individualized Education Programs (IEPs) or English Learners (ELs) needing assessments and/or specialized in-school services, with priority given to students with disabilities. Other prioritized groups for in person support and services include English learners, students not participating in distance learning, students at risk of abuse or neglect, foster youth, and students experiencing homelessness. Permissible in-person specialized services that require cohorting of students, must limit the maximum stable cohort size to twelve (12) students and two (2) staff (not including aides assigned to children with special needs), and adhere to all provisions for safe opening of schools, as outlined in **Appendix T1: Reopening Protocols for K-12 Schools**. Schools must limit the number of students with IEPs and ELs, and other prioritized students allowed at any one time on campus for essential assessments and/or specialized in-school services to 10% or less of the total student body. Schools (K-12) and School Districts that are permitted to reopen for prioritized individual and cohorted students must follow the Reopening Protocols for K-12 Schools and the Protocol for COVID-19 Exposure Management Plan in K-12 Schools, attached to this Order as **Appendices T1 & T2**.



- h) Personal Care Establishments. These establishments include nail salons, esthetician, skin care, and cosmetology services; electrology, body art professionals, tattoo parlors, and piercing shops; and massage therapy (in non-healthcare settings). With the exception of electrology, tattoo parlors, and piercing shops, which must remain closed, these establishments may be open for outdoor operations only. The indoor portions of personal care establishments are closed to the public until further notice. The owner, manager or operator of a personal care establishment must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Personal Care Establishments, attached to this Order as **Appendix R**.
- i) Institutes of Higher Education. Colleges and universities in Los Angeles County will not be able to resume all in-person academic instruction, at this time. Institutions may continue to offer in person training and instruction for essential workforce for required activities that cannot be accomplished through virtual learning. All other academic instruction must continue to be done via distance-learning as specified in the County's Protocols for Institutes of Higher Education attached to this Order as **Appendix U**. Faculty and other staff may come to campus for the purpose of providing distance learning, and other activities related to the purposes above, as well as maintaining minimum basic operations. The institution must comply with all relevant portions of the County's Protocols for Institutes of Higher Education to maximize safety for all employees, also noted in Appendix U.

REASONS FOR THE ORDER

- 10. This Order is based upon the following determinations: evidence of continued community transmission of COVID-19 within the County; continued uncertainty regarding the degree of undetected asymptomatic transmission; scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically; evidence that a significant portion of the County population is at risk for serious health complications, including hospitalizations and death from COVID-19, due to age or pre-existing health conditions; and further evidence that other County residents, including younger and otherwise healthy people, are also at risk for serious negative health outcomes and for transmitting the virus to others. The Order's intent is to protect the public from the avoidable risk of serious illness and death resulting from the spread of COVID-19.
- 11. Existing community transmission of COVID-19 in Los Angeles County continues to present a substantial and significant risk of harm to residents' health. There is still no vaccine available yet to protect against COVID-19, and no treatment for it. **As of September 3, 2020, there have been at least 244,999 cases of COVID-19 and 5,932 deaths reported in Los Angeles County.** There remains a strong likelihood of a significant and increasing number of cases of community transmission. Making the community transmission problem worse, some individuals who contract the virus causing COVID-19 have no symptoms or have only mild symptoms, and so are unaware that they carry the virus and are transmitting it to others. Further, evidence shows that the virus can, at times, survive for several hours on surfaces and can be



indirectly transmitted between individuals. Because even people without symptoms can transmit the virus, and because evidence shows the infection is easily spread, preventing, limiting, and placing conditions on various types of gatherings and other direct and indirect interpersonal interactions have been proven to reduce the risk of transmitting the virus.

12. Evidence suggests that until recently the restrictions and requirements imposed by Prior Orders slowed the rate of increase in community transmission and hospitalizations by limiting interactions among people, consistent with the efficacy of similar measures in other parts of the country and world. Unfortunately, the daily number of new cases is still high, and COVID-19 remains widespread in Los Angeles County. Moreover, because there is not yet a vaccine or ample therapeutic drugs, the public health emergency and attendant risks to the public's health by COVID-19 still predominate.
13. In line with the State Public Health Officer, the Health Officer is monitoring several key indicators (COVID-19 Indicators) within the County. Activities and business operations that are permitted must be conducted in accordance with the required Social (Physical) Distancing, reopening protocols, and other infection control protocols ordered by the Health Officer.
14. The Health Officer will continue monitoring COVID-19 Indicators to assess the impact of easing restrictions and re-opening sectors. Those Indicators include, but are not limited to:
 - a. The number of new cases, hospitalizations and deaths and the testing positivity rate.
 - b. The capacity of hospitals and the healthcare system in the County, including acute care beds, Intensive Care Unit beds, and ventilators to provide care for existing COVID-19 patients and other patients, and capacity to surge with an increase of COVID-19 cases.
 - c. The supply of personal protective equipment (PPE) available for hospital staff, nursing home staff and other healthcare providers and personnel who need PPE to safely respond to and treat COVID-19 patients and other patients.
 - d. The ability and capacity to quickly and accurately test persons to determine whether individuals are COVID-19 positive, especially those in vulnerable populations or high-risk settings or occupations, and to identify and assess outbreaks.
 - e. The ability to conduct case investigation and contact tracing for the volume of future cases and associated contacts, isolating confirmed cases and quarantining persons who have had contact with confirmed cases.



DEFINITIONS AND EXEMPTIONS

15. The following activities are permitted under this Order:

- a. Engaging in activities or performing tasks important to the health and safety of family or household members (including pets), such as, visiting a health or veterinary care professional, obtaining medical supplies or medication, visiting a physician or child's pediatrician for routine care, such as, well-child visits and vaccinations;
- b. Obtaining necessary services and supplies for family or household members, or delivering the same, such as, obtaining grocery items or necessary supplies from Essential Businesses for one's household or for delivery to others;
- c. Performing work for or accessing businesses that are open, or to carry out Minimum Basic Operations for businesses that are closed or operating remotely.
- d. Obtaining or accessing services from Essential Governmental Functions, such as, accessing court, social and administrative services, or complying with an order of law enforcement or court;
- e. Caring for minors, the elderly, dependents, persons with disabilities, or other vulnerable persons;
- f. Obtaining in-person behavioral health or substance use disorder support in therapeutic small group meetings, such as Alcoholics Anonymous or Narcotics Anonymous, provided that the gathering is limited to 10 people or fewer and Social (Physical) Distancing is practiced.
- g. Obtaining in-person faith-based counselling services where the service cannot reasonably be practiced remotely, provided that the gathering is limited to 10 people or fewer and Social (Physical) Distancing is practiced.
- h. Attending in-person faith-based services, provided that the faith-based service is held outdoors. There is no maximum attendance for faith-based services that are held outdoors, provided that the attendees have enough space to observe strict Social (Physical) Distancing, including a minimum of six feet between attendees from different households, and are wearing cloth face coverings. Faith-based organizations holding in-person outdoor services, must follow the Department of Public Health Places of Worship Protocols, attached to this Order as **Appendix F**.
- i. Engaging in outdoor recreation activity, in compliance with Social (Physical) Distancing requirements and wearing a face covering, subject to the following limitations:
 - i. Outdoor recreation activity at parks, trails, piers, and beaches, and other open spaces must comply with any access or use restrictions separately established by the Health Officer, government, or other entity that manages the area to reduce crowding and the risk of COVID-19 transmission.
 - ii. Use of shared outdoor facilities for recreational activities, including but not limited to golf courses, tennis and pickleball courts, shooting and archery ranges, equestrian centers, model airplane areas, community gardens, and



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- bike parks, must comply with any access or use restrictions separately established by the Health Officer, government, or other entity that manages the area to reduce crowding and the risk of COVID-19 transmission.
- iii. Local public entities may elect to temporarily close certain streets or areas to automobile traffic, to allow for increased space for persons to engage in recreational activity permitted by and in compliance with Social (Physical) Distancing requirements specified in this Order.
 - iv. Swimming pools and splash pads in any non-residential setting may reopen on June 12, 2020, with the owner, manager, or operator of the swimming pool or splash pad implementing and posting the required Los Angeles County Department of Public Health Protocol for Swimming Pools. All hot tubs, saunas, and steam rooms located on non-residential property remain closed.
 - v. For-hire fishing, guided fishing, or small-group chartered boat trips may resume operating on June 12, 2020, with the owner, manager, or operator of the charter business implementing the required Los Angeles County Department of Public Health Protocol for Chartered Boats.
 - j. Participating in a Vehicle-Based Parade. The host of the Vehicle-Based Parade must comply with all local ordinances, traffic control requirements, and state and local laws. Further, the host of Vehicle-Based Parades must comply with the Los Angeles County Department of Public Health Vehicle-Based Parade Protocol, attached to this Order as **Appendix G**.
 - k. Participating in an in-person protest as long as the protest is held outdoors. Outdoor protests are permitted without a limit on attendees. Persons participating in a protest must wear a cloth face covering and maintain physical distancing of six (6) feet between persons or groups of persons from different households at all times, as well as observe the Department of Public Health Protocol for Public Demonstrations.
16. Individuals may work for, train for, volunteer at, or obtain services at Healthcare Operations: hospitals, clinics, laboratories, dentists, optometrists, pharmacies, physical therapists, rehabilitation and physical wellness programs, chiropractors, pharmaceutical and biotechnology companies, other licensed healthcare facilities, healthcare suppliers, home healthcare service providers, mental or behavioral health providers, alcohol and drug treatment providers, cannabis dispensaries with a medicinal cannabis license and all other required state and local licenses, medical or scientific research companies, or any related and/or ancillary healthcare services, manufacturers, distributors and servicers of medical devices, diagnostics, and equipment, veterinary care, and other animal healthcare. This exemption shall be construed to avoid any impact to the delivery of healthcare, broadly defined.



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17. Individuals may provide any service, train for, or perform any work necessary to the operation and maintenance of Essential Infrastructure, which is defined as, public health operations, public works construction, airport operations, port operations, food supply, water, sewer, gas, electrical, oil extraction and refining, roads and highways, public transportation, solid waste collection, removal and processing, flood control and watershed protection, cemeteries, mortuaries, crematoriums, and internet and telecommunications systems (including the provision of essential global, national, local infrastructure for computing services, business infrastructure, communications, and web-based services), and manufacturing and distribution companies deemed essential as part of the Essential Infrastructure supply chain, provided that they carry out those services or that work. In providing these services, training for, or performing this work, individuals must comply with Social (Physical) Distancing requirements to the extent practicable.

18. For purposes of this Order, Essential Businesses are:

- a. Grocery stores, certified farmers' markets, farm and produce stands, supermarkets, food banks, convenience stores, warehouse stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruit and vegetables, pet supply, water, fresh meats, fish, and poultry, and any other household consumer products (such as cleaning or personal care products). This includes stores that sell groceries and other non-grocery products, such as products necessary to maintaining the safety, sanitation, and essential operation of residences. This does not include businesses that sell only prepackaged non-potentially hazardous food which is incidental to the primary retail business;
- b. Food processors, confectioners, food packagers, food testing labs that are not open to the public, and food cultivation, including farming, livestock, and fishing;
- c. Organizations and businesses that provide food, shelter, social services, and other necessities of life for economically disadvantaged or otherwise needy individuals (including gang prevention and intervention, domestic violence, and homeless service agencies);
- d. Newspapers, television news, radio, magazine, podcast and journalism activities, including taped, digitally recorded or online-streamed content of any sort that is produced by one or more members of a single household, within the household's residence and without the physical presence of any non-member of the household.
- e. Gas stations, auto-supply, mobile auto repair operations, auto repair shops (including, without limitation, auto repair shops adjacent to or otherwise in connection with a retail or used auto dealership), and bicycle repair shops and related facilities;
- f. Banks, credit unions, financial institutions and insurance companies;
- g. Hardware stores, nurseries; building supply stores;



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- h. Plumbers, electricians, exterminators, custodial/janitorial workers, handyman services, funeral homes and morticians, moving services, HVAC installers, carpenters, vegetation services, tree maintenance, landscapers, gardeners, property managers, private security personnel and other service providers who provide services to maintain the safety, sanitation, and essential operation to properties and other Essential Businesses;
- i. Businesses providing mailing and shipping services, including post office boxes;
- j. Educational institutions (including public and private K-12 schools, colleges, and universities);
- k. Laundromats, dry cleaners, and laundry service providers;
- l. Restaurants and other food facilities that prepare and serve food, but only for delivery, drive thru, carry out, and outdoor onsite table dining. Indoor dining is not permitted. Restaurants with a moderate risk or high risk restaurant permit issued by the County of Los Angeles Department of Public Health and other food facilities that provide in-person outdoor dining must follow the revised Department of Public Health Protocols for Restaurants, attached to this Order as **Appendix I**. Cafeterias, commissaries, and restaurants located within hospitals, nursing homes, or other licensed health care facilities may provide dine-in service, as long as Social (Physical) Distancing is practiced;
- m. Businesses that supply office or computer products needed by people who work from home;
- n. Businesses that supply other Essential Businesses with the support or supplies necessary to operate;
- o. Non-manufacturing, transportation or distribution businesses that ship, truck, transport, or provide logistical support to deliver groceries, food, goods or services directly to residences, Essential Businesses, Healthcare Operations, and Essential Infrastructure. This exemption shall not be used as a basis for engaging in sales to the general public from retail storefronts;
- p. Airlines, taxis, ride sharing services and other private transportation providers providing transportation services necessary for activities of daily living and other purposes expressly authorized in this Order;
- q. Businesses that manufacture parts and provide necessary service for Essential Infrastructure;
- r. Home-based care for seniors, adults, disabled persons, or children;
- s. Residential facilities and shelters for homeless residents, disabled persons, seniors, adults, children and animals;
- t. Professional services, such as legal, payroll or accounting services, when necessary to assist in compliance with legally mandated activities, and the permitting, inspection, construction, transfer and recording of ownership of housing, including residential and commercial real estate and anything incidental thereto, provided that appointments and other residential viewings must only occur virtually or, if a virtual viewing is not feasible, by appointment with no more than two visitors at a time residing within the same household or living unit and



- one individual showing the unit (except that in-person visits are not allowed when the occupant is still residing in the residence);
- u. Childcare facilities. All childcare facilities, including those operating at schools, must operate under the LAC DPH Childcare Guidance and the following conditions: (1) Childcare must be carried out in stable cohorted groups of 12 or fewer ("stable" means the same twelve (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;
 - v. Hotels, motels, shared rental units and similar facilities. Beginning June 12, 2020, these may reopen for tourism and individual travel, in adherence with the required Los Angeles County Department of Public Health Reopening Protocol for Hotels, Lodging and Short-Term Rentals, attached to this Order as **Appendix P**;
 - w. Construction, which includes the operation, inspection, and maintenance of construction sites and construction projects for construction of commercial, office and institutional buildings, residential and housing construction; and
 - x. Manufacturers and retailers of fabric or cloth that is made into personal protective equipment, such as, face coverings.
19. For purposes of this Order, "Social (Physical) Distancing" means: (1) Maintaining at least six (6) feet of physical distance from individuals who are not members of the same household; (2) Frequently washing hands with soap and water for at least 20 seconds, or using hand sanitizer that contains at least 60% alcohol; (3) Wearing a cloth face covering when whenever an individual leaves their home or place of residence, and when an individual is or can be in contact with or walking by or past others who are non-household members in both public and private places, whether indoors or outdoors. Wearing a cloth face covering over both the nose and mouth reduces the risk of transmission to others from people who do not have symptoms and do not know they are infected; and (4) Avoiding all physical interaction outside the household when sick with a fever or cough, except for necessary medical care.
20. For purposes of this Order, the "Social (Physical) Distancing Protocol" that must be implemented and posted must demonstrate how the following infection control measures are being implemented and achieved, as applicable:
- a. Limiting the number of people who may enter into the facility at any one time to ensure that people in the facility can easily maintain a minimum six (6) foot physical distance from others, at all times, except as required to complete a business activity or transaction. Members of a single household or living unit may stand or move together but must be separated from others by a physical distance of at least six (6) feet.
 - b. Where lines may form at a facility, marking six (6) foot increments at a minimum, establishing where individuals should stand to maintain adequate Social (Physical) Distancing, whether inside or outside the facility.



ORDER OF THE HEALTH OFFICER

- c. Providing hand sanitizer, soap and water, or 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 members of the public (e.g., cashiers). Restrooms normally open to the public shall remain open to the public.
 - d. Posting a sign in a conspicuous place at all public entries that instructs the public not to enter if they are experiencing symptoms of respiratory illness, including fever or cough, to wear face coverings, and to maintain Social (Physical) Distancing from one another.
 - e. Providing for the regular disinfection of high-touch surfaces, and disinfection of all payment portals, pens, and styluses after each use. All businesses are encouraged to also offer touchless payment mechanisms, if feasible.
 - f. Providing face coverings to employees and contracted workers whose duties require close contact with other employees and/or the public. Those who have been instructed by their medical provider that they should not wear a face covering should wear a face shield with a drape on the bottom edge, to be in compliance with State directives, as long as their condition permits it. A drape that is form fitting under the chin is preferred. Masks with one-way valves should not be used.
 - g. Requiring that members of the public who enter the facility wear a face-covering over both the nose and mouth, which reduces the risk of “asymptomatic” or “pre-symptomatic” transmission to workers and others, during their time in the facility.
 - h. Adhering to communicable disease control protocols provided by the Los Angeles County Department of Public Health, including requirements for cleaning and disinfecting the site. See protocols posted at www.publichealth.lacounty.gov/media/Coronavirus/
21. Operators of businesses that are required to cease in-person operations may conduct Minimum Basic Operations, which means:
- a. The minimum necessary activities to maintain and protect the value of the business's inventory and facilities; ensure security, safety, and sanitation; and process payroll and employee benefits;
 - b. The minimum necessary activities to facilitate the business's owners, employees, and contractors being able to continue to work remotely from their residences, and to ensure that the business can deliver its services remotely.

ADDITIONAL TERMS

22. The County shall promptly provide copies of this Order by: (a) posting it on the Los Angeles Department of Public Health's website (www.publichealth.lacounty.gov), (b) posting it at the Kenneth Hahn Hall of Administration located at 500 West Temple Street, Los Angeles, CA 90012, (c) providing it to any member of the public requesting a copy, and (d) issuing a press release to publicize the Order throughout the County.
- a. The owner, manager, or operator of any facility that is likely to be impacted by this Order is strongly encouraged to post a copy of this Order onsite and to provide a copy to any member of the public requesting a copy.



ORDER OF THE HEALTH OFFICER

- b. Because guidance may change, the owner, manager, or operator of any facility that is subject to this Order is ordered to consult the Los Angeles County Department of Public Health's website (www.publichealth.lacounty.gov) daily to identify any modifications to the Order and is required to comply with any updates until the Order is terminated.
23. If any subsection, sentence, clause, phrase, or word of this Order or any application of it to any person, structure, gathering, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions or applications of this Order.
24. This Order incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom and the March 4, 2020 declarations of a local and public health emergency issued by the Los Angeles County Board of Supervisors and Los Angeles County Health Officer, respectively, and as they may be supplemented.
25. This Order is issued in consideration of the County's current status within the tiered reopening approach of California's Blueprint for a Safer Economy issued August 28, 2020. This Order will be revised in the future as the State Public Health Officer progressively designates sectors, businesses, establishments, or activities for reopening with required modifications or closure at a pace designed to protect health and safety. Should local COVID-19 conditions warrant, the Health Officer may, after consultation with the Board of Supervisors, issue orders that are more restrictive than the guidance and orders issued by the State Public Health Officer.
26. This Order is consistent with the provisions in the Governor's Executive Order N-60-20 and the State Public Health Officer's May 7, 2020 Order, that local health jurisdictions may implement or continue more restrictive public health measures in the jurisdiction if the local health officer believes conditions in that jurisdiction warrant them. Where a conflict exists between this Order and any state public health order related to controlling the spread of COVID-19 during this pandemic, the most restrictive provision controls. Consistent with California Health and Safety Code section 131080, except where the State Health Officer may issue an order expressly directed at this Order or a provision of this Order and based upon a finding that a provision of this Order constitutes a menace to the public health, any more restrictive measures in this Order may continue to apply and control in the County of Los Angeles Public Health Jurisdiction.
27. Pursuant to Sections 26602 and 41601 of the California Government Code and Section 101029 of the California Health and Safety Code, the Health Officer requests that the Sheriff and all chiefs of police in all cities located in the Los Angeles County Public Health Jurisdiction ensure compliance with and enforcement of this Order. The violation of any provision of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment or both.



ORDER OF THE HEALTH OFFICER

28. This Order shall become effective immediately on **September 4, 2020** and will continue to be until it is revised, rescinded, superseded, or amended in writing by the Health Officer.

IT IS SO ORDERED:



9/4/2020

Muntu Davis, M.D., M.P.H.

Date

Health Officer,
County of Los Angeles



Appendices At-A-Glance

All DPH protocol is available at:

<http://www.publichealth.lacounty.gov/media/Coronavirus/>

Appendix A: Protocol for Social Distancing [Revised 7/20/2020]

Appendix B: Protocols for Retail Establishments Opening for In-person Shopping [Revised 7/18/2020]

Appendix C: Reopening Protocol for Warehousing, Manufacturing and Logistic Establishments [Revised 7/18/2020]

Appendix D: Protocols for Office Worksites [Revised 8/7/2020]

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Appendix H: Reopening Protocol for Hair Salons and Barbershops [Revised 9/02/2020]

Appendix I: Protocol for Restaurants [Revised 8/22/2020]

Appendix J: Reopening Protocol for Music, Film, and Television Production [Revised 8/18/2020]

Appendix K: Reopening Protocol for Day Camps [Dated 8/11/2020]

Appendix L: Reopening Protocol for Gyms and Fitness Establishments [Revised 8/11/2020]

Appendix M: Reopening Protocol for Museums, Galleries, Zoos, and Aquariums [Revised 7/17/2020]

Appendix N: Protocol for Professional Sports Leagues and Facilities Opening for Training Sessions and Spectator-Free Events [Revised 7/17/2020]

Appendix O: Reopening Protocol for Campgrounds, RV parks and Cabin Rental Units [Revised 8/21/2020]

Appendix P: Reopening Protocol for Hotels, Lodging, and Short-Term Rentals [Revised 7/17/2020]

Appendix Q: [Rescinded 7/1/2020]

Appendix R: Reopening Protocol for Personal Care Establishments [Revised 7/29/2020]

Appendix S: [Rescinded 6/28/2020]

Appendix T1: Reopening Protocols for K-12 Schools [Revised 9/04/2020]

Appendix T2: Protocol for COVID-19 Exposure Management Plan in K-12 Schools [Revised 8/23/2020]

Appendix U: Reopening Protocol for Institutes of Higher Education [Revised 8/10/2020]

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15 Attorneys for Plaintiffs

16 **UNITED STATES DISTRICT COURT**
17 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

18 ADAM BRANDY, an individual, et al.,

19 Plaintiffs,

20 vs.

21 ALEX VILLANUEVA, in his official
22 capacity as Sheriff of Los Angeles
23 County, California, and in his capacity as
24 the Director of Emergency Operations, et
25 al.,

26 Defendants.

Case No. 2:20-cv-2874

**PLAINTIFFS’ OPPOSITION TO
COUNTY OF LOS ANGELES
DEFENDANTS’ MOTION FOR
JUDGMENT ON THE PLEADINGS**

[FRCP 12(c)]

Date: September 18, 2020
Time: 10:00 a.m.
Courtroom 7B
Hon. André Birotte, Jr.

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I. INTRODUCTION

Plaintiffs Adam Brandy, et al. hereby oppose the motion for judgment on the pleadings, ECF No. 56, filed by defendants County of Los Angeles, Sheriff Alex Villanueva, sued in his official capacity, and Barbara Ferrer, sued in her official capacity (collectively, “County Defendants”). After having deprived plaintiffs and all similarly situated Los Angeles County residents of their fundamental right to keep and bear arms under the Second Amendment, the County Defendants now seek to simply walk away from their unconstitutional conduct without any accountability for either the injuries inflicted or the future risk of injury their health orders continue to pose to all such individuals and retailers of firearms and ammunition. Defendants make this mootness argument, even as their current orders reflect even stronger concerns about greater risks from the COVID-19 pandemic, and while reserving unto themselves broad, largely unfettered powers to reimpose more restrictive conditions at any time. This Court should not countenance the affront to the fundamental civil rights protections, which is actionable under 42 U.S.C. § 1983, but which the defendants’ motion would prevent. They must be held accountable for the injury they have already inflicted and prevented from inflicting further harm. This Court has the power to do so and should do so, as plaintiffs’ complaint more than sufficiently demonstrates the existence of such redressable injury under the lenient standards for surviving this motion.

II. STATEMENT OF FACTS AND PROCEDURAL HISTORY

A. STATEMENT OF FACTS

Plaintiffs brought this action against the County of Los Angeles, through its officials, and other State and local officials who issued various orders that forced the closure of all firearms and ammunition retailers within the County. In an effort to abate the spread of the COVID-19 coronavirus pandemic, on March 19, 2020,

1 the County of Los Angeles Department of Public Health issued an Order titled,
2 “Safer at Home Order for Control of COVID-19” (“March 19 Order”). The County
3 Order applied to all of Los Angeles County, except Pasadena and Long Beach. It
4 “require[d] all indoor malls, shopping centers, playgrounds and non-essential
5 businesses to close.” Only “essential Businesses” could remain open. FAC, ¶ 43.

6 The County Order did not expressly require the closure of firearm retailers
7 or ammunition vendors.¹ However, such retailers were not expressly included
8 among the list of “essential” businesses allowed to remain open, and the March 19
9 Order mandated that *all* “non-essential” businesses close *immediately*. Def. Req.
10 for Jud. Notice (RJN), Ex. 1 (March 19 Order), p. 6. On March 24, 2020, Sheriff
11 Villanueva (who was also at the time the Director of Emergency Operations for the
12 County) affirmatively declared all firearms retailers in the County of Los Angeles
13 to be “non-essential.” FAC, ¶ 49. Through his Twitter account, he declared:

14 By order of the Sheriff of Los Angeles County, gun and ammunition
15 stores are not considered essential businesses and must close to the
16 general public, in Compliance with Executive Order-N-33-20 and
County of Los Angeles Safer at Home Order for Control of COVID-19.

17 The following day, on March 25, 2020, Sheriff Villanueva announced that
18 his previously-declared enforcement of the closure of firearm retailers was being
19 temporarily suspended, pending a decision on their classification as non-essential
20 by Governor Newsom. FAC, ¶ 52. On March 26, 2020, Governor Newsom issued a
21 public statement that each of the 58 county sheriffs had discretion to determine the
22 “essential” nature of firearm and ammunition retailers in each respective county in
23 the State. FAC, ¶ 53.

24 _____
25
26 ¹Nevertheless, a member of the County Board of Supervisors is reputed to have
27 said that “while she personally thinks gun stores are not essential businesses, the
28 conflicting findings by [Sheriff] Villanueva and the County likely need to get
sorted out by a judge.” She was reported to have said: “Let them go to court about
it.” FAC, ¶ 62.

1 On March 26, 2020, Defendant Sheriff Villanueva, again through the Los
2 Angeles County Sheriff’s Twitter account, reversed the suspension of his prior
3 position, stating: “[b]y order of the Sheriff of Los Angeles County, gun and
4 ammunition stores are not considered essential businesses and must close to the
5 general public, in Compliance with Executive Order-N-33-20 and County of Los
6 Angeles Safer at Home Order for Control of COVID-19.” FAC, ¶¶ 54-55. He
7 issued only a limited exception to the closure order, allowing just those who “ha[d]
8 already purchased a firearm” and who already had “a valid California Firearms
9 Safety Certificate (CFS)” to “simply [] take possession of their firearm.” *Id.*, ¶ 56.
10 (These orders of Sheriff Villanueva are collectively referred to as “Sheriff
11 Villanueva’s Order”). His order also specified that licensed firearm retailers would
12 be permitted to sell ammunition only to “security guard companies.” In essence,
13 plaintiffs have alleged that Sheriff Villanueva’s Order, and the County’s March 19
14 Order effected a de facto ban on the sale and transfer of ammunition, and a de facto
15 ban on the sale and transfer of firearms and new California Firearms Safety
16 Certificate testing and issuance, while those Orders were in effect. FAC, ¶¶ 57-58.

17 Sheriff Villanueva’s Order applied to and was being enforced “in the 42
18 contract cities and unincorporated Los Angeles County areas under [his]
19 jurisdiction.” FAC, ¶ 59. Sheriff Villanueva also “deferred to the discretion of each
20 individual chief of police” for each non-contract city in the County of Los Angeles.
21 *Id.* As alleged in the FAC, “[a]bout half of the 88 cities in [Los Angeles] county” –
22 about 46 of the total number of cities – “contract for law enforcement services from
23 the County of Los Angeles,” and “their ‘police department’ is Los Angeles
24 Sheriff’s Department (“LASD”).” FAC, ¶ 60. Accordingly, the 42 cities within the
25 County of Los Angeles were subject to Sheriff Villanueva’s Order, and the balance
26 of cities within the County of Los Angeles each had their own interpretations of the
27 various orders, policies, practices, and customs to enforce, FAC, ¶ 61, any of which
28 could have subjected County residents to conditions as or more restrictive than in

1 the March 19 Order itself, since that Order provided it did “not supersede any
2 stricter limitation imposed by a local public entity within the Los Angeles County
3 Public Health Jurisdiction.” Def. RJN, Ex. 1, p. 2, ¶ 4.

4 As alleged throughout the FAC, the net effect of the County’s and Sheriff’s
5 Orders was to severely curtail and, in many cases, entirely prevent protected
6 firearms activity of the named plaintiffs and those similarly situated individuals
7 and retailers throughout the County.

8 Individual plaintiff Brandy had purchased his first firearm on March 18,
9 2020, but while the March 19 Order and Sheriff Villanueva’s Order were in effect,
10 he was unable to purchase ammunition for it. FAC, ¶ 65. At the time, he did not
11 own or possess any ammunition, and could not purchase ammunition except
12 through a licensed ammunition vendor under California law. Accordingly, he was
13 effectively prohibited from exercising his right to keep and bear *any* loaded,
14 operable firearms for self-defense of himself and his family, including in his home.
15 FAC, ¶ 65.

16 Individual plaintiff Jonah Martinez, a resident of the County, was concerned
17 about his safety and the safety of his family during these turbulent times, and
18 desired to practice and exercise his right to keep and bear arms (including firearms,
19 ammunition, magazines and appurtenances), but was unable to do so while these
20 Orders were in effect . FAC, ¶ 7. Under California law, he was unable to purchase
21 ammunition online or have it shipped directly to his home, and thus was prevented
22 from acquiring and taking possession of firearms throughout this period. *See*
23 *Martinez Decl. in support of Application for TRO and Issuance of Prelim.*
24 *Injunction, ECF 14-4, ¶¶ 7-8.*

25 These closures were a direct result of the County’s March 19 Order and
26 Sheriff Villanueva’s Order, and were enforced not just by the Sheriff’s Office, but
27 by individual cities. Cities within the jurisdiction of the Defendant Los Angeles
28 County Sheriff’s Order admitted to having been confused about the defendants’

1 differing and changing positions on the essential nature of firearm retailers and
2 ranges, and their ability to continue to operate. FAC, ¶ 67. Some of those cities,
3 including the City of Los Angeles, and the City of Burbank, interpreting and
4 following the County’s Order, and Sheriff Villanueva’s interpretation of it, forced
5 closures of firearm retailers and ammunition vendors. Again, by the terms of the
6 March 19 Order, they had the discretion to impose even greater restrictions at the
7 local level for so long as it was in effect. Def. RJN, Ex. 1, p. 2.

8 For example, plaintiff DG 2A Enterprises, Inc. d.b.a. Gun World, which
9 operated in Burbank, California, was forced to shut down, temporarily, due to
10 orders and directions issued from the City of Burbank, which naturally viewed
11 itself as being “under the jurisdiction of Los Angeles County Public Health for
12 purposes of the pandemic, and as such the City follow[ed] their orders”—orders
13 that Burbank naturally interpreted to mean firearms retailers had to close because,
14 under the terms of the March 19 Order, they were “*non-essential*” businesses. FAC,
15 ¶¶ 66, 70. Accordingly, the shutdown of Burbank gun stores was a direct result of
16 the County’s March 19 Order.

17 Plaintiff Match Grade had to retain counsel to obtain legal advice in relation
18 to Sheriff Villanueva’s Order to determine whether it could continue to operate.
19 Further, Plaintiff Match Grade ceased new sales due to this order, which resulted in
20 plaintiff Match Grade having to reduce hours of staff. FAC, ¶ 69. And moreover, a
21 law-abiding gun owner himself, as well as the owner and operator of plaintiff
22 Match Grade, plaintiff Montes’s individual rights to keep and bear arms were
23 deprived in the same manner as other individuals in the County who were barred
24 from obtaining any additional ammunition for the firearms he currently owns while
25 this order and the County’s March 19 Order were in effect. FAC, ¶ 70.

26 The Los Angeles County Sheriff provides contract law enforcement for
27 dozens of cities in Los Angeles County, including the City of Cerritos, where
28 Plaintiff Match Grade is located, and in Santa Clarita, where Plaintiff A Place To

1 Shoot is located. (FAC, ¶ 68.) Accordingly, these plaintiffs were subject to the
2 County and Sheriff Villanueva’s Orders which shut down gun stores.

3 All of these plaintiffs rightfully challenge the March 19 Order and Sheriff
4 Villanueva’s Order which unduly and unreasonably restricted, and in many cases
5 prevented, essential activities at the core of the Second Amendment’s individual
6 guarantees, by forcing closure of firearms and ammunition retailers while they
7 were in effect. FAC, ¶ 76. Indeed, while Sheriff Villanueva later declared on
8 March 30, 2020, that his individual law enforcement agency would not “order or
9 recommend closure of businesses that sell or repair firearms or sell ammunition”
10 (ECF No. 23-2 [Villanueva Decl., ¶ 20]), the March 19 Order and its general
11 mandate that all non-essential businesses “shall remain closed to the public in
12 accordance with this Order” remained in effect for three full months, until June 18,
13 2020. Def. RJN, Ex. 2 (first County order superseding the March 19 County
14 Order). And, by the terms of the March 19 Order, it could be superseded only by
15 *more* restrictive conditions imposed by a local public entity, such that the *most*
16 *restrictive* conditions necessarily remained controlling throughout the period of its
17 effectiveness. *Id.* at pp. 6 & 7 (italics added) (“This Order does not supersede any
18 *stricter* limitation imposed by a local public entity with the Los Angeles County
19 Public Health Jurisdiction.”).

20

21 **B. PROCEDURAL HISTORY**

22

23 Plaintiffs filed this action on March 27, 2020 (ECF No. 1), and filed their
24 First Amended Complaint (“FAC”) on March 29, 2020 (ECF No. 9).

25

26 Immediately thereafter, on March 30, 2020, Plaintiffs filed their Application
27 for a Temporary Restraining Order and OSC re Preliminary Injunction (“TRO
28 Application”). All defendants, including the County Defendants, opposed the TRO
Application, which this Court denied on April 6, 2020. (ECF No. 29).

29

1 The current and operative FAC alleges claims for declaratory and injunctive
2 relief, and for nominal damages, under 42 U.S.C. § 1983. Plaintiffs specifically
3 allege that for defendants’ Orders effected a deprivation of the right to keep and
4 bear arms, secured by the Second Amendment, FAC, Count One, ¶¶ 82-91, and
5 that the Orders were unconstitutionally vague, FAC, Count Two, ¶¶ 92-108.

6 The relief sought in the FAC is primarily, though not limited to, declaratory
7 and injunctive relief. All plaintiffs allege that defendants’ enforcement and threats
8 of enforcement of the relevant orders, including the County’s March 19 Order and
9 Sheriff’s Villanueva’s Order violate the Second and Fourteenth Amendments.
10 FAC, ¶ 90. The individual and retailer plaintiffs have alleged a credible threat that
11 defendants will continue or resume to enforcement such orders. FAC, ¶ 88. The
12 organizational plaintiffs have also alleged a credible threat of the same against their
13 members – including individual and retailer Plaintiffs and all similarly situated
14 individuals and retailers. FAC, ¶ 89.

15 Plaintiffs have further and specifically alleged injury, in that defendants’
16 laws, policies, practices, customs, and ongoing enforcement and threats of
17 enforcement of their various orders and directives have prevented individual
18 plaintiffs, their customers, and the organizational plaintiffs’ members from
19 exercising their rights, “including the purchase, sale, transfer of, and training with
20 constitutionally protected arms, ammunition, magazines, and appurtenances – [and]
21 are thus causing injury and damage that is actionable under 42 U.S.C. § 1983.”
22 FAC, ¶ 91. Plaintiffs’ complaint prays for, among other things, nominal damages
23 against the local defendants, including the County Defendants, for violation of the
24 Second Amendment. FAC, Prayer for Relief, p. 46 at ¶ 5.

25 After negotiating a stipulated dismissal which operated to clarify the State
26 defendants’ position that their orders did not require the closure of firearm retailers,
27 ammunition vendors or shooting ranges (ECF No. 53, Exh. A, ¶ 6), plaintiffs
28 voluntarily dismissed the State defendants, Gov. Newsom and Dr. Sonia Y. Angell,

1 on July 8, 2020. (ECF No. 53). Plaintiffs further filed voluntary dismissals of the
2 City of Burbank defendants (ECF No. 52), and the City of Los Angeles defendants
3 (ECF No. 54).

4 The County Defendants filed their Answer to the First Amended Complaint
5 on June 24, 2020. (ECF No. 45). They further filed the instant Motion for
6 Judgment on the Pleadings on August 21, 2020 (ECF No. 56), the hearing date of
7 which was noticed and set for September 18, 2020 at 10:00 a.m. in this Court.

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III. ARGUMENT

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A. A LIVE CONTROVERSY INVOLVING ACTIONABLE INJURY REMAINS.

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Defendants claim “there is no live controversy to justify the instant action
for injunctive/declaratory relief” because the March 19 order “has been superseded
by multiple County public health orders, none of which has required the closure
[of] firearms retailers in the County,” and plaintiffs are simply stranded in the land
of “mootness” with no standing to complain about anything and no chance of
possible relief because any suggestion that the County’s orders “could somehow
‘revert back’ to a prior form that resulted in the temporary closure of firearms
retailers” is “factually unfounded and wholly speculative.” MJP pp. 8-15. But the
very history and content of defendants’ previous orders which they dismiss with
slight-of-hand demonstrate the case is very much alive, both based on the past
constitutional injury already inflicted and the real risk of future injury.

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“As long as the parties have a concrete interest, *however small*, in the
outcome of the litigation, the case is not moot.” *Campbell-Ewald Co. v. Gomez*,
__ U.S. __, 136 S.Ct. 663, 669 (2016) (quoting *Chafin v. Chafin*, 568 U.S. 165,
171 (2013)). Generally, the party challenging the court’s jurisdiction on such
grounds bears the burden of demonstrating mootness, and it is “a heavy one.”
Native Village of Nuiqsut v. Bureau of Land Management, 432 F.Supp.3d 1003,

1 1021, n. 103 (D. Alaska 2020) (quoting *Feldman v. Bomar*, 518 F.3d 637, 642 (9th
2 Cir. 2008)). “[V]oluntary cessation of allegedly illegal conduct does not deprive
3 the tribunal of power to hear and determine the case, i.e., does not make the case
4 moot,” except “where the Court determines that (1) the alleged violation will not
5 recur and (2) ‘interim relief or events have *completely and irrevocably eradicated*
6 the effects of the alleged violation.’” *Durst v. Oregon Education Association*, __
7 F.Supp.3d __, 2020 WL 1545484, *3 (D. Oregon 2020) (quoting *Los Angeles Cty.*
8 *v. Davis*, 440 U.S. 625, 631 (1979)) (italics added). Otherwise, “a dismissal for
9 mootness would permit a resumption of the challenged conduct as soon as the case
10 is dismissed.” *American Diabetes Association v. U.S Dept. of the Army*, 938 F.3d
11 1147 (9th Cir. 2019).

12 Another “justiciability-saving exception is for challenges to injuries that are
13 ‘capable of repetition, yet evading review.’” *Planned Parenthood of Greater*
14 *Washington and North Idaho v. U.S. Department of Health & Human Services*, 946
15 F.3d 1100 (9th Cir. 2020). This exception to the mootness doctrine “requires (1)
16 the complaining party to reasonably expect to be subject to the same injury again
17 and (2) the injury to be of a type inherently shorter than the duration of litigation.”
18 *Id.* at 1109. A party has a reasonable expectation of being “subject to the same
19 injury again” when it reasonably believes it “‘will again be subjected to the alleged
20 illegality’ or will be or ‘subject to the threat of prosecution’ under the challenged
21 law.” *Koller v. Harris*, 312 F.Supp.3d 814, 823 (N.D. Cal. 2018) (quoting *FEC v.*
22 *Wisconsin Right To Life, Inc.*, 551 U.S. 449, 463 (2007)).

23 While defendants claim any possibility that the County may modify its
24 current orders to again compel closure of firearms and ammunition retailers “flies
25 in the face of basic logic and facts,” MJP at 15, one need look no further than the
26 history and content of their own orders to see such risks have not been “*completely*
27 *and irrevocably eradicated*” to see that reinstatement remains more than a
28 reasonable possibility. Just like in their March 19 Order, *see* Def. RJN Ex. 1, p. 6,

1 defendants have reserved unto themselves broad, essentially unchecked powers to
2 modify their later orders whenever and in whatever manner than may deem
3 prudent—and in particular to *increase* the current level of restrictions based on any
4 actual or perceived future increased risks with COVID-19.

5 Both the County’s June 18 and August 12 Orders provide that the County
6 may issue orders “more restrictive” than the State orders. Def. RJN, Ex. 2, p.1; Ex.
7 5, pp. 1-2. Both advise business owners to check the Public Health website “*daily*
8 to identify any modifications to the Order” because they are “required to comply
9 with any updates until the Order terminated.” *Id.* at Ex. 2, p. 14, Ex. 3, at 15. And
10 both Orders provide they remain effective “until [] revised, rescinded, superseded,
11 or amended in writing by the Health Officer.” *Id.* at Ex. 2, p. 15, Ex. 5, p. 16.
12 Further, the Orders emphasize the continuing dangers of the disease as conditions
13 that will remain and potentially increase in severity for so long as no vaccine or
14 effective treatment exists. *Id.* at Ex. 2, p. 7 (COVID-19 “continues to present a
15 substantial and significant risk of harm to residents’ health”); *id.* at Ex. 3, p. 15
16 (same).

17 In fact, the most recent order of August 12 stresses the “serious recent
18 regression of COVID-19 indicators” in the County “which show troubling and
19 substantial increases in new daily reported COVID-19 cases, hospitalizations, and
20 the testing positivity rate.” Def. RJN, Ex. 5, p. 2. The Order highlights “evidence of
21 continued community transmission of COVID-19 within the County,” and laments
22 that “[u]nfortunately, the daily number of new cases has significantly increased,”
23 placing “a significant portion of the County population at risk for serious health
24 complications, including hospitalizations and death from COVID-19.” *Id.* at pp. 8-
25 9. The Order provides that its primary purpose is to “protect the public from the
26 avoidable risk of serious illness and death resulting from the spread of COVID-
27 19,” while emphasizing how “preventing, limiting, and placing conditions on
28 various types of gatherings and other direct and indirect interactions have proven to

1 reduce the risk of transmitting the virus.” *Id.* at p. 8. In fact, to serve that very end,
2 the Order “required the immediate temporary closure of specific activities and
3 business sectors.” *Id.* at p. 2. While this did not name firearms or ammunition
4 retailers, given the focus on limiting direct and indirect interactions among people
5 as a primary means to prevent the spread of the virus, it is certainly conceivable—
6 indeed quite likely—such retailers remain at risk of further closure.

7 The best evidence that “the County might reverse its position by mandating
8 the closure of firearms retailers in the County,” MJP at 15-16, is what the County
9 has *already done* through its previous orders categorizing them as among the “non-
10 essential” businesses prohibited from operating from March 19 until June 18.
11 Coupled with the dire picture painted in the current August 12 Order based on the
12 same essential risks that spurred the initial round of shutdowns, undeniably, a
13 “legitimate rationale” exists for inferring this is bound to happen again, MJP at
14 15—especially when the County’s current order emphasizes that these same risks
15 are *worsening* while continuing to reserve unto itself the power and discretion to
16 unilaterally increase the restrictions at any time without any accountability to the
17 affected citizens. Defendants themselves paint the very sort of bleak picture one
18 could only expect will lead to greater restrictions on all activities outside the home
19 to combat “this epic human tragedy” whose “constricting effect” is “incalculable,”
20 “far from over,” and continues to “threaten[] the lives of every human in its
21 uncontainable path.” MJP 1-2. Ultimately, the “basic logic and facts” can only
22 dictate that plaintiffs retain a “concrete interest” in the outcome of this litigation
23 where the risk of more restrictive conditions necessarily remains, and is expressly
24 foreseeable.

25 Finally, but not least, plaintiffs have properly pled relief in the form of
26 nominal damages, in seeking redress of the constitutional injuries already inflicted.
27 This is something defendants cannot avoid by simply claiming “mootness,”
28 *Outdoor Media Grp. v. City of Beaumont*, 506 F.3d 895, 902 (9th Cir. 2007) –

1 especially when they clearly have not “*completely and irrevocably eradicated* the
 2 effects of the alleged violation,” *Durst*, 2020 WL 1545484, *3. “As a general rule,
 3 amending or repealing an ordinance will not moot a damages claim because such
 4 relief is sought for ‘a past violation of [the plaintiff’s] rights,’” *Epona LLC v.*
 5 *County of Ventura*, 2:16-cv-06372-PMG-PLA, 2019 WL 7940582 at *5 (C.D. Cal.
 6 Dec. 12, 2019) (quoting *Outdoor Media Grp.*, 506 F.3d at 902, and such damages
 7 “are particularly important in vindicating constitutional interests,” *New York State*
 8 *Rifle & Pistol Association, Inc. v. City of New York, New York*, 140 S.Ct. 1525,
 9 1536 (2020) (Alito, J., dissenting). Thus, “[a] live claim for nominal damages will
 10 prevent dismissal for mootness.” *Bernhardt v. County of Los Angeles*, 279 F.3d
 11 862, 871 (9th Cir. 2002); *New York State Rifle & Pistol Association* at 1536 (Alito,
 12 J., dissenting) (“it is widely recognized that a claim for nominal damages precludes
 13 mootness”). It would defeat the important purposes of 42 U.S.C. § 1983 claims,
 14 which an organized society must “scrupulously observe[],” if defendants could
 15 claim “mootness” to avoid any responsibility for this deprivation of rights.
 16 *Bernhardt*, at 872. Their attempt to do so must be rejected, particularly since the
 17 FAC strongly supports the Second Amendment claim under the lenient standards
 18 for advancing to the merits stage.

19 **B. PLAINTIFFS’ SECOND AMENDMENT CLAIM SURVIVES THE LENIENT**
 20 **STANDARDS APPLIED TO A MOTION FOR JUDGMENT ON THE PLEADINGS.**

21 Federal Rule of Civ. Pro. 12(c) provides: “After the pleadings are closed--
 22 but early enough not to delay trial--a party may move for judgment on the
 23 pleadings.” “Judgment on the pleadings is properly granted when [, accepting all
 24 factual allegations in the complaint as true,] there is no issue of material fact in
 25 dispute, and the moving party is entitled to judgment as a matter of law.” *Chavez*
 26 *v. United States*, 683 F.3d 1102, 1108 (9th Cir. 2012) (citing *Fleming v. Pickard*,
 27 581 F.3d 922, 925 (9th Cir. 2009)). “Analysis under Rule 12(c) is ‘substantially
 28 identical’ to analysis under Rule 12(b)(6) because, under both rules, ‘a court must

1 determine whether the facts alleged in the complaint, taken as true, entitle the
2 plaintiff to a legal remedy.” *Chavez*, 683 F.3d at 1108 (citing *Brooks v. Dunlop*
3 *Mfg. Inc.*, 2011 WL 6140912 at *3 (N.D. Cal. Dec. 9, 2011)).

4 This necessarily involves an analysis of a plaintiff’s claims under the
5 *Twombly/Iqbal* “plausibility” standard of the Rule 12(b)(6) rubric. *Chavez*, 683
6 F.3d at 1108-1109. “A claim has facial plausibility when the plaintiff pleads factual
7 content that allows the court to draw the reasonable inference that the defendant is
8 liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).
9 Thus, a complaint should not be dismissed on such a motion “unless it appears
10 beyond doubt that the plaintiff can prove no set of facts in support of his claim
11 which would entitle him to relief.” *Geraci v. Homestreet Bank*, 347 F.3d 749, 751
12 (9th Cir. 2003) (quoting *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957)); *see also*
13 *U.S v. Hempfling*, 431 F.Supp.2d 1069, 1075 (E.D. Cal. 2006) (“A Rule 12(b)(6)
14 motion is disfavored and rarely granted.”).

15 These standards are important to keep in mind, particularly with defendants’
16 repeated reliance on rulings and opinions conducted under the much more stringent
17 standards that apply to applications for extraordinary relief, like temporary
18 restraining orders and preliminary injunctions, as purported analogues for
19 disposing of this motion. *See* MJP at 6 (relying on the denial of plaintiffs’ *ex parte*
20 application for a temporary restraining order in this case); *id.* at 13, n. 12 (relying
21 on the denial of the *ex parte* application for such an order in *McDougall v Cty. Of*
22 *Ventura*, 20-CV-02927-CBM-ASx (C.D. Cal. Mar. 31, 2020)); *id.* at 14, n. 13
23 (relying on the denial of a motion for preliminary injunction in *Altman v. County of*
24 *Santa Clara*,)__ F.Supp.3d __, 2020 WL 2850291 (June 2, 2020).

25 **1. Defendants’ Orders are Subject to Strict Scrutiny, If Any at All.**

26 Aside from their inapt analogies to decisions made under fundamentally
27 different standards, all defendants have to say in attempting to carry this heavy
28 burden is that the County has a substantial governmental interest in curbing the

1 spread of this disease, the closure of firearms retailers as “non-essential” businesses
2 is not “an unreasonable step” to take towards that end, and thus any challenge to
3 such an action survives intermediate constitutional scrutiny. MJP at 14.

4 The Supreme Court has made clear the Framers and ratifiers of the
5 Fourteenth Amendment counted the right to keep and bear arms as among those
6 fundamental rights *necessary* (i.e., essential) to our system of ordered liberty,
7 *McDonald v. Chicago*, 561 U.S. 742, 778, 791 (2010), and as a privilege and
8 immunity of citizenship, *id.* at 805 (Thomas, J., concurring). Defendants’ prior
9 Orders struck at the heart of every right enshrined in the Second Amendment—the
10 right to “keep,” “bear,” “use,” “possess,” and “carry” for self-defense in the home,
11 in case of confrontation, and for other lawful purposes, as well as the
12 corresponding right to obtain the ammunition required to actually use them for
13 these protected purposes. *See District of Columbia v. Heller*, 554 U.S. 570, 592,
14 635 (2008); *McDonald*, 561 U.S. at 767; *Jackson v. City and County of San*
15 *Francisco*, 746 F.3d 953, 968 (9th Cir. 2014); *Ezell v. City of Chicago*, 651 F.3d
16 684, 704 (7th Cir. 2011). For all County residents who did not already have a
17 firearm, and all in need of ammunition to actually use their firearms, the effect of
18 these Orders was tantamount to a complete prohibition, since they were deprived of
19 any ability to possess, transport, store, or use a firearm. Infringements like this “fail
20 constitutional muster” “[u]nder any of the standards of scrutiny the Court has
21 applied to enumerated constitutional rights.” *Heller*, at 571. Even assuming
22 traditional scrutiny, a “law that implicates the core of the Second Amendment right
23 and severely burdens that right”—like the orders here—“warrants strict scrutiny.”
24 *Bauer v. Becerra*, 858 F.3d 1216, 1222 (9th Cir. 2017) (quoting *United States v.*
25 *Chovan*, 735 F.3d 1127, 1138 (9th Cir. 2013)). “To overcome such a high standard
26 of review, the government is required to prove that the restriction ‘furthers a
27 compelling interest and is narrowly tailored to achieve that interest.’” *Wolfson v.*
28

1 *Concannon*, 811 F.3d 1176, 1181 (9th Cir. 2016) (quoting *Citizens United v.*
2 *Federal Election Commission*, 558 U.S. 310, 340 (2010)).

3 The Ninth Circuit just recently reiterated *Heller*'s fundamental principle that
4 a "law bann[ing] an "entire class of 'arm'" is "'severe' and r[un]s afoul of the
5 Second Amendment," in striking down California's ban on "large capacity
6 magazines" "because it ban[ned] possession of half of all magazines in America
7 today." *Duncan v. Becerra*, ___ F.3d ___, 2020 WL 4730668, *16 (9th Cir. Aug. 14,
8 2020). The court held that, "[i]n short, a law that takes away a substantial portion
9 of arms commonly used by citizens for self-defense imposes a substantial burden
10 on the Second Amendment." *Id.* Here, the prior Orders applied equally to all
11 classes of firearms, not just handguns, which rendered their burdensome impact
12 even more substantial than the *handgun* ban struck down as unconstitutional in
13 *Heller* and the LCM ban in *Becerra*, which "ban[ned] possession of *half* of all
14 magazines in America," *Duncan*, at *17. And, while defendants attempt to
15 characterize their prior Orders as of limited significance due to their "temporary"
16 nature, notably, they do not dispute that the March 19 Order and its general
17 mandates remained in effect for a solid three months. Rather, they cite the order of
18 *June 18* as the *first* order that lifted the general prohibition on "non-essential"
19 retailers and thus as the first order after the March 19 Order under which firearms
20 and ammunition retailers "were permitted to operate." MJP at 8-9. While it was in
21 effect, like the LCM ban, "[i]t applie[d] to nearly everyone" in the County, it was
22 "indiscriminating in its prohibition," it was not "firearms that are not commonly
23 used for self-defense," and "[t]hese are not features of a statute upheld by courts
24 under the least restrictive means standard." *Duncan*, at *23.

25 **2. The Orders Cannot Survive Any Intermediate Scrutiny Either.**

26 "While the precise contours of intermediate scrutiny may vary, this much is
27 certain: It has bite. It is a demanding test. While its application is neither fatal nor
28 feeble, it still requires a reviewing court to scrutinize a challenged law with a

1 healthy dose of skepticism. *Duncan*, 2020 WL 4730668, *23 (quoting *Edenfield v.*
2 *Fane*, 507 U.S. 761, 771 (1993)). “At its core, intermediate scrutiny is a searching
3 inquiry.” *Duncan*, *23. “[T]he government’s stated objective ... [must] be
4 significant, substantial, or important; and (2) there ... [must] be a ‘reasonable fit’
5 between the challenged regulation and the asserted objective.” *Rhode v. Becerra*,
6 __ F.Supp.3d __, 2020 WL 2392655, *19 (S.D. Cal. 2020) (quoting *Silvester v.*
7 *Harris*, 843 F.3d 816, 821-22 (9th Cir. 2016)). “[E]ven under intermediate
8 scrutiny, a court must determine whether the legislature has ‘base[d] its
9 conclusions upon substantial evidence.” *Id.* (quoting *Turner* at 196). “The
10 government must carry the burden of establishing that its regulations are
11 reasonably tailored.” *Id.* This means it “must establish a tight ‘fit’ between the
12 registration requirements and an important or substantial governmental interest, a
13 fit ‘that employs not necessarily the least restrictive means but ... a means narrowly
14 tailored to achieve the desired objective.” *Id.* (quoting *Heller v. District of*
15 *Columbia*, 670 F.3d 1244, 1258 (D.C. Cir. 2011) (*Heller II*)).

16 Defendants here have made absolutely no effort to demonstrate or to even
17 *claim* they ever considered less restrictive alternatives, much less that any such
18 alternatives would be ineffective or inadequate to achieve the stated goals. It
19 follows that they fail to present any *evidence* showing this ban is “reasonably
20 tailored,” much less “*narrowly* tailored to achieve the desired objective.”
21 Defendants appear to assume it is enough to simply proffer a “reasonable” *post hoc*
22 explanation to justify any constitutional infringement, when that simply does not
23 suffice. *Duncan*, 2020 WL 4730668 *25 (“The [government] cannot infringe on
24 the people’s Second Amendment right, and then ask the courts to defer to its
25 alleged ‘expertise’ once its [orders] are challenged.”).

26 Again, defendants simply cannot expect to walk away with no accountability
27 after the direct and serious injury their Orders inflicted on the fundamental
28 constitutional rights of plaintiffs and all those similarly situated. This is particularly

1 true when plaintiffs have properly pled nominal damages as a remedy for this past
2 violation and they remain exposed to future injury of the same kind under the
3 defendants’ current health orders. Plaintiffs’ claim for declaratory relief, injunctive
4 relief, and nominal damages not only remains justiciable but such relief remains
5 necessary to remedy the past injury and avert future harm—even more so than it
6 was on the date they first brought this action.

7

8 **C. PLAINTIFFS WILL DISMISS THE DUE PROCESS CLAIM.**

9

10 Although plaintiffs have properly stated a claim for violation of due process,
11 on the theory that all the various orders at issue throughout the case were
12 unconstitutionally vague and led to arbitrary and discriminate enforcement, the
13 primary targets of their second claim of a violation of due process under the Fifth
14 and Fourteenth Amendments, FAC, ¶¶ 92-108, were the orders of the State
15 defendants. Plaintiffs have resolved their differences with the State, by way of a
16 stipulation which clarified, among other things, that “challenged orders of
17 Governor Newsom and Dr. Angell *did not* require the closure of firearm retailers,
18 ammunition vendors, or shooting ranges. To the extent any local authority requires
19 the closure of those retailers, vendors, or ranges, such action is not required by the
20 State Defendants’ orders.” *See* Stipulation Re: Dismissal of State Defendants
21 Governor Gavin Newsom, and Dr. Sonia Y. Angell (ECF 53, p. 6, ¶ 6, emphasis
22 added). With that clarification, plaintiffs are sufficiently satisfied that any prior
23 confusion on the issue has been abated, and that counties are no longer free to rely
24 on the State’s orders to close firearm and ammunition retailers within their borders.
25 Although plaintiffs have properly and correctly alleged that Sheriff Villanueva’s
26 changes of his policy positions led to confusion and inconsistency that created the
27 potential for arbitrary actions in the 42 cities under the County’s jurisdiction

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1 (including the Cities of Los Angeles and Burbank), plaintiffs are prepared to
2 dismiss this second count by way of filing an amended pleading.

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4 **D. SHOULD DEFENDANTS’ MOTION BE GRANTED, PLAINTIFFS SHOULD BE**
5 **GRANTED LEAVE TO AMEND.**

6 Under the similar standards of Rule 12(b), if a motion for judgment on the
7 pleadings under Rule 12(c) is granted, leave should freely be given to the plaintiffs
8 to amend, unless amendment would be futile. *Pantastico v. Dept. of Educ.*, 406
9 F.Supp.3d 865, 880 (D. Haw. 2019) (after dismissal under Rule 12(b)(6) and 12(c),
10 the standard is whether “amendment would be futile”) (citing *Cervantes v.*
11 *Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011); *Harris v.*
12 *County of Orange*, 682 F.3d 1126, 1131 (9th Cir. 2012) (Under a Rule 12(c)
13 motion, “[d]ismissal with prejudice and without leave to amend is not appropriate
14 unless it is clear on de novo review that the complaint could not be saved by
15 amendment.”).

16 Here, plaintiffs have already prepared and would be able to file a Second
17 Amended Complaint which includes additional individual plaintiffs who suffered
18 injury as a result of the County’s enforced shutdown of firearm retailers and
19 ammunition vendors, eliminates all unnecessary parties (including previously-
20 dismissed defendants), and eliminates the second claim for violation of due process
21 to facilitate a more efficient and effective resolution of this important matter.

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23 **IV. CONCLUSION**

24 For the foregoing reasons, the County Defendants’ motion for judgment on
25 the pleadings should be denied, and leave to amend should otherwise be granted as
26 set forth herein.
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Dated: August 28, 2020

SEILER EPSTEIN LLP

/s/ George M. Lee
George M. Lee

Attorneys for Plaintiffs

**COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC HEALTH
ORDER OF THE HEALTH OFFICER**



**REOPENING SAFER AT WORK AND IN THE COMMUNITY
FOR CONTROL OF COVID-19
MOVING THE COUNTY OF LOS ANGELES INTO
STAGE 3 OF CALIFORNIA'S PANDEMIC
RESILIENCE ROADMAP
Revised Order Issued: August 12, 2020**

Recent Update

8/12/20—Updated to do the following:

- Clarify when elementary schools may seek a waiver to conduct in-person instruction in elementary schools for grades TK-6.
- Update operations for childcare facilities to specify childcare must be carried out in stable groups of 12 or fewer children in the same group each day, instead of 10.
- Align with new guidance for Institutes of Higher Education.
- Updated revision dates on last page, "Appendices at a Glance."

Please read this Order carefully. Violation of or failure to comply with this Order is a crime punishable by fine, imprisonment, or both. (California Health and Safety Code §120295; Los Angeles County Code § 11.02.080.)

SUMMARY OF THE ORDER: This Revised County of Los Angeles Health Officer Order (Order) supersedes all prior Safer At Home orders (Prior Orders) issued by the County of Los Angeles Health Officer (Health Officer). This Order is issued to comply with State Executive Orders N-33-20 and N-60-20 issued by Governor Gavin Newsom, and the accompanying orders of the State Public Health Officer issued on March 19, May 7, July 13, and July 17, 2020.

This Order's intent is to continue to ensure that County residents remain in their residences as much as practicable, to limit close contact with others outside their household in both indoor and outdoor spaces. All persons who can telework or work from home should continue to do so as much as possible during this pandemic. Further, gatherings of people who are not part of a single household or living unit are prohibited within the County of Los Angeles Public Health Jurisdiction, except for the limited purposes expressly permitted by this Order. This Order allows persons to engage in all permitted activities, as defined by the Order, but requires that persons practice Social (Physical) Distancing, at all times while out in public and wear a cloth face covering over both the nose and mouth when in or likely to be in contact with others, to lower the risks of person-to-person contact for themselves and others.

This Order is issued to align the County of Los Angeles (County) with State Executive Orders and State Health Officer Orders. This Order will be revised in the future to reflect the State Executive Orders and State Public Health Officer Orders and guidance that progressively designate sectors, businesses, establishments, or activities that may reopen with certain modifications, based on health and safety needs and at a pace designed to protect health and safety, and that may also progressively close specific activities and business sectors based on increases in daily reported COVID-19 cases, hospitalizations, and the testing positivity rates. Should local COVID-19 conditions warrant, the Health

**COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC HEALTH
ORDER OF THE HEALTH OFFICER**



Officer may, after consultation with the Board of Supervisors, issue Orders that are more restrictive than those of the State Public Health Officer. Changes from the previous Order are highlighted.

This Order is effective within the County of Los Angeles Public Health Jurisdiction, defined as all cities and unincorporated areas within the County of Los Angeles, with the exception of the cities of Long Beach and Pasadena that must follow their respective City Health Officer orders and guidance. This Order is effective immediately and will continue until further notice.

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

1. This Order supersedes the Health Officer's Prior Orders. In order to immediately address the serious recent regression of COVID-19 Indicators within the County of Los Angeles, which show troubling and substantial increases in new daily reported COVID-19 cases, hospitalizations, and the testing positivity rate, this Order requires the immediate temporary closure of specific activities and business sectors. This Order aligns the County with both the Governor's July 13, 2020, announcement requiring the closure of specific activities and business sectors and the State Public Health Officer's phased reopening approach guided by the California Pandemic Resilience Roadmap. The Health Officer will continue to assess the phased reopening allowed by the State Public Health Officer and this Order on an ongoing basis and determine, after consultation with the Board of Supervisors, whether this Order needs to be modified if the public health risk associated with COVID-19 increases in the future.
2. This Order's intent is to continue to ensure that County residents remain in their residences as much as practicable, to limit close contact with others outside their household in both indoor and outdoor spaces. All persons who can telework or work from home should continue to do so as much as possible during this pandemic. Sustained Social (Physical) Distancing and infection control measures will continue slowing the spread of COVID-19 and diminishing its impact on the delivery of critical healthcare services. All provisions of this Order must be interpreted to effectuate that intent. Failure to comply with any of the Order's provisions constitutes an imminent threat and menace to public health, and a public nuisance, and is punishable by fine, imprisonment or both.
3. All persons living within the County of Los Angeles Public Health Jurisdiction should remain in their residences whenever practicable.
 - a) Nothing in this Order prohibits members of a single household or living unit from engaging in permitted activities together. But gatherings of people who are *not* part of a single household or living unit are prohibited within the County of Los Angeles Public Health Jurisdiction, except for the limited purposes expressly permitted by this Order.

**COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC HEALTH
ORDER OF THE HEALTH OFFICER**



- b) People leaving their residences must strictly comply with the Social (Physical) Distancing requirements stated in this Order and specified in guidance or protocols established by the County Department of Public Health. This Order, beginning June 19, 2020, requires all persons wear a cloth face covering over both the nose and mouth whenever they leave their place of residence and are or can be in contact with or walking near or past others who are non-household members in both public and private places, whether indoors or outdoors. This includes wearing a cloth face covering when patronizing a business. Wearing a cloth face covering reduces the risk of transmission to others from people who do not have symptoms and do not know they are infected. The use of face coverings is commonly referred to as “source control.”
 - c) Persons and businesses within the County of Los Angeles Public Health Jurisdiction are required to follow the COVID-19 infection control protocols and guidance provided by the County Department of Public Health. In instances where the County has not provided a specific guidance or protocol, specific guidance or protocols established by the State Public Health Officer shall control.
 - i. In the event that an owner, manager, or operator of any business knows of three (3) or more cases of COVID-19 among their employees within a span of 14 days the employer must report this outbreak to the Department of Public Health at (888) 397-3993 or (213) 240-7821.
 - ii. In the event that an owner, manager, or operator of any business is informed that one or more employees of the business has tested positive for, or has symptoms consistent with COVID-19 (case), the employer must have a protocol to require the case(s) to isolate themselves at home and require the immediate self-quarantine of all employees that had a workplace exposure to the case(s).
 - d) Pursuant to the State of California’s action¹ and the United States District Court Central District of California’s order,² jurisdictions within the County of Los Angeles Public Health Jurisdiction are expected to comply with the provision of hotel and motel rooms for vulnerable people experiencing homelessness through Project Roomkey, which slows the spread of COVID-19 and retains capacity of the healthcare system.
4. All people residing within the County of Los Angeles Public Health Jurisdiction who are age 65 or older and all people of any age who have active or unstable pre-existing health conditions, should remain in their residences as much as possible during the pandemic. People in these categories should leave their residences only when necessary to seek medical care, exercise or obtain food or other necessities. The Health Officer strongly recommends that all employers offer telework or other accommodations to persons who are age 65 or older and all people of any age who have an active or unstable pre-existing health conditions.

¹ Office of Governor Gavin Newsom, Action re: Project Roomkey, 4/3/2020, <https://www.gov.ca.gov/2020/04/03/at-newly-converted-motel-governor-newsom-launches-project-roomkey-a-first-in-the-nation-initiative-to-secure-hotel-motel-rooms-to-protect-homeless-individuals-from-covid-19/>; 2020-21 May Revision to the Governor’s Budget, Project Roomkey, pg. 78-79

² Order re: Preliminary Injunction (Case No. LA CV 20-02291-DOC-KES), LA Alliance for Human Rights et al v. City of Los Angeles et al, States District Court Central District of California, 5/15/2020.

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5. All government agencies working in the course and scope of their public service employment are Essential Government Functions.
 - a) All government employees are essential, including but not limited to, health care providers and emergency responders including employees who serve in the following areas: law enforcement; emergency services and management; first responders; fire; search and rescue; juvenile detention; corrections; healthcare services and operations; public health; laboratory or medical testing; mental health; community health; public works; executive management employees serving in these fields; all employees assigned to serve in or support the foregoing fields; and all employees whose services are otherwise needed to assist in a declared emergency.
 - b) While all government employees are essential, the employees identified here, and others called to serve in their Disaster Service Worker capacity, must be available to serve the public or assist in response or continuity of operations efforts during this health crisis to the maximum extent allowed under the law.
 - c) This Order does not, in any way, restrict (a) first responder access to the site(s) named in this Order during an emergency or (b) local, state or federal officers, investigators, or medical or law enforcement personnel from carrying out their lawful duties at the site(s) named in this Order.
 - d) All persons who perform Essential Governmental Functions are categorically exempt from this Order while performing such governmental functions or services. Each governmental entity shall identify and designate appropriate employees, volunteers, or contractors to continue providing and carrying out any Essential Governmental Functions. All Essential Governmental Functions should be performed in compliance with Social (Physical) Distancing Protocol, to the extent possible.
6. This Order does not supersede any stricter limitation imposed by a local public entity within the County of Los Angeles Public Health Jurisdiction.
7. The Health Officer orders the closure of the following types of higher-risk businesses, recreational sites, commercial properties, and activities, where more frequent and prolonged person-to-person contacts are likely to occur:
 - a) Lounges and nightclubs;
 - b) Bars, breweries, tasting rooms, craft distilleries, and wineries that possess a valid low risk restaurant public health permit issued by the County of Los Angeles.
 - c) Brewpubs, craft distilleries and breweries and wineries, with premises set aside for beer and/or wine tasting, that are exempt from the definition of a food facility by California Health and Safety Code Section 113789(c)(5), and do not hold a health permit for preparing and serving food on site.
 - d) Public entertainment venues: movie theaters, live performance theaters, concert venues, theme parks, and festivals;

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- e) Family entertainment centers such as bowling alleys, arcades, miniature golf, and batting cages;
 - f) All restaurants, but only for indoor, in-person onsite dining until further notice;
 - g) Cardrooms, satellite wagering facilities, and racetrack onsite wagering facilities until further notice;
 - h) Indoor and outdoor playgrounds for children, except those located within a school or childcare center;
 - i) Indoor portions and exhibits of museums, zoos and aquariums are closed to the public until further notice;
 - j) Hot tubs, steam rooms and saunas not located on a residential property;
 - k) All events and gatherings, unless specifically allowed by this Order.
8. All Essential Businesses, unless specific modifications are required by this Order, may remain open to the public and conduct normal business operations, provided that they implement and maintain the Social (Physical) Distancing Protocol defined in Paragraph 20 and attached to this Order as **Appendix A**. An Essential Business' owner, manager, or operator must prepare and post a Social (Physical) Distancing Protocol for each facility or office located within the County of Los Angeles Public Health Jurisdiction and must ensure that the Essential Business meets all other requirements of the Social (Physical) Distancing Protocol.
9. Lower-Risk Businesses are businesses that are not specified in Paragraph 7 of this Order, and not defined as an Essential Business in Paragraph 18 of this Order. There are five categories of Lower-Risk Businesses that may reopen under this Order: (1) retailers ("Lower-Risk Retail Businesses"), (2) manufacturing and logistics sector businesses that supply Lower-Risk Retail Businesses, (3) Non-Essential office-based businesses (although telework is strongly encouraged), (4) Indoor Malls and Shopping Centers, and (5) hair salons and barbershops. These five categories of Lower-Risk Businesses may reopen subject to the following conditions:
- a) For any Lower-Risk Retail Business that sells goods and services, the owner, manager, or operator must, for each facility located within the County of Los Angeles Public Health Jurisdiction, prior to reopening, prepare, implement and post the Reopening Protocols for Retail Establishments: Opening for In Person Shopping, attached to this Order as **Appendix B**.
 - b) For any non-retail Lower-Risk Business, that is a manufacturing and logistics sector business that supplies Lower-Risk Retail Businesses, the owner, manager, or operator must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol, applicable to the business type or location, attached to this Order as **Appendix C**.
 - c) For any Non-Essential office-based business, all indoor portions and operations must cease in-person operations until further notice. Non-essential office-based businesses whose operations require employees to work from an

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office worksite, and that this Order does not identify as an Essential Business, Healthcare Operation, or Essential Infrastructure, may operate via telework and for Minimum Basic Operations only. Essential Businesses, Healthcare Operations, or Essential Infrastructure whose operations require that employees operate from an office worksite, must require employees to telework to the extent feasible and any in-person operations must be in accordance with the required Los Angeles County Department of Public Health Reopening Protocol Office-Based Worksites, attached to this Order as **Appendix D**.

- d) For Indoor Malls and Shopping Centers, defined as: A building with (7) or more sales or retail establishments with adjoining indoor space, all indoor portions and operations must close to the public until further notice. Businesses located entirely within the interior of an Indoor Mall or Shopping Center that are not temporarily closed pursuant to Paragraph 7 of this Order, may offer goods and services via outdoor curbside pick-up. Businesses or activities that are part of an Indoor Mall or Shopping Center and that are not closed pursuant to Paragraph 7 of this Order, but that are accessible by the public from the exterior of the Indoor Mall or Shopping Center may remain open to the public. The owner or operator of the Indoor Mall or Shopping Center must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Protocols for Shopping Center Operators, attached to this Order as **Appendix E**.
- e) Hair salons and barbershops, may be open for outdoor operations only. The indoor portions of hair salons and barbershops must be closed to the public until further notice. The owner, manager, or operator must, prior to reopening, prepare, implement and post the Reopening Protocols for Hair Salons and Barbershops, attached to this Order as **Appendix H**.

9.5. The State Public Health Officer has provided guidance for certain sectors, businesses and activities in Stage 3 of the California Pandemic Resilience Roadmap to conditionally reopen with workplace and operational modifications. The Health Officer, after considering local epidemiological data and after consultation with the Board of Supervisors, approves the reopening of the following specific sectors, businesses and activities subject to the following conditions:

- a) Music, film and television production. Operations for music, film and television production may resume on June 12, 2020. The owner, manager, or operator of music, film and television production must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Music, Film and Television Production, attached to this Order as **Appendix J**, as well as abide by applicable industry-generated protocols.
- b) Day camps. Day camps may reopen on June 12, 2020. Day camp owners and operators must implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Day Camps, attached to this Order as **Appendix K**.

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- c) Fitness facilities. Fitness facilities, including private gymnasiums, may be open for outdoor operations only. The indoor portions of Fitness facilities are closed to the public until further notice. The owner, manager, or operator of fitness facilities must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Gyms and Fitness Establishments, attached to this Order as **Appendix L**.
- d) Outdoor portions of museums, galleries, botanical gardens, and outdoor facilities at zoos, aquariums, and other similar exhibition spaces (collectively, "Museums") may remain open to the public. The indoor portions of Museums are closed to the public until further notice. The owner, manager, or operator of Museums and exhibition spaces must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Museums, Galleries, Zoos, and Aquariums, attached to this Order as **Appendix M**.
- e) Professional sports without audiences. Professional sports teams and franchises may restart operations and competitions without audiences on June 12, 2020. The owner, manager, or operator of professional sports teams and franchises must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Protocol for Professional Sports Leagues and Facilities Opening for Training Sessions and Spectator-Free Events, attached to this Order as **Appendix N**, as well as abide by applicable industry-generate protocols.
- f) Campgrounds, RV Parks and associated outdoor activities. Campgrounds and recreational vehicle parks may reopen on June 12, 2020. The owner, manager, or operator of campgrounds and RV Parks must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Campgrounds, RV parks and Cabin Rental Units, attached to this Order as **Appendix O**.
- g) Schools (K-12) and School Districts. The State Public Health Officer requires all public and private schools (K-12) and school districts within the County of Los Angeles to remain closed to in-person learning until the County of Los Angeles has been off of the State's County Monitoring List for 14 consecutive days. Schools (K-12) and School Districts may conduct distance learning only. Elementary schools may seek a waiver, when recommended by the State Public Health Officer or as permitted by the County Health Officer. Schools (K-12) and School Districts that are permitted to reopen for in-person learning must follow the Reopening Protocols for K-12 Schools and the Protocol for COVID-19 Exposure Management Plan in K-12 Schools, attached to this Order as **Appendices T1 & T2**.
- h) Personal Care Establishments. These establishments include nail salons, tanning salons, esthetician, skin care, and cosmetology services; electrology, body art professionals, tattoo parlors, and piercing shops; and massage therapy (in non-healthcare settings), and may be open for outdoor operations only. The indoor portions of personal care establishments are closed to the public until further notice. The owner, manager or operator of a personal care

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establishment must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Personal Care Establishments, attached to this Order as **Appendix R**.

- i) Institutes of Higher Education. Colleges and universities in Los Angeles County will not be able to resume all in-person academic instruction, at this time. Institutions may continue to offer in person training and instruction for essential workforce for required activities that cannot be accomplished through virtual learning. All other academic instruction must continue to be done via distance-learning as specified in the County's Protocols for Institutes of Higher Education attached to this Order as **Appendix U**. Faculty and other staff may come to campus for the purpose of providing distance learning, and other activities related to the purposes above, as well as maintaining minimum basic operations. The institution must comply with all relevant portions of the County's Protocols for Institutes of Higher Education to maximize safety for all employees, also noted in Appendix U.

REASONS FOR THE ORDER

10. This Order is based upon the following determinations: evidence of continued community transmission of COVID-19 within the County; continued uncertainty regarding the degree of undetected asymptomatic transmission; scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically; evidence that a significant portion of the County population is at risk for serious health complications, including hospitalizations and death from COVID-19, due to age or pre-existing health conditions; and further evidence that other County residents, including younger and otherwise healthy people, are also at risk for serious negative health outcomes and for transmitting the virus to others. The Order's intent is to protect the public from the avoidable risk of serious illness and death resulting from the spread of COVID-19.

11. Existing community transmission of COVID-19 in Los Angeles County continues to present a substantial and significant risk of harm to residents' health. There is still no vaccine available yet to protect against COVID-19, and no treatment for it. As of August 11, 2020, there have been at least 211,808 cases of COVID-19 and 5,057 deaths reported in Los Angeles County. There remains a strong likelihood of a significant and increasing number of cases of community transmission. Making the community transmission problem worse, some individuals who contract the virus causing COVID-19 have no symptoms or have only mild symptoms, and so are unaware that they carry the virus and are transmitting it to others. Further, evidence shows that the virus can, at times, survive for several hours on surfaces and can be indirectly transmitted between individuals. Because even people without symptoms can transmit the virus, and because evidence shows the infection is easily spread, preventing, limiting, and placing conditions on various types of gatherings and other direct and indirect interpersonal interactions have been proven to reduce the risk of transmitting the virus.

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12. Evidence suggests that until recently the restrictions and requirements imposed by Prior Orders slowed the rate of increase in community transmission and hospitalizations by limiting interactions among people, consistent with the efficacy of similar measures in other parts of the country and world. Unfortunately, the daily number of new cases has significantly increased and hospitals within the County are admitting an increasing number of patients diagnosed with COVID-19, including patients with severe illness in their intensive care units. Further, the hospitals are at risk of being overwhelmed or exceeding capacity. Moreover, because there is not yet a vaccine or proven therapeutic drug, the public health emergency and attendant risks to the public's health by COVID-19 still predominate.
13. In line with the State Public Health Officer, the Health Officer is monitoring several key indicators (COVID-19 Indicators) within the County. The recent regression of some of these COVID-19 Indicators – specifically related to hospital utilization and capacity – makes it appropriate, at this time, to reimpose certain restrictions that are intended to limit person-to-person contact and slow the current rates of community transmission. Activities and business operations that are permitted must be conducted in accordance with the required Social (Physical) Distancing, reopening protocols, and other infection control protocols ordered by the Health Officer.
14. The Health Officer will continue monitoring COVID-19 Indicators to assess the impact of easing restrictions and re-opening sectors. Those Indicators include, but are not limited to:
- a. The number of new hospitalizations and deaths.
 - b. The capacity of hospitals and the healthcare system in the County, including acute care beds, Intensive Care Unit beds, and ventilators to provide care for existing COVID-19 patients and other patients, and capacity to surge with an increase of COVID-19 cases.
 - c. The supply of personal protective equipment (PPE) available for hospital staff, nursing home staff and other healthcare providers and personnel who need PPE to safely respond to and treat COVID-19 patients and other patients.
 - d. The ability and capacity to quickly and accurately test persons to determine whether individuals are COVID-19 positive, especially those in vulnerable populations or high-risk settings or occupations, and to identify and assess outbreaks.
 - e. The ability to conduct case investigation and contact tracing for the volume of future cases and associated contacts, isolating confirmed cases and quarantining persons who have had contact with confirmed cases.

DEFINITIONS AND EXEMPTIONS

15. The following activities are permitted under this Order:
- a. Engaging in activities or performing tasks important to the health and safety of family or household members (including pets), such as, visiting a health or veterinary care professional, obtaining medical supplies or medication, visiting a

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- physician or child's pediatrician for routine care, such as, well-child visits and vaccinations;
- b. Obtaining necessary services and supplies for family or household members, or delivering the same, such as, obtaining grocery items or necessary supplies from Essential Businesses for one's household or for delivery to others;
- c. Performing work for or accessing businesses that are open, or to carry out Minimum Basic Operations for businesses that are closed or operating remotely.
- d. Obtaining or accessing services from Essential Governmental Functions, such as, accessing court, social and administrative services, or complying with an order of law enforcement or court;
- e. Caring for minors, the elderly, dependents, persons with disabilities, or other vulnerable persons;
- f. Obtaining in-person behavioral health or substance use disorder support in therapeutic small group meetings, such as Alcoholics Anonymous or Narcotics Anonymous, provided that the gathering is limited to 10 people or fewer and Social (Physical) Distancing is practiced.
- g. Obtaining in-person faith-based counselling services where the service cannot reasonably be practiced remotely, provided that the gathering is limited to 10 people or fewer and Social (Physical) Distancing is practiced.
- h. Attending in-person faith-based services, provided that the faith-based service is held outdoors. There is no maximum attendance for faith-based services that are held outdoors, provided that the attendees have enough space to observe strict Social (Physical) Distancing, including a minimum of six feet between attendees from different households, and are wearing cloth face coverings. Faith-based organizations holding in-person outdoor services, must follow the Department of Public Health Places of Worship Protocols, attached to this Order as **Appendix F**.
- i. Engaging in outdoor recreation activity, in compliance with Social (Physical) Distancing requirements and subject to the following limitations:
 - i. Outdoor recreation activity at parks, trails, piers, and beaches, and other open spaces must comply with any access or use restrictions separately established by the Health Officer, government, or other entity that manages the area to reduce crowding and the risk of COVID-19 transmission.
 - ii. Use of shared outdoor facilities for recreational activities, including but not limited to golf courses, tennis and pickleball courts, shooting and archery ranges, equestrian centers, model airplane areas, community gardens, and bike parks, must comply with any access or use restrictions separately established by the Health Officer, government, or other entity that manages the area to reduce crowding and the risk of COVID-19 transmission.
 - iii. Local public entities may elect to temporarily close certain streets or areas to automobile traffic, to allow for increased space for persons to engage in recreational activity permitted by and in compliance with Social (Physical) Distancing requirements specified in this Order.

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- iv. Swimming pools and splash pads in any non-residential setting may reopen on June 12, 2020, with the owner, manager, or operator of the swimming pool or splash pad implementing and posting the required Los Angeles County Department of Public Health Protocol for Swimming Pools. All hot tubs, saunas, and steam rooms located on non-residential property remain closed.
 - v. For-hire fishing, guided fishing, or small-group chartered boat trips may resume operating on June 12, 2020, with the owner, manager, or operator of the charter business implementing the required Los Angeles County Department of Public Health Protocol for Chartered Boats.
 - j. Participating in a Vehicle-Based Parade. The host of the Vehicle-Based Parade must comply with all local ordinances, traffic control requirements, and state and local laws. Further, the host of Vehicle-Based Parades must comply with the Los Angeles County Department of Public Health Vehicle-Based Parade Protocol, attached to this Order as **Appendix G**.
 - k. Participating in an in-person protest as long as the protest is held outdoors. Outdoor protests are permitted without a limit on attendees. Persons participating in a protest must wear a cloth face covering and maintain physical distancing of six (6) feet between persons or groups of persons from different households at all times, as well as observe the Department of Public Health Protocol for Public Demonstrations.
16. Individuals may work for, train for, volunteer at, or obtain services at Healthcare Operations: hospitals, clinics, laboratories, dentists, optometrists, pharmacies, physical therapists, rehabilitation and physical wellness programs, chiropractors, pharmaceutical and biotechnology companies, other licensed healthcare facilities, healthcare suppliers, home healthcare service providers, mental or behavioral health providers, alcohol and drug treatment providers, cannabis dispensaries with a medicinal cannabis license and all other required state and local licenses, medical or scientific research companies, or any related and/or ancillary healthcare services, manufacturers, distributors and servicers of medical devices, diagnostics, and equipment, veterinary care, and other animal healthcare. This exemption shall be construed to avoid any impact to the delivery of healthcare, broadly defined.
17. Individuals may provide any service, train for, or perform any work necessary to the operation and maintenance of Essential Infrastructure, which is defined as, public health operations, public works construction, airport operations, port operations, food supply, water, sewer, gas, electrical, oil extraction and refining, roads and highways, public transportation, solid waste collection, removal and processing, flood control and watershed protection, cemeteries, mortuaries, crematoriums, and internet and telecommunications systems (including the provision of essential global, national, local infrastructure for computing services, business infrastructure, communications, and web-based services), and manufacturing and distribution companies deemed essential as part of the Essential Infrastructure supply chain, provided that they carry out those services or that work. In providing these services, training for, or performing

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this work, individuals must comply with Social (Physical) Distancing requirements to the extent practicable.

18. For purposes of this Order, Essential Businesses are:

- a. Grocery stores, certified farmers’ markets, farm and produce stands, supermarkets, food banks, convenience stores, warehouse stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruit and vegetables, pet supply, water, fresh meats, fish, and poultry, and any other household consumer products (such as cleaning or personal care products). This includes stores that sell groceries and other non-grocery products, such as products necessary to maintaining the safety, sanitation, and essential operation of residences. This does not include businesses that sell only prepackaged non-potentially hazardous food which is incidental to the primary retail business;
- b. Food processors, confectioners, food packagers, food testing labs that are not open to the public, and food cultivation, including farming, livestock, and fishing;
- c. Organizations and businesses that provide food, shelter, social services, and other necessities of life for economically disadvantaged or otherwise needy individuals (including gang prevention and intervention, domestic violence, and homeless service agencies);
- d. Newspapers, television news, radio, magazine, podcast and journalism activities, including taped, digitally recorded or online-streamed content of any sort that is produced by one or more members of a single household, within the household’s residence and without the physical presence of any non-member of the household.
- e. Gas stations, auto-supply, mobile auto repair operations, auto repair shops (including, without limitation, auto repair shops adjacent to or otherwise in connection with a retail or used auto dealership), and bicycle repair shops and related facilities;
- f. Banks, credit unions, financial institutions and insurance companies;
- g. Hardware stores, nurseries; building supply stores;
- h. Plumbers, electricians, exterminators, custodial/janitorial workers, handyman services, funeral homes and morticians, moving services, HVAC installers, carpenters, vegetation services, tree maintenance, landscapers, gardeners, property managers, private security personnel and other service providers who provide services to maintain the safety, sanitation, and essential operation to properties and other Essential Businesses;
- i. Businesses providing mailing and shipping services, including post office boxes;
- j. Educational institutions (including public and private K-12 schools, colleges, and universities);
- k. Laundromats, dry cleaners, and laundry service providers;
- l. Restaurants and other food facilities that prepare and serve food, but only for delivery, drive thru, carry out, and outdoor onsite table dining. Indoor dining is not

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permitted. Restaurants with a moderate risk or high risk restaurant permit issued by the County of Los Angeles Department of Public Health and other food facilities that provide in-person outdoor dining must follow the revised Department of Public Health Protocols for Restaurants, attached to this Order as **Appendix I**. Cafeterias, commissaries, and restaurants located within hospitals, nursing homes, or other licensed health care facilities may provide dine-in service, as long as Social (Physical) Distancing is practiced;

- m. Businesses that supply office or computer products needed by people who work from home;
- n. Businesses that supply other Essential Businesses with the support or supplies necessary to operate;
- o. Non-manufacturing, transportation or distribution businesses that ship, truck, transport, or provide logistical support to deliver groceries, food, goods or services directly to residences, Essential Businesses, Healthcare Operations, and Essential Infrastructure. This exemption shall not be used as a basis for engaging in sales to the general public from retail storefronts;
- p. Airlines, taxis, ride sharing services and other private transportation providers providing transportation services necessary for activities of daily living and other purposes expressly authorized in this Order;
- q. Businesses that manufacture parts and provide necessary service for Essential Infrastructure;
- r. Home-based care for seniors, adults, disabled persons, or children;
- s. Residential facilities and shelters for homeless residents, disabled persons, seniors, adults, children and animals;
- t. Professional services, such as legal, payroll or accounting services, when necessary to assist in compliance with legally mandated activities, and the permitting, inspection, construction, transfer and recording of ownership of housing, including residential and commercial real estate and anything incidental thereto, provided that appointments and other residential viewings must only occur virtually or, if a virtual viewing is not feasible, by appointment with no more than two visitors at a time residing within the same household or living unit and one individual showing the unit (except that in-person visits are not allowed when the occupant is still residing in the residence);
- u. Childcare facilities. To the extent possible, childcare facilities must operate under the following conditions: (1) Childcare must be carried out in stable groups of 12 or fewer ("stable" means the same twelve (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;
- v. Hotels, motels, shared rental units and similar facilities. Beginning June 12, 2020, these may reopen for tourism and individual travel, in adherence with the required

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Los Angeles County Department of Public Health Reopening Protocol for Hotels, Lodging and Short-Term Rentals, attached to this Order as **Appendix P**;

- w. Construction, which includes the operation, inspection, and maintenance of construction sites and construction projects for construction of commercial, office and institutional buildings, residential and housing construction; and
- x. Manufacturers and retailers of fabric or cloth that is made into personal protective equipment, such as, face coverings.

19. For purposes of this Order, "Social (Physical) Distancing" means: (1) Maintaining at least six (6) feet of physical distance from individuals who are not members of the same household; (2) Frequently washing hands with soap and water for at least 20 seconds, or using hand sanitizer that contains at least 60% alcohol; (3) Wearing a cloth face covering when whenever an individual leaves their home or place of residence, and when an individual is or can be in contact with or walking by or past others who are non-household members in both public and private places, whether indoors or outdoors. Wearing a cloth face covering over both the nose and mouth reduces the risk of transmission to others from people who do not have symptoms and do not know they are infected; and (4) Avoiding all physical interaction outside the household when sick with a fever or cough, except for necessary medical care.

20. For purposes of this Order, the "Social (Physical) Distancing Protocol" that must be implemented and posted must demonstrate how the following infection control measures are being implemented and achieved, as applicable:

- a. Limiting the number of people who may enter into the facility at any one time to ensure that people in the facility can easily maintain a minimum six (6) foot physical distance from others, at all times, except as required to complete a business activity or transaction. Members of a single household or living unit may stand or move together but must be separated from others by a physical distance of at least six (6) feet.
- b. Where lines may form at a facility, marking six (6) foot increments at a minimum, establishing where individuals should stand to maintain adequate Social (Physical) Distancing, whether inside or outside the facility.
- c. Providing hand sanitizer, soap and water, or 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 members of the public (e.g., cashiers). Restrooms normally open to the public shall remain open to the public.
- d. Posting a sign in a conspicuous place at all public entries that instructs the public not to enter if they are experiencing symptoms of respiratory illness, including fever or cough, to wear face coverings, and to maintain Social (Physical) Distancing from one another.
- e. Providing for the regular disinfection of high-touch surfaces, and disinfection of all payment portals, pens, and styluses after each use. All businesses are encouraged to also offer touchless payment mechanisms, if feasible.

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- f. Providing face coverings to employees and contracted workers whose duties require close contact with other employees and/or the public. Those who have been instructed by their medical provider that they should not wear a face covering should wear a face shield with a drape on the bottom edge, to be in compliance with State directives, as long as their condition permits it. A drape that is form fitting under the chin is preferred. Masks with one-way valves should not be used.
- g. Requiring that members of the public who enter the facility wear a face-covering over both the nose and mouth, which reduces the risk of “asymptomatic” or “pre-symptomatic” transmission to workers and others, during their time in the facility.
- h. Adhering to communicable disease control protocols provided by the Los Angeles County Department of Public Health, including requirements for cleaning and disinfecting the site. See protocols posted at www.publichealth.lacounty.gov/media/Coronavirus/

- 21. Operators of businesses that are required to cease in-person operations may conduct Minimum Basic Operations, which means:
 - a. The minimum necessary activities to maintain and protect the value of the business's inventory and facilities; ensure security, safety, and sanitation; and process payroll and employee benefits;
 - b. The minimum necessary activities to facilitate the business’s owners, employees, and contractors being able to continue to work remotely from their residences, and to ensure that the business can deliver its services remotely.

ADDITIONAL TERMS

- 22. The County shall promptly provide copies of this Order by: (a) posting it on the Los Angeles Department of Public Health’s website (www.publichealth.lacounty.gov), (b) posting it at the Kenneth Hahn Hall of Administration located at 500 West Temple Street, Los Angeles, CA 90012, (c) providing it to any member of the public requesting a copy, and (d) issuing a press release to publicize the Order throughout the County.
 - a. The owner, manager, or operator of any facility that is likely to be impacted by this Order is strongly encouraged to post a copy of this Order onsite and to provide a copy to any member of the public requesting a copy.
 - b. Because guidance may change, the owner, manager, or operator of any facility that is subject to this Order is ordered to consult the Los Angeles County Department of Public Health’s website (www.publichealth.lacounty.gov) daily to identify any modifications to the Order and is required to comply with any updates until the Order is terminated.
- 23. If any subsection, sentence, clause, phrase, or word of this Order or any application of it to any person, structure, gathering, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions or applications of this Order.

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- 24. This Order incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom and the March 4, 2020 declarations of a local and public health emergency issued by the Los Angeles County Board of Supervisors and Los Angeles County Health Officer, respectively, and as they may be supplemented.
- 25. This Order is issued to align the County with the phased reopening approach of the California's Pandemic Resilience Roadmap. This Order will be revised in the future as the State Public Health Officer progressively designates sectors, businesses, establishments, or activities for reopening with required modifications or closure at a pace designed to protect health and safety. Should local COVID-19 conditions warrant, the Health Officer may, after consultation with the Board of Supervisors, issue orders that are more restrictive than the guidance and orders issued by the State Public Health Officer.
- 26. This Order is consistent with the provisions in the Governor's Executive Order N-60-20 and the State Public Health Officer's May 7, 2020 Order, that local health jurisdictions may implement or continue more restrictive public health measures in the jurisdiction if the local health officer believes conditions in that jurisdiction warrant them. Where a conflict exists between this Order and any state public health order related to controlling the spread of COVID-19 during this pandemic, the most restrictive provision controls. Consistent with California Health and Safety Code section 131080, except where the State Health Officer may issue an order expressly directed at this Order or a provision of this Order and based upon a finding that a provision of this Order constitutes a menace to the public health, any more restrictive measures in this Order may continue to apply and control in the County of Los Angeles Public Health Jurisdiction.
- 27. Pursuant to Sections 26602 and 41601 of the California Government Code and Section 101029 of the California Health and Safety Code, the Health Officer requests that the Sheriff and all chiefs of police in all cities located in the Los Angeles County Public Health Jurisdiction ensure compliance with and enforcement of this Order. The violation of any provision of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment or both.
- 28. This Order shall become effective immediately on August 12, 2020 and will continue to be until it is revised, rescinded, superseded, or amended in writing by the Health Officer.

IT IS SO ORDERED:

Muntu Davis, M.D., M.P.H.

8/12/2020

Muntu Davis, M.D., M.P.H.

Date

Health Officer,
County of Los Angeles

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Appendices At-A-Glance

All DPH protocol is available at:
<http://www.publichealth.lacounty.gov/media/Coronavirus/>

Appendix A: Protocol for Social Distancing [Revised 7/3/2020]

Appendix B: Protocols for Retail Establishments Opening for In-person Shopping [Revised 7/18/2020]

Appendix C: Reopening Protocol for Warehousing, Manufacturing and Logistic Establishments [Revised 7/18/2020]

Appendix D: Protocols for Office Worksites [Revised 8/7/2020]

Appendix E: Protocols for Shopping Center Operators [Revised 7/17/2020]

Appendix F: Protocol for Places of Worship [Revised 7/17/2020]

Appendix G: Protocol for Vehicle-Based Parades [Revised 5/25/2020]

Appendix H: Reopening Protocol for Hair Salons and Barbershops [Revised 7/29/2020]

Appendix I: Protocol for Restaurants [Revised 7/18/2020]

Appendix J: Reopening Protocol for Music, Film, and Television Production [Revised 7/29/2020]

Appendix K: Reopening Protocol for Day Camps [Dated 7/31/2020]

Appendix L: Reopening Protocol for Gyms and Fitness Establishments [Revised 7/17/2020]

Appendix M: Reopening Protocol for Museums, Galleries, Zoos, and Aquariums [Revised 7/17/2020]

Appendix N: Protocol for Professional Sports Leagues and Facilities Opening for Training Sessions and Spectator-Free Events [Revised 7/17/2020]

Appendix O: Reopening Protocol for Campgrounds, RV parks and Cabin Rental Units [Revised 7/17/2020]

Appendix P: Reopening Protocol for Hotels, Lodging, and Short-Term Rentals [Revised 7/17/2020]

Appendix Q: [Rescinded 7/1/2020]

Appendix R: Reopening Protocol for Personal Care Establishments [Revised 7/29/2020]

Appendix S: [Rescinded 6/28/2020]

Appendix T1: Reopening Protocols for K-12 Schools [To be updated on 8/12/2020]

Appendix T2: Protocol for COVID-19 Exposure Management Plan in K-12 Schools [Revised 7/27/2020]

Appendix U: Reopening Protocol for Institutes of Higher Education [To be updated on 8/12/2020]

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**REOPENING SAFER AT WORK AND IN THE COMMUNITY
FOR CONTROL OF COVID-19
MOVING THE COUNTY OF LOS ANGELES INTO
STAGE 3 OF CALIFORNIA'S PANDEMIC
RESILIENCE ROADMAP**

Revised Order Issued: June 18, 2020

Please read this Order carefully. Violation of or failure to comply with this Order is a crime punishable by fine, imprisonment, or both. (California Health and Safety Code §120295; Los Angeles County Code § 11.02.080.)

SUMMARY OF THE ORDER: This Revised County of Los Angeles Health Officer Order (Order) supersedes all prior Safer At Home orders (Prior Orders) issued by the County of Los Angeles Health Officer (Health Officer). This Order is issued to comply with State Executive Orders N-33-20 and N-60-20 issued by Governor Gavin Newsom, and the accompanying orders of the State Public Health Officer issued on March 19 and May 7, 2020. The State Public Health Officer has articulated a 4 Stage framework – California Pandemic Resilience Roadmap to inform the State's actions that reintroduce activities and sectors in a phased manner and with necessary modifications to protect health and safety, and to lower the risk of Novel Coronavirus Disease (COVID-19) transmission and outbreaks in a community.

This Order is issued to align the County of Los Angeles (County) with State Executive Orders and State Health Officer Orders that support the phased reopening of the California Pandemic Resilience Roadmap. This Order will be revised in the future to reflect the State Executive Orders and State Public Health Officer Orders and guidance that progressively designate sectors, businesses, establishments, or activities that may reopen with certain modifications, based on health and safety needs and at a pace designed to protect health and safety. Should local COVID-19 conditions warrant, the Health Officer may, after consultation with the Board of Supervisors, issue Orders that are more restrictive than those of the State Public Health Officer. Changes from the previous Order are highlighted.

This Order allows persons to engage in all permitted activities, as defined by the Order, but requires that persons practice Social (Physical) Distancing, at all times while out in public and wear a cloth face covering when in or likely to be in contact with others, to lower the risks of person-to-person contact for themselves and others.

This Order is effective within the County of Los Angeles Public Health Jurisdiction, defined as all cities and unincorporated areas within the County of Los Angeles, with the exception of the cities of Long Beach and Pasadena, that must follow their respective City Health Officer orders and guidance. This Order is effective immediately and will continue until further notice.

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

1. This Order supersedes the Health Officer's Prior Orders. In light of the progress achieved in slowing the spread of COVID-19 in the County, this Order aligns the County with the State Public Health Officer's phased reopening approach guided by the California Pandemic Resilience Roadmap. The Order allows the conditional reopening of activities and business sectors with modifications to lower the risk of person-to-person transmission of COVID-19, ensuring continued Social (Physical) Distancing and adherence to other infection control protocols as provided below. The Health Officer will assess the phased reopening allowed by the State Public Health Officer and this Order on an ongoing basis and determine, after consultation with the Board of Supervisors, whether this Order needs to be modified if the public health risk associated with COVID-19 increases in the future.
2. This Order's intent is to continue to ensure that County residents remain in their residences as much as practicable, to limit close contact with others outside their household in both indoor and outdoor spaces. All persons who can telework or work from home should continue to do so as much as possible during this pandemic. Sustained Social (Physical) Distancing and infection control measures will continue slowing the spread of COVID-19 and diminishing its impact on the delivery of critical healthcare services. All provisions of this Order must be interpreted to effectuate that intent. Failure to comply with any of the Order's provisions constitutes an imminent threat and menace to public health, and a public nuisance, and is punishable by fine, imprisonment or both.
3. All persons living within the County of Los Angeles Public Health Jurisdiction should remain in their residences whenever practicable.
 - a) Nothing in this Order prohibits members of a single household or living unit from engaging in permitted activities together. But gatherings of people who are *not* part of a single household or living unit are prohibited within the County of Los Angeles Public Health Jurisdiction, except for the limited purposes expressly permitted by this Order.
 - b) People leaving their residences must strictly comply with the Social (Physical) Distancing requirements stated in this Order and specified in guidance or protocols established by the County Department of Public Health. This Order, beginning June 19, 2020, requires all persons wear a cloth face covering over both their nose and mouth whenever they leave their place of residence and are or can be in contact with or walking near or past others who are non-household members in both public and private places, whether indoors or outdoors. This includes wearing a cloth face covering when patronizing a business. Wearing a cloth face covering reduces the risk of transmission to others from people who do not have symptoms and do not know they are infected. The use of face coverings is commonly referred to as "source control."

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- c) Persons and businesses within the County of Los Angeles Public Health Jurisdiction are required to follow the COVID-19 infection control protocols and guidance provided by the County Department of Public Health. In instances where the County has not provided a specific guidance or protocol, specific guidance or protocols established by the State Public Health Officer shall control.
 - d) Pursuant to the State of California's action¹ and the United States District Court Central District of California's order,² jurisdictions within the County of Los Angeles Public Health Jurisdiction are expected to comply with the provision of hotel and motel rooms for vulnerable people experiencing homelessness through Project Roomkey, which slows the spread of COVID-19 and retains capacity of the healthcare system.
4. All people residing within the County of Los Angeles Public Health Jurisdiction who are age 65 or older and all people of any age who have active or unstable pre-existing health conditions, should remain in their residences as much as possible during the pandemic. People in these categories should leave their residences only when necessary to seek medical care, exercise or obtain food or other necessities. The Health Officer strongly recommends that all employers offer telework or other accommodations to persons who are age 65 or older and all people of any age who have an active or unstable pre-existing health conditions.
5. All government agencies working in the course and scope of their public service employment are Essential Government Functions.
- a) All government employees are essential, including but not limited to, health care providers and emergency responders including employees who serve in the following areas: law enforcement; emergency services and management; first responders; fire; search and rescue; juvenile detention; corrections; healthcare services and operations; public health; laboratory or medical testing; mental health; community health; public works; executive management employees serving in these fields; all employees assigned to serve in or support the foregoing fields; and all employees whose services are otherwise needed to assist in a declared emergency.
 - b) While all government employees are essential, the employees identified here, and others called to serve in their Disaster Service Worker capacity, must be available to serve the public or assist in response or continuity of operations efforts during this health crisis to the maximum extent allowed under the law.
 - c) This Order does not, in any way, restrict (a) first responder access to the site(s) named in this Order during an emergency or (b) local, state or federal officers, investigators, or medical or law enforcement personnel from carrying out their lawful duties at the site(s) named in this Order.

¹ Office of Governor Gavin Newsom, Action re: Project Roomkey, 4/3/2020, <https://www.gov.ca.gov/2020/04/03/at-newly-converted-motel-governor-newsom-launches-project-roomkey-a-first-in-the-nation-initiative-to-secure-hotel-motel-rooms-to-protect-homeless-individuals-from-covid-19/>; 2020-21 May Revision to the Governor's Budget, Project Roomkey, pg. 78-79

² Order re: Preliminary Injunction (Case No. LA CV 20-02291-DOC-KES), LA Alliance for Human Rights et al v. City of Los Angeles et al, States District Court Central District of California, 5/15/2020.

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- d) All persons who perform Essential Governmental Functions are categorically exempt from this Order while performing such 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. All Essential Governmental Functions should be performed in compliance with Social (Physical) Distancing, to the extent possible.
6. This Order does not supersede any stricter limitation imposed by a local public entity within the County of Los Angeles Public Health Jurisdiction.
7. The Health Officer orders the continued closure of the following types of higher-risk businesses, recreational sites, commercial properties, and activities, where more frequent and prolonged person-to-person contacts are likely to occur:
 - a) Lounges and nightclubs;
 - b) [Intentionally Omitted]
 - c) Public entertainment venues: movie theaters, live performance theaters, concert venues, theme parks, and festivals;
 - d) Family entertainment centers such as bowling alleys, arcades, miniature golf, and batting cages;
 - e) [Intentionally Omitted];
 - f) [Intentionally Omitted];
 - g) Indoor and outdoor playgrounds for children, except those located within a school or childcare center;
 - h) Hot tubs, steam rooms and saunas not located on a residential property;
 - i) All events and gatherings, unless specifically allowed by this Order.
8. All Essential Businesses may remain open to the public and conduct normal business operations, provided that they implement and maintain the Social (Physical) Distancing Protocol defined in Paragraph 20 and attached to this Order as **Appendix A**. An Essential Business' owner, manager, or operator must prepare and post a Social (Physical) Distancing Protocol for each facility or office located within the County of Los Angeles Public Health Jurisdiction and must ensure that the Essential Business meets all other requirements of the Social (Physical) Distancing Protocol.
9. Lower-Risk Businesses are businesses that are not specified in Paragraph 7 of this Order, and not defined as an Essential Business in Paragraph 18 of this Order. There are five categories of Lower-Risk Businesses that may reopen under this Order: (1) retailers ("Lower-Risk Retail Businesses"), (2) manufacturing and logistics sector businesses that supply Lower-Risk Retail Businesses, (3) Non-Essential office-based businesses (although telework is strongly encouraged), (4) Indoor Malls and Shopping Centers, and (5) hair salons and barbershops. These five categories of Lower-Risk Businesses may reopen subject to the following conditions:

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- a) For any Lower-Risk Retail Business that sells goods and services, the owner, manager, or operator must, for each facility located within the County of Los Angeles Public Health Jurisdiction, prior to reopening, prepare, implement and post the Reopening Protocols for Retail Establishments: Opening for In Person Shopping, attached to this Order as **Appendix B**.
 - b) For any non-retail Lower-Risk Business, that is a manufacturing and logistics sector business that supplies Lower-Risk Retail Businesses, the owner, manager, or operator must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol, applicable to the business type or location, attached to this Order as **Appendix C**.
 - c) For any Non-Essential office-based business, which includes faith-based office facilities for those employed by the organization and where the facility is their regular place of work, the owner, manager, or operator, must, prior to reopening, prepare implement and post the required Los Angeles County Department of Public Health Reopening Protocol Office-Based Worksites, attached to this Order as **Appendix D**.
 - d) For Indoor Malls and Shopping Centers, defined as: A building with (7) or more sales or retail establishments with adjoining indoor space, the owner or operator may reopen the Indoor Mall or Shopping Center up to 50% of overall shopping center capacity. Higher-risk businesses (e.g. movie theaters, bars, spas, nail salons, or other personal care establishments) located within an indoor mall or shopping center must continue to comply with Paragraph 7 of this Order, and remain closed until each of those types of establishments are allowed to resume modified or full operation. Indoor Mall or Shopping Center food courts, dining areas, or dine-in restaurant tenant operations must follow the current requirements for restaurants. The owner or operator of the Indoor Mall or Shopping Center must, prior to reopening, prepare implement and post the required Los Angeles County Department of Public Health Protocols for Shopping Center Operators, attached to this Order as **Appendix E**.
 - e) For hair salons and barbershops, the owner, manager, or operator must, prior to reopening, prepare, implement and post the Reopening Protocols for Hair Salons and Barbershops, attached to this Order as **Appendix H**.
- 9.5. The State Public Health Officer has provided guidance for certain sectors, businesses and activities in Stage 3 of the California Pandemic Resilience Roadmap to conditionally reopen no earlier than June 12, 2020. The Health Officer, after considering local epidemiological data and after consultation with the Board of Supervisors, approves the reopening of the following specific sectors, businesses and activities subject to the following conditions:
- a) Music, film and television production. Operations for music, film and television production may resume on June 12, 2020. The owner, manager, or operator of music, film and television production must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Music, Film and Television Production, attached

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- to this Order as **Appendix J**, as well as abide by applicable industry-generated protocols.
- b) Day camps. Day camps may reopen on June 12, 2020. Day camp owners and operators must implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Day Camps, attached to this Order as **Appendix K**.
 - c) Fitness facilities. Fitness facilities, including private gymnasiums, may reopen on June 12, 2020. The owner, manager, or operator of fitness facilities must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Gyms and Fitness Establishments, attached to this Order as **Appendix L**.
 - d) Museums, galleries, botanical gardens, zoos, aquariums, and other similar exhibition spaces (collectively, "Museums"). Museums may reopen on June 12, 2020. The owner, manager, or operator of Museums and exhibition spaces must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Museums, Galleries, Zoos, and Aquariums, attached to this Order as **Appendix M**.
 - e) Professional sports without audiences. Professional sports teams and franchises may restart operations and competitions without audiences on June 12, 2020. The owner, manager, or operator of professional sports teams and franchises must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Protocol for Professional Sports Leagues and Facilities Opening for Training Sessions and Spectator-Free Events, attached to this Order as **Appendix N**, as well as abide by applicable industry-generate protocols.
 - f) Campgrounds, RV Parks and associated outdoor activities. Campgrounds and recreational vehicle parks may reopen on June 12, 2020. The owner, manager, or operator of campgrounds and RV Parks must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Campgrounds, RV parks and Cabin Rental Units, attached to this Order as **Appendix O**.
 - g) Cardrooms, satellite wagering facilities, and racetrack onsite wagering facilities. Cardrooms (casinos), satellite wagering facilities, and racetrack onsite wagering facilities may reopen on June 19, 2020. The owner, manager or operator of a cardroom (casino), satellite wagering facility, or racetrack onsite wagering facility must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Cardrooms, Satellite Wagering Facilities, and Racetrack Onsite Wagering Facilities, attached to this Order as **Appendix Q**.
 - h) Personal Care Establishments. These establishments include nail salons, tanning salons, esthetician, skin care, and cosmetology services; electrology, body art professionals, tattoo parlors, and piercing shops; and massage therapy (in non-healthcare settings), and may reopen on June 19, 2020, provided that the number of persons admitted into these establishments is limited to 50% of the total maximum occupancy (or occupant load) assigned for

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that building or room on its Certificate of Occupancy or as determined by Section 1004 of the 2019 California Building Code. The owner, manager or operator of a personal care establishment must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Personal Care Establishments, attached to this Order as **Appendix R**.

- i) Bars, Winery and Brewery Tasting Rooms. These establishments may reopen on June 19, 2020, provided that the owner, operator or manager of a bar, winery or brewery tasting room, must implement and follow the Department of Public Health Reopening Protocol for Bars, Winery and Brewery Tasting Rooms, attached to this Order as **Appendix S**.

REASONS FOR THE ORDER

10. This Order is based upon the following determinations: evidence of continued community transmission of COVID-19 within the County; continued uncertainty regarding the degree of undetected asymptomatic transmission; scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically; evidence that a significant portion of the County population is at risk for serious health complications, including hospitalizations and death from COVID-19, due to age or pre-existing health conditions; and further evidence that other County residents, including younger and otherwise healthy people, are also at risk for serious negative health outcomes and for transmitting the virus to others. The Order's intent is to protect the public from the avoidable risk of serious illness and death resulting from the spread of COVID-19.
11. Existing community transmission of COVID-19 in Los Angeles County continues to present a substantial and significant risk of harm to residents' health. There is still no vaccine available yet to protect against COVID-19, and no treatment for it. As of June 17, 2020, there have been at least 77,189 cases of COVID-19 and 2,991 deaths reported in Los Angeles County. There remains a strong likelihood of a significant and increasing number of cases of community transmission. Making the community transmission problem worse, some individuals who contract the virus causing COVID-19 have no symptoms or have only mild symptoms, and so are unaware that they carry the virus and are transmitting it to others. Further, evidence shows that the virus can, at times, survive for several hours on surfaces and can be indirectly transmitted between individuals. Because even people without symptoms can transmit the virus, and because evidence shows the infection is easily spread, preventing, limiting, and placing conditions on various types of gatherings and other direct and indirect interpersonal interactions have been proven to reduce the risk of transmitting the virus.
12. Evidence suggests that the restrictions and requirements imposed by Prior Orders slowed the rate of increase in community transmission and hospitalizations by limiting interactions among people, consistent with the efficacy of similar measures in other parts of the country and world. Although the hospitals within the County are still seeing COVID-19 patients, including patients with severe illness, the hospitals have not

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become overwhelmed or exceeded capacity. However, because there is not yet a vaccine or proven therapeutic drug, the public health emergency and attendant risks to the public's health by COVID-19 still predominate.

13. In line with the State Public Health Officer, the Health Officer is monitoring several key indicators (COVID-19 Indicators) within the County. Progress on some of these COVID-19 Indicators – specifically related to hospital utilization and capacity – makes it appropriate, at this time, to ease certain restrictions imposed by the Prior Orders. But the prevalence of the virus that causes COVID-19 requires other restrictions and modifications to continue. Activities and business operations that are permitted must be conducted in accordance with the required Social (Physical) Distancing, reopening protocols, and other infection control protocols ordered by the Health Officer.
14. The Health Officer will continue monitoring COVID-19 Indicators to assess the impact of easing restrictions and re-opening sectors. Those Indicators include, but are not limited to:
 - a. The number of new hospitalizations and deaths.
 - b. The capacity of hospitals and the healthcare system in the County, including acute care beds, Intensive Care Unit beds, and ventilators to provide care for existing COVID-19 patients and other patients, and capacity to surge with an increase of COVID-19 cases.
 - c. The supply of personal protective equipment (PPE) available for hospital staff, nursing home staff and other healthcare providers and personnel who need PPE to safely respond to and treat COVID-19 patients and other patients.
 - d. The ability and capacity to quickly and accurately test persons to determine whether individuals are COVID-19 positive, especially those in vulnerable populations or high-risk settings or occupations, and to identify and assess outbreaks.
 - e. The ability to conduct case investigation and contact tracing for the volume of future cases and associated contacts, isolating confirmed cases and quarantining persons who have had contact with confirmed cases.

DEFINITIONS AND EXEMPTIONS

15. The following activities are permitted under this Order:
 - a. Engaging in activities or performing tasks important to the health and safety of family or household members (including pets), such as, visiting a health or veterinary care professional, obtaining medical supplies or medication, visiting a physician or child's pediatrician for routine care, such as, well-child visits and vaccinations;
 - b. Obtaining necessary services and supplies for family or household members, or delivering the same, such as, obtaining grocery items or necessary supplies from Essential Businesses for one's household or for delivery to others;

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- c. Performing work for or accessing businesses that are open, or to carry out Minimum Basic Operations for businesses that are closed or operating remotely.
- d. Obtaining or accessing services from Essential Governmental Functions, such as, accessing court, social and administrative services, or complying with an order of law enforcement or court;
- e. Caring for minors, the elderly, dependents, persons with disabilities, or other vulnerable persons;
- f. Obtaining in-person behavioral health or substance use disorder support in therapeutic small group meetings, such as Alcoholics Anonymous or Narcotics Anonymous, provided that the gathering is limited to 10 people or fewer and Social (Physical) Distancing is practiced.
- g. Obtaining in-person faith-based counselling services where the service cannot reasonably be practiced remotely, provided that the gathering is limited to 10 people or fewer and Social (Physical) Distancing is practiced.
- h. Attending in-person faith-based services, provided that any indoor gathering of congregants where a service is held, is limited to the lower of 25% of the total maximum occupancy (or occupant load) assigned for that building or room on its Certificate of Occupancy or as determined by Section 1004 of the 2019 California Building Code, or a maximum of 100 people. There is no maximum for faith-based services that are held outdoors, provided that the attendees have enough space to observe strict Social (Physical) Distancing, including a minimum of six feet between attendees from different households. Faith-based organizations holding in-person services both indoor and outdoor, must follow the Department of Public Health Places of Worship Protocols, attached to this Order as **Appendix F**.
- i. Engaging in outdoor recreation activity, in compliance with Social (Physical) Distancing requirements and subject to the following limitations:
 - i. Outdoor recreation activity at parks, trails, piers, and beaches, and other open spaces must comply with any access or use restrictions established by the Health Officer, government, or other entity that manages the area to reduce crowding and the risk of COVID-19 transmission.
 - ii. Use of shared outdoor facilities for recreational activities, including but not limited to golf courses, tennis and pickleball courts, shooting and archery ranges, equestrian centers, model airplane areas, community gardens, and bike parks, must comply with any access or use restrictions established by the Health Officer, government, or other entity that manages the area to reduce crowding and the risk of COVID-19 transmission.
 - iii. Local public entities may elect to temporarily close certain streets or areas to automobile traffic, to allow for increased space for persons to engage in recreational activity permitted by and in compliance with Social (Physical) Distancing requirements specified in this Order.

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- iv. Swimming pools and splash pads in any non-residential setting may reopen on June 12, 2020, with the owner, manager, or operator of the swimming pool or splash pad implementing and posting the required Los Angeles County Department of Public Health Protocol for Swimming Pools. All hot tubs, saunas, and steam rooms located on non-residential property remain closed.
 - v. For-hire fishing, guided fishing, or small-group chartered boat trips may resume operating on June 12, 2020, with the owner, manager, or operator of the charter business implementing the required Los Angeles County Department of Public Health Protocol for Chartered Boats.
 - j. Participating in a Vehicle-Based Parade. The host of the Vehicle-Based Parade must comply with all local ordinances, traffic control requirements, and state and local laws. Further, the host of Vehicle-Based Parades must comply with the Los Angeles County Department of Public Health Vehicle-Based Parade Protocol, attached to this Order as **Appendix G**.
 - k. Participating in an in-person protests as long as, for indoor protests, (1) attendance is limited to 25% of the relevant area’s maximum occupancy, as defined by the relevant local permitting authority or other relevant authority, or a maximum of 100 attendees, whichever is lower, and (2) physical distancing of six (6) feet between persons or groups of persons from different households is maintained at all times. Outdoor protests are permitted without a limit on attendees. Persons participating in a protest must wear a cloth face covering and maintain physical distancing of six (6) feet between persons or groups of persons from different households at all times, as well as observe the Department of Public Health Protocol for Public Demonstrations.
16. Individuals may work for, train for, volunteer at, or obtain services at Healthcare Operations: hospitals, clinics, laboratories, dentists, optometrists, pharmacies, physical therapists, rehabilitation and physical wellness programs, chiropractors, pharmaceutical and biotechnology companies, other licensed healthcare facilities, healthcare suppliers, home healthcare service providers, mental or behavioral health providers, alcohol and drug treatment providers, cannabis dispensaries with a medicinal cannabis license and all other required state and local licenses, medical or scientific research companies, or any related and/or ancillary healthcare services, manufacturers, distributors and servicers of medical devices, diagnostics, and equipment, veterinary care, and other animal healthcare. This exemption shall be construed to avoid any impact to the delivery of healthcare, broadly defined.
17. Individuals may provide any service, train for, or perform any work necessary to the operation and maintenance of Essential Infrastructure, which is defined as, public health operations, public works construction, airport operations, port operations, food supply, water, sewer, gas, electrical, oil extraction and refining, roads and highways, public transportation, solid waste collection, removal and processing, flood control and watershed protection, cemeteries, mortuaries, crematoriums, and internet and telecommunications systems (including the provision of essential global, national,

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local infrastructure for computing services, business infrastructure, communications, and web-based services), and manufacturing and distribution companies deemed essential as part of the Essential Infrastructure supply chain, provided that they carry out those services or that work. In providing these services, training for, or performing this work, individuals must comply with Social (Physical) Distancing requirements to the extent practicable.

18. For purposes of this Order, Essential Businesses are:

- a. Grocery stores, certified farmers' markets, farm and produce stands, supermarkets, food banks, convenience stores, warehouse stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruit and vegetables, pet supply, water, fresh meats, fish, and poultry, and any other household consumer products (such as cleaning or personal care products). This includes stores that sell groceries and other non-grocery products, such as products necessary to maintaining the safety, sanitation, and essential operation of residences. This does not include businesses that sell only prepackaged non-potentially hazardous food which is incidental to the primary retail business;
- b. Food processors, confectioners, food packagers, food testing labs that are not open to the public, and food cultivation, including farming, livestock, and fishing;
- c. Organizations and businesses that provide food, shelter, social services, and other necessities of life for economically disadvantaged or otherwise needy individuals (including gang prevention and intervention, domestic violence, and homeless service agencies);
- d. Newspapers, television news, radio, magazine, podcast and journalism activities, including taped, digitally recorded or online-streamed content of any sort that is produced by one or more members of a single household, within the household's residence and without the physical presence of any non-member of the household.
- e. Gas stations, auto-supply, mobile auto repair operations, auto repair shops (including, without limitation, auto repair shops adjacent to or otherwise in connection with a retail or used auto dealership), and bicycle repair shops and related facilities;
- f. Banks, credit unions, financial institutions and insurance companies;
- g. Hardware stores, nurseries; building supply stores;
- h. Plumbers, electricians, exterminators, custodial/janitorial workers, handyman services, funeral homes and morticians, moving services, HVAC installers, carpenters, vegetation services, tree maintenance, landscapers, gardeners, property managers, private security personnel and other service providers who provide services to maintain the safety, sanitation, and essential operation to properties and other Essential Businesses;
- i. Businesses providing mailing and shipping services, including post office boxes;
- j. Educational institutions (including public and private K-12 schools, colleges, and universities). Public and private K-12 schools and school-based programs may

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- begin planning for forth-coming school year in compliance with the State Public Health Officer's guidance for Schools and School-Based Programs;
- k. Laundromats, dry cleaners, and laundry service providers;
 - l. Restaurants and other food facilities that prepare and serve food. Restaurants and other food facilities that provide in-person dining must follow the Department of Public Health Restaurant Opening for On-Site Dining Protocols, attached to this Order as **Appendix I**. Cafeterias, commissaries, and restaurants located within hospitals, nursing homes, or other licensed health care facilities may provide dine-in service, as long as Social (Physical) Distancing is practiced;
 - m. Businesses that supply office or computer products needed by people who work from home;
 - n. Businesses that supply other Essential Businesses with the support or supplies necessary to operate;
 - o. Non-manufacturing, transportation or distribution businesses that ship, truck, transport, or provide logistical support to deliver groceries, food, goods or services directly to residences, Essential Businesses, Healthcare Operations, and Essential Infrastructure. This exemption shall not be used as a basis for engaging in sales to the general public from retail storefronts;
 - p. Airlines, taxis, ride sharing services and other private transportation providers providing transportation services necessary for activities of daily living and other purposes expressly authorized in this Order;
 - q. Businesses that manufacture parts and provide necessary service for Essential Infrastructure;
 - r. Home-based care for seniors, adults, disabled persons, or children;
 - s. Residential facilities and shelters for homeless residents, disabled persons, seniors, adults, children and animals;
 - t. Professional services, such as legal, payroll or accounting services, when necessary to assist in compliance with legally mandated activities, and the permitting, inspection, construction, transfer and recording of ownership of housing, including residential and commercial real estate and anything incidental thereto, provided that appointments and other residential viewings must only occur virtually or, if a virtual viewing is not feasible, by appointment with no more than two visitors at a time residing within the same household or living unit and one individual showing the unit (except that in-person visits are not allowed when the occupant is still residing in the residence);
 - u. Childcare facilities. To the extent possible, childcare facilities must operate under the following conditions: (1) Childcare must be carried out in stable groups of 10 or fewer ("stable" means the same ten (10) 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;

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- v. Hotels, motels, shared rental units and similar facilities. Beginning June 12, 2020, these may reopen for tourism and individual travel, in adherence with the required Los Angeles County Department of Public Health Reopening Protocol for Hotels, Lodging and Short-Term Rentals, attached to this Order as **Appendix P**;
- w. Construction, which includes the operation, inspection, and maintenance of construction sites and construction projects for construction of commercial, office and institutional buildings, residential and housing construction; and
- x. Manufacturers and retailers of fabric or cloth that is made into personal protective equipment, such as, face coverings.

19. For purposes of this Order, "Social (Physical) Distancing" means: (1) Maintaining at least six (6) feet of physical distance from individuals who are not members of the same household; (2) Frequently washing hands with soap and water for at least 20 seconds, or using hand sanitizer that contains at least 60% alcohol; (3) Wearing a cloth face covering when whenever an individual leaves their home or place of residence, and when an individual is or can be in contact with or walking by or past others who are non-household members in both public and private places, whether indoors or outdoors. Wearing a cloth face covering reduces the risk of transmission to others from people who do not have symptoms and do not know they are infected; and (4) Avoiding all physical interaction outside the household when sick with a fever or cough, except for necessary medical care.

20. For purposes of this Order, the "Social (Physical) Distancing Protocol" that must be implemented and posted must demonstrate how the following infection control measures are being implemented and achieved, as applicable:

- a. Limiting the number of people who may enter into the facility at any one time to ensure that people in the facility can easily maintain a minimum six (6) foot physical distance from others, at all times, except as required to complete a business activity or transaction. Members of a single household or living unit may stand or move together but must be separated from others by a physical distance of at least six (6) feet.
- b. Where lines may form at a facility, marking six (6) foot increments at a minimum, establishing where individuals should stand to maintain adequate Social (Physical) Distancing, whether inside or outside the facility.
- c. Providing hand sanitizer, soap and water, or 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 members of the public (e.g., cashiers). Restrooms normally open to the public shall remain open to the public.
- d. Posting a sign in a conspicuous place at all public entries that instructs the public not to enter if they are experiencing symptoms of respiratory illness, including fever or cough, to wear face coverings, and to maintain Social (Physical) Distancing from one another.

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- e. Providing for the regular disinfection of high-touch surfaces, and disinfection of all payment portals, pens, and styluses after each use. All businesses are encouraged to also offer touchless payment mechanisms, if feasible.
 - f. Providing cloth-face coverings to employees and contracted workers whose duties require close contact with other employees and/or the public.
 - g. Requiring that members of the public who enter the facility wear a face-covering, which reduces the risk of “asymptomatic” or “pre-symptomatic” transmission to workers and others, during their time in the facility.
 - h. Adhering to communicable disease control protocols provided by the Los Angeles County Department of Public Health, including requirements for cleaning and disinfecting the site. See protocols posted at www.publichealth.lacounty.gov/media/Coronavirus/
21. Operators of businesses that are required to cease in-person operations may conduct Minimum Basic Operations, which means:
- a. The minimum necessary activities to maintain and protect the value of the business's inventory and facilities; ensure security, safety, and sanitation; and process payroll and employee benefits;
 - b. The minimum necessary activities to facilitate the business’s owners, employees, and contractors being able to continue to work remotely from their residences, and to ensure that the business can deliver its services remotely.

ADDITIONAL TERMS

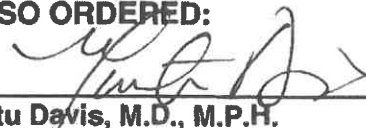
22. The County shall promptly provide copies of this Order by: (a) posting it on the Los Angeles Department of Public Health’s website (www.publichealth.lacounty.gov), (b) posting it at the Kenneth Hahn Hall of Administration located at 500 West Temple Street, Los Angeles, CA 90012, (c) providing it to any member of the public requesting a copy, and (d) issuing a press release to publicize the Order throughout the County.
- a. The owner, manager, or operator of any facility that is likely to be impacted by this Order is strongly encouraged to post a copy of this Order onsite and to provide a copy to any member of the public requesting a copy.
 - b. Because guidance may change, the owner, manager, or operator of any facility that is subject to this Order is ordered to consult the Los Angeles County Department of Public Health’s website (www.publichealth.lacounty.gov) daily to identify any modifications to the Order and is required to comply with any updates until the Order is terminated.
23. If any subsection, sentence, clause, phrase, or word of this Order or any application of it to any person, structure, gathering, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions or applications of this Order.

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- 24. This Order incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom and the March 4, 2020 declarations of a local and public health emergency issued by the Los Angeles County Board of Supervisors and Los Angeles County Health Officer, respectively, and as they may be supplemented.
- 25. This Order is issued to align the County with the phased reopening approach of the California's Pandemic Resilience Roadmap. This Order will be revised in the future as the State Public Health Officer progressively designates sectors, businesses, establishments, or activities that may reopen with certain modifications at a pace designed to protect health and safety. Should local COVID-19 conditions warrant, the Health Officer may, after consultation with the Board of Supervisors, issue orders that are more restrictive than the guidance and orders issued by the State Public Health Officer.
- 26. This Order is consistent with the provisions in the Governor's Executive Order N-60-20 and the State Public Health Officer's May 7, 2020 Order, that local health jurisdictions may implement or continue more restrictive public health measures in the jurisdiction if the local health officer believes conditions in that jurisdiction warrant them. Where a conflict exists between this Order and any state public health order related to controlling the spread of COVID-19 during this pandemic, the most restrictive provision controls. Consistent with California Health and Safety Code section 131080, except where the State Health Officer may issue an order expressly directed at this Order or a provision of this Order and based upon a finding that a provision of this Order constitutes a menace to the public health, any more restrictive measures in this Order may continue to apply and control in the County of Los Angeles Public Health Jurisdiction.
- 27. Pursuant to Sections 26602 and 41601 of the California Government Code and Section 101029 of the California Health and Safety Code, the Health Officer requests that the Sheriff and all chiefs of police in all cities located in the Los Angeles County Public Health Jurisdiction ensure compliance with and enforcement of this Order. The violation of any provision of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment or both.
- 28. This Order shall become effective immediately on June 18, 2020 and will continue to be until it is revised, rescinded, superseded, or amended in writing by the Health Officer.

IT IS SO ORDERED:



Muntu Davis, M.D., M.P.H.
 Health Officer,
 County of Los Angeles

 JUNE 18, 2020

 Date

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Appendices At-A-Glance

All DPH protocol is available at:
<http://www.publichealth.lacounty.gov/media/Coronavirus/>

- Appendix A:** Protocol for Social Distancing
- Appendix B:** Protocols for Retail Establishments Opening for In-person Shopping
- Appendix C:** Reopening Protocol for Warehousing, Manufacturing and Logistic Establishments
- Appendix D:** Protocols for Office Worksites
- Appendix E:** Protocols for Shopping Center Operators
- Appendix F:** Protocol for Places of Worship
- Appendix G:** Protocol for Vehicle-Based Parades
- Appendix H:** Reopening Protocol for Hair Salons and Barbershops
- Appendix I:** Protocol for Restaurants Opening for On-Site Dining
- Appendix J:** Reopening Protocol for Music, Film, and Television Production
- Appendix K:** Reopening Protocol for Day Camps
- Appendix L:** Reopening Protocol for Gyms and Fitness Establishments
- Appendix M:** Reopening Protocol for Museums, Galleries, Zoos, and Aquariums
- Appendix N:** Protocol for Professional Sports Leagues and Facilities Opening for Training Sessions and Spectator-Free Events
- Appendix O:** Reopening Protocol for Campgrounds, RV parks and Cabin Rental Units
- Appendix P:** Reopening Protocol for Hotels, Lodging, and Short-Term Rentals
- Appendix Q:** Reopening Protocol for Cardrooms, Satellite Wagering Facilities, and Racetrack Onsite Wagering Facilities
- Appendix R:** Reopening Protocol for Personal Care Establishments
- Appendix S:** Reopening Protocol for Bars, Winery and Brewery Tasting Rooms

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA—WESTERN DIVISION**

<p>ADAM BRANDY, an individual; JONAH MARTINEZ, an individual; DAEMION GARRO, an individual; DG 2A ENTERPRISES INC., d.b.a. GUN WORLD; JASON MONTES, an individual; WEYLAND-YUTANI LLC, d.b.a. MATCH GRADE GUNSMITHS; ALAN KUSHNER, an individual; THE TARGET RANGE; TOM WATT, an individual; A PLACE TO SHOOT, INC.; SECOND AMENDMENT FOUNDATION; CALIFORNIA GUN RIGHTS FOUNDATION; NATIONAL RIFLE ASSOCIATION OF AMERICA; and FIREARMS POLICY COALITION, INC.,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">vs.</p> <p>ALEX VILLANUEVA, in his official capacity as Sheriff of Los Angeles County, California, and in his capacity as the Director of Emergency Operations; GAVIN NEWSOM, in his official capacity as Governor and Commander in Chief of the State of California; SONIA Y. ANGELL, in her official capacity as California Public Health Officer; BARBARA FERRER, in her official capacity as Director of Los Angeles County Department of Public Health;</p>	<p>Case No. 2:20-cv-02874-AB-SK Honorable André Birotte, Jr.</p> <p>DEFENDANTS COUNTY OF LOS ANGELES, SHERIFF ALEX VILLANUEVA AND BARBARA FERRER’S NOTICE OF MOTION AND MOTION FOR JUDGMENT ON THE PLEADINGS; MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATION OF JIN S. CHOI IN SUPPORT THEREOF</p> <p><i>[Defendants’ Request for Judicial Notice and Exhibits filed and [Proposed]Order lodged concurrently herewith]</i></p> <p>Date: September 18, 2020 Time: 10:00 a.m. Crtn.: First Street, 7B</p>
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MEMORANDUM OF POINTS AND AUTHORITIES

I. Introduction.

The global emergency response to the deadly novel coronavirus (“COVID-19”) pandemic is a truly unprecedented event in modern human history, resulting in massive interruptions in the global economy and gaping breaches in the daily routines of everyday life.¹

In the United States, public officials occupying every level of government have had to identify, formulate and implement a myriad of immediate, interim and long-term responsive and preventative actions designed to hopefully and potentially curb the spread of COVID-19 within every town, city and county — while somehow managing the surges in emergency hospitalizations and slowing the growth rate of the ever-increasing death toll. As the incessant stream of news reports remind us, despite the herculean efforts of the world’s scientific community and the expenditures of vast swaths of private and public resources, this epic human tragedy is far from over. The phrase “flattening the curve” will forever be imprinted on our lexicon.

With the instant action alleging past infringements upon the Second Amendment by the County of Los Angeles during the early throes of this pandemic, it should be noted that the County of Los Angeles has been struck harder than any other county in the United States, with a total of over 227,000

¹ COVID-19 is highly contagious and has no known cure, with some victims showing no symptoms and others dying within a matter of weeks. The worldwide scientific race toward an effective vaccine presently holds some promise but even the most optimistic estimates suggest that any widely available vaccine is several months away, at the absolute minimum. *See* <https://www.nytimes.com/interactive/2020/science/coronavirus-vaccine-tracker.html> (last visited August 21, 2020); <https://www.who.int/publications/m/item/draft-landscape-of-covid-19-candidate-vaccines> (last visited August 21, 2020).

confirmed COVID-19 cases and 5,446 COVID-19 related deaths, as of August 21, 2020.² The State of California, in turn, has had the most confirmed cases of any State.³ These daunting figures, and the human, economic and emotional toll to which they speak, are staggering.⁴

Indeed, identifying a more stark example of where constitutionally “compelling governmental interests” were so indisputably at stake may be impossible. This pandemic threatens the lives of every human in its uncontainable path, with no regard for age, race, or any other demographic classification. The constricting effect of the countless tentacles of the pandemic on virtually every basic and vital aspect of our society is both incalculable and real.

It is against this factual landscape that the Court must examine the viability of Plaintiffs’ constitutional claims for declaratory and injunctive relief grounded on the claim that the County of Los Angeles, for a short period of time, required the closure of firearms retailers in certain parts of the County. Plaintiffs must admit that the alleged Second Amendment violations ceased months ago.

² See Exhibit “9” at p. 72 of Defendants’ Request for Judicial Notice filed concurrently herewith & <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/county-map.html> (the CDC reports that 34.8% of confirmed COVID-19 cases in California have occurred in the County of Los Angeles; last visited August 21, 2020); <https://coronavirus.jhu.edu/us-map> (the County of Los Angeles has reported approximately 77,000 more COVID-19 cases than Miami-Dade County; last visited August 21, 2020).

³ See <https://www.statista.com/statistics/1102807/coronavirus-covid19-cases-number-us-americans-by-state/> (last visited August 21, 2020).

⁴ As of August 21, 2020, the United States has reported over 5,500,000 COVID-19 cases, and over 172,000 COVID-19-related deaths. See <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (last visited August 21, 2020); Exhibit “10” at p. 74 of Request for Judicial Notice.

Therefore, not only are Plaintiffs without legal standing, having been left with claims which are moot as a matter of law, those same claims fail because they cannot come close to withstanding the controlling constitutional examination.

II. This Action For Injunctive Relief Challenges An Obsolete Emergency Public Health Order That Plaintiffs Have Already Unsuccessfully Challenged.

On March 19, 2020, the County of Los Angeles issued its “Safer at Home Order for Control of COVID-19” in response to the sudden and massive surge in confirmed COVID-19 cases and COVID-19 related deaths throughout the County and the State.⁵ Plaintiffs filed this action for declaratory and injunctive relief on March 27, 2020 (ECF No. 1), and two days later, filed their First Amended Complaint (ECF No. 9).

Plaintiffs named as Defendants the County of Los Angeles, Sheriff Alex Villanueva (in his official capacity only) and County Public Health Director Barbara Ferrer (in her official capacity only) — hereinafter referred to collectively as “the County Defendants” — in addition to Governor Gavin Newsom, State Public Health Officer Sonia Y. Angell, Mayor Eric Garcetti, the City of Los Angeles, Burbank City Manager Justin Hess and the City of Burbank.⁶ Plaintiffs’ fundamental contention is that the County Defendants’ emergency response to the COVID-19 pandemic resulted in the closure of

⁵ Copies of the County of Los Angeles’ COVID-19-related emergency public health orders are attached as Exhibits to Defendants’ Request for Judicial Notice filed concurrently herewith.

⁶ Plaintiffs have since filed notices of dismissal as to every Defendant other than the County of Los Angeles Defendants, despite the absence of any meaningful distinction among the Defendants with respect to the purported grounds for relief. (ECF Nos. 52, 53, 54.)

firearms retailers in the County and related infringements of their right to keep and bear arms, in violation of the Second, Fifth and Fourteenth Amendments.⁷

As to the County Defendants, Plaintiffs allege:

- On March 19, 2020, the County issued an Order entitled, “Safer at Home Order for Control of COVID-19” that required all non-essential business in the County to close immediately (FAC, ¶ 43);
- On March 24, 2020, Sheriff Villanueva declared all firearms retailers in the County to be “non-essential” (FAC, ¶ 49);
- On March 25, 2020, Sheriff Villanueva announced the temporary suspension of the enforcement of the closure of firearms retailers operating in the County (FAC, ¶¶ 51-52);
- On March 26, 2020, Sheriff Villanueva announced that firearms retailers are not considered essential businesses and must close to the general public in compliance with Executive Order-N-33-20 and the County’s Safer at Home Order and lifted the temporary suspension of the closure of firearms retailers in the County (FAC, ¶¶ 54-55); and
- Sheriff Villanueva’s March 26, 2020 “Order is a de facto ban on the sale and transfer of firearms and new California Firearms Safety Certificate testing and issuance” and applies to 42 cities within the County (FAC, ¶¶ 58-61).

⁷ Plaintiffs consist of two individuals who allege that they would be exercising their right to keep and bear arms “but for the reasonable and imminent fear of arrest and criminal prosecution under Defendants’ law, policies, orders, practices, customs, and enforcement” (FAC, ¶¶ 6-7), four gun store owners who would be conducting firearms training and selling and transferring arms but for their fear of “criminal prosecution and loss of [their] licenses” (FAC, ¶¶ 8-11), four retail corporations which would be selling and transferring arms and conducting training and education but for their fear of “criminal prosecution and loss of [their] licenses” (FAC, ¶¶ 12-15), and four Second Amendment advocacy organizations (FAC, ¶¶ 16-19).

Thus, Plaintiffs’ claims are strictly limited to their contention that the March 19 Safer at Home Order and Sheriff Villanueva’s announcement on March 26, 2020 acted together in violating their constitutional rights.⁸ (FAC, ¶ 76.) Specifically, Plaintiffs allege in **Count One** the violation of their “right to keep and bear arms” under the Second and Fourteenth Amendments and that “[t]here is an actual and present controversy between the parties” (FAC, ¶ 83). In **Count Two**, Plaintiff allege the violation of their due process rights under the Fifth and Fourteenth Amendments and that “[t]here is an actual and present controversy between the parties” (FAC, ¶ 93). Based on these alleged violations, Plaintiffs seek a declaratory judgment that the County’s actions violate the Second, Fifth and Fourteenth Amendments and a preliminary and permanent injunction restraining the County from the identified “Orders and enforcement policies, practices, and customs that individually and/or collectively violate the Second, Fifth, and Fourteenth Amendments.” (FAC Prayer for Relief, ¶¶ 3-4.)

Importantly, on March 30, 2020, Plaintiffs filed an *Ex Parte* Application for a temporary restraining order and preliminary injunction — seeking essentially the same relief, on the same grounds, sought in the First Amended Complaint. (ECF No. 14.) On April 6, 2020, this Court entered an order denying Plaintiffs’ Application in its entirety, ruling that Plaintiffs had failed to demonstrate a likelihood of success on the merits of their Second Amendment claim against the County and City Defendants. (ECF No. 29 at pp. 5-6.) This Court assumed, without deciding, that the County and City Orders burdened conduct protected by the Second Amendment (i.e., temporary closure of firearms

⁸ On March 30, 2020, Sheriff Villanueva announced that the Sheriff’s Department “will *not* order or recommend closure of businesses that sell or repair firearms or sell ammunition.” (See ECF No. 23-2 (Villanueva Decl., ¶ 20), filed in opposition to Plaintiffs’ *ex parte* application for a temporary restraining order; emphasis added.)

retailers) and subjected the emergency orders to intermediate scrutiny. (*Id.* at p. 5.)

First, this Court ruled that the temporary closure of non-essential businesses (including firearms retailers) reasonably fit the significant government objective of reducing the spread of COVID-19 within the community:

In applying intermediate scrutiny to the County and City Orders, the Court must consider (1) whether the government’s stated objective is significant, substantial, or important, and (2) whether there is a reasonable fit between the challenged regulation and the asserted objective. [Citing *United v. Chovan*, 735 F.3d 1127, 1139 (9th Cir. 2013).] ***The City’s and County’s stated objective—reducing the spread of COVID-19, a highly dangerous and infectious disease—undoubtedly constitutes an important government objective.***

Moreover, because this disease spreads where “[a]n infected person coughs, sneezes, or otherwise expels aerosolized droplets containing the virus,” (Dkt. No. 21) ***the closure of non-essential businesses, including firearms and ammunition retailers, reasonably fits the City’s and County’s stated objectives of reducing the spread of this disease.*** Accordingly, Plaintiffs fail to demonstrate a likelihood of success on the merits of the Second Amendment claim against the County and City Orders.

(*Id.* at pp. 5-6; emphasis added.)

Second, this Court rejected Plaintiffs’ contention that the orders were unconstitutionally vague – that Plaintiffs failed to show that the orders were “so vague that it fails to give ordinary people fair notice of the conduct it punishes, or [is] so standardless that it invites arbitrary enforcement.” (ECF No. 19 at p. 6 [quoting *Johnson v. United States*, 576 U.S. 591, 595 (2015)].) This Court explained that the orders “extensively define which businesses are permitted to remain open, and which businesses must close”, and “Plaintiffs likely cannot show that the orders fail to give ordinary people fair notice of what conduct is prohibited or invite arbitrary enforcement.” (*Ibid.*)

In accordance with these two adverse rulings, this Court denied Plaintiffs' application. Plaintiffs then represented to all Defendants that they intended to file a Second Amended Complaint, and their request to do so would be made by June 30, 2020 — resulting in stipulations of the parties and orders from this Court to continue respective responsive pleading deadlines. (ECF Nos. 32-33, 35-44, 51.) Plaintiffs, however, never made any request to this Court, and the County Defendants, therefore, answered the First Amended Complaint on June 24, 2020. (ECF No. 45.)

The County Defendants hereby move for judgment on the pleadings as the present circumstances even more clearly demonstrate the fundamentally flawed nature of Plaintiffs' claims. Not only do Plaintiffs lack standing to pursue the alleged claims that challenge an emergency public health order that has been entirely superseded, the current County emergency public health order unquestionably advances legitimate government interests and explicitly identifies the categories of businesses and activities that must be closed at this time (with firearms retailers not included among those closed businesses). This Court's recent legal analysis with respect to the constitutionality of the ongoing emergency response holds even more true today, thereby mandating the dismissal of the remainder of this action.⁹

⁹ Judgment on the pleadings under Federal Rules of Civil Procedure, Rule 12(c) is appropriate when the moving party is entitled to judgment as a matter of law even if all material facts in the pleading under attack are true. The analysis under Rule 12(c) is “substantively identical” to the analysis under Rule 12(b)(6). *Chavez v. United States*, 683 F.3d 1102, 1108 (9th Cir. 2012); *Cafasso, U.S. ex rel. v. General Dynamics C4 Systems, Inc.*, 637 F.3d 1047, 1055 n. 4 (9th Cir. 2011) (“Rule 12(c) is ‘functionally identical’ to Rule 12(b)(6) and that ‘the same standard of review’ applies to motions brought under either rule”) (quoting *Dworkin v. Hustler Magazine Inc.*, 867 F.2d 1188, 1192 (9th Cir. 1989)).

III. Because Plaintiffs’ Claims Against The County Are Inextricably Tied To The County’s March 19, 2020 Public Health Order That Has Long Since Been Superseded, Plaintiffs’ Claims Should Be Dismissed.

This action is premised on the notion that the firearms retailers in the County were forced to cease operations due to the County’s Safer at Home Order issued on March 19, 2020 and Sheriff Villanueva’s March 26, 2020 announcement (which was completely negated by the Sheriff’s announcement on March 30, 2020). The County’s March 19 Order, however, has been superseded by multiple County public health orders, none of which has required the closure firearms retailers in the County.¹⁰ Simply put, there is no live controversy to justify the instant action for injunctive/declaratory relief.

A. The Operative County COVID-19 Public Health Order Allows The Operation Of Lower-Risk Retail Businesses, Including Firearms Retailers.

Stated bluntly, the March 19, 2020 Safer at Home Order is old news.

On June 18, 2020, the County issued its “Reopening Safer at Work and in the Community for Control of COVID-19” Order, for the purpose of “Moving the County of Los Angeles into Stage 3 of California’s Pandemic Resilience Roadmap.” (Exhibit “2” to Request for Judicial Notice.) The June 18 Order proclaimed that this Order “supersedes all prior Safer at Home orders” issued by the County and was “issued to comply with State Executive Orders N-33-20 and N-60-20” and the State Public Health Officer’s orders issued on March 19 and May 7, 2020. (*Id.* at p. 12.) This Order allowed “persons to engage in all permitted activities, as defined by the Order”, and required the practice of “Social

¹⁰ Indeed, the firearms retailer Plaintiffs in this action cannot now allege that the County Defendants are prohibiting them from operating their businesses, and the non-retailer Plaintiffs cannot now allege that they are prohibited from patronizing those and other firearms retailers in the County.

(Physical) distancing, at all times while out in public” and the wearing of cloth face coverings “when in or likely to be in contact with others, to lower the risks of person-to-person contact for themselves and others.” (*Id.*) In paragraph 7 of the June 18 Order, six categories of “higher-risk businesses, recreational sites, commercial properties, and activities, where more frequent and prolonged person-to-person contacts are likely to occur” were identified as those locations which must remain closed. (*Id.* at p. 15.) Firearms retailers were not included in any of these categories.

Furthermore, in paragraph 9, the Order stated that “Lower-Risk Businesses” which are not defined as “Essential Businesses” in paragraph 18, may reopen, including “Lower-Risk Retail Businesses” — as long as they implemented the “Reopening Protocols for Retail Establishments: Opening for In Person Shopping” (attached as Appendix B to the Order).¹¹ (*Id.* at pp. 15-16.) Firearms retailers are subject to the provisions regarding “Lower-Risk Retail Businesses”, and therefore, under the June 18 Order, were permitted to operate as long as COVID-19 related protocols were followed.

The June 18 Order was subsequently superseded by the County’s “Reopening Safer at Work and in the Community for Control of COVID-19” Order issued on August 12, 2020. The primary purpose of the revised Order was to provide updated guidance regarding childcare and educational facilities. (Exhibit “5” to Request for Judicial Notice, at p. 34.) Significantly, the

¹¹ The In-Person Shopping protocols included the following checklist:
 (1) Workplace policies and practices to protect employee health
 (2) Measures to ensure physical distancing
 (3) Measures to ensure infection control
 (4) Communication with employees and the public
 (5) Measures to ensure equitable access to critical services.

These five key areas must be addressed as your facility develops any reopening protocols.” (Exhibit “4” to Request for Judicial Notice, at p. 29.)

provisions regarding “Lower-Risk Retail Businesses” were not modified, and therefore, the operational conditions for firearms retailers in the County remained the same. (*Id.* at p. 38 (paragraph 9).)

Moreover, Paragraph 7 of the August 12 Order identified the “higher-risk businesses, recreational sites, commercial properties, and activities, where more frequent and prolonged person-to-person contacts are likely to occur” to be closed (including bars, nightclubs, saunas and cardrooms). Again, firearms retailers were not included in any of these categories, and therefore, they may and do conduct regular business in the County.

B. Without Any Live Case Or Controversy, Plaintiffs Are Left Without Standing To Seek Injunctive Relief.

Plaintiffs bear the burden of showing at all times that the Court has subject matter jurisdiction over the subject action. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992); *Assoc. of Med. Colls. v. United States*, 217 F.3d 770, 778-79 (9th Cir. 2000) (plaintiff has the burden of establishing the court’s subject matter jurisdiction); *see also Langer v. McKelvy*, 2015 WL 13447522, at *1 (C.D. Cal. Sept. 24, 2015) (“A party may move for judgment on the pleadings based on lack of subject matter jurisdiction.”).

Here, Plaintiffs do not have standing to pursue the relief sought due to the absence of either any actionable ongoing injury or any actionable injury that is likely to recur. *City of Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983). Article III of the United States Constitution limits federal court jurisdiction to “actual, ongoing cases or controversies.” *Lewis v. Cont’l Bank Corp.*, 494 U.S. 472, 477 (1990). “If a dispute is not a proper case or controversy, the courts have no business deciding it, or expounding the law in the course of doing so.” *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 341 (2006). “A case or controversy must exist at all stages of review, not just at the time the action is filed.” *Wolfson v. Brammer*, 616 F.3d 1045, 1053 (9th Cir. 2010).

“A case is moot when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.” *City of Erie v. Pap’s A.M.*, 529 U.S. 277, 287 (2000); *County of Los Angeles v. Davis*, 440 U.S. 625, 631 (1979) (if “the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome”, the case is moot); *see also United States v. Geophysical Corp. of Alaska*, 732 F.2d 693, 698 (9th Cir. 1984) (“[a] claim is moot if it has lost its character as a present, live controversy.”).

Furthermore, an injunctive relief claim loses all viability if “(1) there is no reasonable expectation that the [alleged] wrong will be repeated, and (2) interim relief or events have completely and irrevocably eradicated the effects of the alleged violation.” *Barnes v. Healy*, 980 F.2d 572, 580 (9th Cir. 1992). In other words, a claim becomes moot when it is clear that the allegedly wrongful behavior could not reasonably be expected to recur. *Friends of the Earth, Inc. v. Laidlaw Environmental Services*, 528 U.S. 167, 190 (2000); *see e.g., Hendrickson v. eBay Inc.*, 165 F. Supp.2d 1082, 1095 (C. D. Cal. Sept. 4, 2001) (injunctive relief denied where the defendant ceased running allegedly infringing advertisements and had no intention of running the advertisements again). Plaintiffs must also show a “sufficient likelihood that [they] will again be wronged in a similar way.” *City of Los Angeles v. Lyons*, 461 U.S. at 102.

In the instant case, Plaintiffs cannot dispute that the linchpin of their claims against the County Defendants, i.e. the March 19 Safer at Home Order, has been completely replaced. Plaintiffs also cannot dispute that the two most recent COVID-19 related County public health orders did not interrupt the operations of firearms retailers in the County (subject to standard COVID-19 safety protocols applicable to all other retailers). Plaintiffs also cannot dispute that County residents are permitted to visit and purchase firearms and ammunition, subject to state and federal firearms regulations.

Therefore, Plaintiffs have no standing to pursue the injunctive and declaratory relief sought in the First Amended Complaint, and this action should be dismissed. *See Langer v. McKelvy*, 2015 WL 13447522, at *1 (C.D. Cal. Sept. 24, 2015) (“A party may move for judgment on the pleadings based on lack of subject matter jurisdiction.”) (citing *U.S. v. In re Seizure of One Blue Nissan Skyline Auto., and One Red Nissan Skyline*, 683 F.Supp.2d 1087, 1089 (C.D. Cal. Feb. 1, 2010)).

IV. The County’s Emergency COVID-19 Orders – The Indisputable Purpose Of Which Is To Limit The Community Spread Of A New And Often-Fatal Virus – Serve Compelling Government Interests And Unquestionably Withstand Constitutional Challenge.

Plaintiffs must admit that currently, firearms retailers in the County are allowed to operate (just like most other retail businesses), as long as they comply with public health-related measures designed to help slow the spread of COVID-19 (such as social distancing and the use of personal protection equipment). Plaintiffs may, however, resort to the argument that some form of injunctive relief may still be sought because the County could possibly modify its public health orders in a way that would result in the temporary closure of firearms retailers.

This argument fails on three fundamental fronts. First, as this Court has already found, the temporary closure of non-essential businesses such as firearms retailers does not amount to a constitutional violation under the present, truly unprecedented circumstances. Second, the current August 12 County Order explicitly identifies which businesses and activities must be closed, and firearms retailers fall under the category of lower-risk retailers allowed to operate subject to well-established safety protocols. Third, there is no legitimate basis for allowing this action to proceed on the wholly speculative notion that the County’s public health order could somehow “revert back” to a prior form that resulted in the temporary closure of firearms retailers.

A. The Temporary Closure Of Firearms Retailers To Help Limit The Spread Of COVID-19 Would Not Have Violated The Second Amendment.

As this Court previously held, the determination of whether a temporary closure of firearms retailers in the midst of the ongoing pandemic response violates the Second Amendment, should be subject to intermediate scrutiny. A higher level of scrutiny is not warranted because the challenged County Order is “‘simply not as sweeping as the complete handgun ban at issue in [*District of Columbia v. Heller*, 554 U.S. 570 (2008).]’” (See ECF No. 29 at p. 5; citing *Fyock v. Sunnyvale*, 779 F.3d 991, 999 (9th Cir. 2015) and *McDougall v. Cty. of Ventura Cal.*, 20-CV-02927-CBM-ASx (C.D. Cal. Mar. 31, 2020) (applying intermediate scrutiny to Second Amendment challenge to the County of Ventura’s COVID-19 public health order)¹²; *United States v. Chovan*, 735 F.3d 1127, 1138 (9th Cir. 2013) (regulation of firearm possession by individuals with criminal convictions does not implicate a core Second Amendment right and is subject to intermediate scrutiny); *Jackson v. City and Cty. of San Francisco*, 746 F.3d 953, 967 (9th Cir. 2014) (intermediate scrutiny applied to law that banned sale of hollow-point ammunition); cf. *Duncan v. Becerra*, __ F.3d __, 2020 WL 4730668, at *23 (9th Cir. 2020) (strict scrutiny applied to permanent statewide

¹² In *McDougall*, the Honorable Consuelo B. Marshall denied the plaintiff’s application for a temporary restraining order challenging the enforcement of the County of Ventura’s Stay at Home Order. Judge Marshall held that the Order did not “specifically target handgun ownership, does not prohibit the ownership of a handgun outright, and is temporary.” (Exhibit “8” to Request for Judicial Notice, at p. 71.) Judge Marshall ruled further that Ventura County’s Order promoted a substantial and compelling government interest (“protecting the public health by limiting the spread of a virulent disease”), the balance of equities did not favor the granting of an injunction, and the County’s “‘complex, subtle, and professional decisions’” are entitled to deference. *Ibid.* (quoting *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 24 (2008)).

blanket ban on possession of large capacity magazines “everywhere and for nearly everyone”).

Plaintiffs’ claims fail as a matter of law under intermediate scrutiny, which raises the following questions: whether there is “(1) a significant, substantial, or important government objective, and (2) a ‘reasonable fit’ between the challenged law and the asserted objective.” *Pena v. Lindley*, 898 F.3d 969, 976 (9th Cir. 2018). Under this standard, the challenged action need not have been the “least restrictive means” of achieving the substantial government interest at stake. *Id.*; see also *Teixeira v. County of Alameda*, 873 F.3d 670, 682, 690 (9th Cir. 2017) (“the Second Amendment does not independently protect a proprietor’s right to sell firearms” and measures which impose “conditions and qualifications on the commercial sale of firearms” are “presumptively lawful”).

Here, there can be no dispute that the County’s ongoing emergency response to the COVID-19 pandemic involves substantial governmental objectives of the highest and most significant order, i.e., the slowing down of the spread of the deadly COVID-19 virus to help reduce the loss of human lives within and outside of the County’s borders. The alleged temporary closure of firearms retailers (due to their status as “non-essential” businesses) can hardly be deemed to have been an unreasonable emergency step to have been taken when the sheer magnitude of the COVID-19 pandemic was both undeniable and potentially uncontrollable in March 2020. The closure of non-essential businesses at that time was undoubtedly a reasonable step (and one taken in cities, counties and states throughout the rest of the country and around the globe), and certainly not anywhere close to egregious enough to justify any finding of constitutional malfeasance.¹³ The alleged temporary closure of firearms retailers in the County,

¹³ In another similar action, *Altman v. County of Santa Clara*, ___ F.Supp.3d ___, 2020 WL 2850291 (N.D. Cal. June 2, 2020), the plaintiffs alleged that the subject shelter-in-place orders violated their Second, Fifth and Fourteenth Amendment

therefore, withstands the requisite constitutional review.

B. The Clearly Delineated County Public Health Order Does Not Require The Closure Of Lower-Risk Businesses Such As Firearms Retailers.

Any argument that Plaintiffs may make about the purported vagueness of the County's August 12 Order should be rejected. In fact, the Court has already rejected this argument in denying Plaintiffs' earlier application for a temporary restraining order.¹⁴

The County's August 12 Order is even more detailed and explicit in identifying the limited categories of businesses and activities that must be closed at this time. Importantly, firearms retailers are not among those businesses that must be closed, and they fall under the category of lower-risk retailers that have been and will continue to operate as long as they comply with the social distancing and face covering protocols. Thus, any claim based on the purported vagueness of the County's emergency public health orders fails.

C. Any Suggestion That The County May Modify Its Current Order To Mandate Closure Of Firearms Retailers Is Factually Unfounded And Wholly Speculative.

The County Defendants anticipate that Plaintiffs will argue, based on pure speculation and conjecture, that an injunction is still needed because the County might reverse its position by mandating the closure firearms retailers in the

rights and moved for a preliminary injunction to exempt firearms retailers and shooting ranges from those orders. The Court denied the plaintiffs' motion, concluding that the orders survived intermediate scrutiny because there was a "reasonable fit between the burden the Order places on Second Amendment rights and Defendants' goal of reducing COVID-19 transmission". *Id.* at *16.

¹⁴ The Court found that the challenged orders were "clear and explicit", "extensively defin[ing] which businesses are permitted to remain open, and which businesses must close." (ECF No. 29 at p. 6.)

County. Any such argument flies in the face of basic logic and facts. In the past two County Orders, sharp distinctions have been drawn between businesses and activities that by their very nature increase the likelihood of close, person-to-person contact by groups of people (such as bars, nightclubs and concert venues) and retail businesses where social distancing can be implemented while serving their customers. Firearms retailers certainly fall under this much broader category of “lower-risk” retailers, and they have been allowed to operate under the County Orders. There is no legitimate rationale for inferring that the treatment of firearms retailers will materially change during the continued emergency response.

Under these circumstances, any speculation along these lines would be woefully insufficient for overriding mootness of Plaintiffs’ claims for declaratory and injunctive relief. *McIndoe v. Huntington Ingalls Inc.*, 817 F.3d 1170, 1173 (9th Cir. 2016) (“arguments based on conjecture or speculation are insufficient...”); *R.W. Beck & Assocs. v. City & Borough of Sitka*, 27 F.3d 1475, 1481 (9th Cir. 1994) (arguments based on conjecture or speculation are insufficient to raise a genuine issue of material fact). Moreover, government officials must be afforded a presumption of good faith with respect to formal policy announcements. *See Sossamon v. Lone Star of Texas*, 560 F.3d 316, 325 (5th Cir. 2009) (“Without evidence to the contrary, we assume that formally announced changes to official governmental policy are not mere litigation posturing.”).

Thus, the dismissal of this action cannot be held up on the basis of Plaintiffs’ unfounded fears of what the County might do. Any such fears, in fact, are entirely unsubstantiated and cannot be reconciled with the underlying rationales and purposes of the County’s continuing efforts to curb the spread of COVID-19 within our community.

D. The Ninth Circuit’s Decision In *Duncan v. Becerra* Does Not Materially Affect The Instant Constitutional Analysis.

Defendants anticipate that Plaintiffs will rely extensively on the Ninth Circuit’s decision in *Duncan v. Becerra*, ___ F.3d ___, 2020 WL 4730668 (9th Cir. 2020), where the Ninth Circuit declared unconstitutional California Penal Code § 32310—which instituted “a wholesale ban on the possession of [large capacity magazines] by almost everyone, everywhere, in the state of California.” *Id.* at *2. The Ninth Circuit applied the strict scrutiny standard of review because the statute imposed a state-wide ban against the possession of large capacity magazines “within the home”. *Id.* at *12.

The alleged temporary closure of firearms retailers in the County during the emergency response to the COVID-19 pandemic, however, did not involve a blanket prohibition against firearms possession and does not implicate a similarly central Second Amendment right. Any significant reliance on *Duncan* would therefore be misplaced — and will be fully addressed in Defendants’ reply papers if necessary. *See Silvester v. Harris*, 843 F.3d 816, 821-823 (9th Cir. 2016) (explaining that the Ninth Circuit has “applied intermediate scrutiny in a series of cases ... to uphold various firearms regulations” and explaining “[t]here is accordingly near unanimity in the post-*Heller*¹⁵ case law that when considering regulations that fall within the scope of the Second Amendment, intermediate scrutiny is appropriate”).

V. The Official Capacity Claims Against Sheriff Villanueva And Director Ferrer Are Redundant And Should Be Dismissed.

Defendants Villanueva and Ferrer, who are sued in their official capacities only, should be dismissed because Plaintiffs have also sued the County of Los

¹⁵ *District of Columbia v. Heller*, 554 U.S. 570 (2008) (statute banning handgun possession in the home and prohibiting the rendering of lawful firearms in the home operable for immediate self-defense violated the Second Amendment).

Angeles. *Kentucky v. Graham*, 473 U.S. 159, 165-66 (1985); *Butler v. Elle*, 281 F.3d 1014, 1023 n. 8 (9th Cir. 2002) (“Section 1983 claims against government officials in their official capacity are really suits against the government employer”); *Luke v. Abbott*, 954 F.Supp. 202, 203-04 (C.D. Cal. Feb. 26, 2002); *Vance v. County of Santa Clara*, 928 F.Supp. 993, 996 (N.D. Cal. June 11, 1996); *Talib v. Nicholas*, 2015 WL 456546, *7 (C.D. Cal. Feb. 2, 2015) (official capacity claims against the defendant deputies must be treated as a claim against the LASD).

VI. Conclusion.

For the foregoing reasons, the County Defendants respectfully submit that the instant Motion be granted and this action dismissed.

Dated: August 21, 2020

LAWRENCE BEACH ALLEN & CHOI, PC

By /s/ Jin S. Choi

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15 Attorneys for Plaintiffs

16 **UNITED STATES DISTRICT COURT**
17 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

18 ADAM BRANDY, an individual, et al.,

19 Plaintiffs,

20 vs.

21 ALEX VILLANUEVA, in his official
22 capacity as Sheriff of Los Angeles
23 County, California, and in his capacity as
24 the Director of Emergency Operations, et
25 al.,

26 Defendants.

Case No. 2:20-cv-2874

**PLAINTIFFS’ NOTICE OF VOLUNTARY
DISMISSAL OF DEFENDANTS ERIC
GARCETTI AND THE CITY OF LOS
ANGELES, CALIFORNIA**

[FRCP 41(a)(1)(A)(i)]

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**NOTICE OF VOLUNTARY DISMISSAL OF DEFENDANTS
ERIC GARCETTI AND THE CITY OF LOS ANGELES, CALIFORNIA**

PLEASE TAKE NOTICE that pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, Plaintiffs Adam Brandy, Jonah Martinez, Daemion Garro, DG2A Enterprises Inc., d.b.a. Gun World, Jason Montes, Weyland-Yutani LLC d.b.a. Match Grade Gunsmiths, Alan Kushner, The Target Range, Tom Watt, A Place To Shoot, Second Amendment Foundation, California Gun Rights Foundation, National Rifle Association of America, and Firearms Policy Coalition, Inc. (“Plaintiffs”) hereby file this Notice of Voluntary Dismissal, without prejudice, as to Defendant **Eric Garcetti**, sued in his official capacity as Mayor of the City of Los Angeles, California; and as to Defendant **City of Los Angeles, California**.

Dated: July 8, 2020

SEILER EPSTEIN LLP

/s/ George Lee
George M. Lee

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16 **UNITED STATES DISTRICT COURT**
17 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

18 ADAM BRANDY, an individual, et al.,

Case No. 2:20-cv-2874

19 Plaintiffs,

**PLAINTIFFS' NOTICE OF VOLUNTARY
DISMISSAL OF DEFENDANTS GAVIN
NEWSOM AND SONIA Y. ANGELL**

20 vs.

[FRCP 41(a)(1)(A)(i)]

21 ALEX VILLANUEVA, in his official
22 capacity as Sheriff of Los Angeles
23 County, California, and in his capacity as
24 the Director of Emergency Operations, et
al.,

25 Defendants.

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**NOTICE OF VOLUNTARY DISMISSAL OF
DEFENDANTS GAVIN NEWSOM AND SONIA Y. ANGELL**

PLEASE TAKE NOTICE that pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, Plaintiffs Adam Brandy, Jonah Martinez, Daemion Garro, DG2A Enterprises Inc., d.b.a. Gun World, Jason Montes, Weyland-Yutani LLC d.b.a. Match Grade Gunsmiths, Alan Kushner, The Target Range, Tom Watt, A Place To Shoot, Second Amendment Foundation, California Gun Rights Foundation, National Rifle Association of America, and Firearms Policy Coalition, Inc. (“Plaintiffs”), and pursuant to the Stipulation attached hereto as *Exhibit A*, hereby file this Notice of Voluntary Dismissal, without prejudice, as to Defendants **GAVIN NEWSOM**, sued in his official capacity as Governor and Commander in Chief of the State of California, and **SONIA Y. ANGELL**, sued in her official capacity as California Public Health Officer.

Dated: July 8, 2020

SEILER EPSTEIN LLP

/s/ George Lee
George M. Lee

Attorney for Plaintiffs

EXHIBIT A

ER-129

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16 **UNITED STATES DISTRICT COURT**
17 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

18 ADAM BRANDY, an individual, et al.,

Case No. 2:20-cv-2874

19 Plaintiffs,

**STIPULATION RE: DISMISSAL OF
DEFENDANTS GAVIN NEWSOM AND
SONIA Y. ANGELL**

20 vs.

21 ALEX VILLANUEVA, in his official
22 capacity as Sheriff of Los Angeles
23 County, California, and in his capacity as
24 the Director of Emergency Operations, et
al.,

25 Defendants.

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**STIPULATION RE: DISMISSAL OF STATE DEFENDANTS
GOVERNOR GAVIN NEWSOM, AND DR. SONIA Y. ANGELL**

The parties hereto, by and through their counsel undersigned, hereby agree and STIPULATE as follows:

RECITALS

1. On March 27, 2020, Plaintiffs filed their Original Complaint (Dkt. No. 1) and on March 29, 2020, filed their First Amended Complaint (Dkt No. 9).

2. On March 30, 2020, Plaintiffs filed their Application for a Temporary Restraining Order and Order to Show Cause Why a Preliminary Injunction Should Not Issue (Dkt. No. 14) (“TRO Application”).

3. On April 2, 2020, counsel for State Defendants GAVIN NEWSOM, sued in his official capacity as Governor and Commander in Chief of the State of California, and SONIA Y. ANGELL, sued in her official capacity as California Public Health Officer (“State Defendants”) agreed to accept service by email on behalf of the State Defendants, and Plaintiffs served the State Defendants by email on April 2, 2020.

4. At issue in the First Amended Complaint was the issuance, meaning and effect of Executive Order N-33-20, which addressed the spread of COVID-19 in California (“Executive Order”).

5. On April 3, 2020, State Defendants filed an Opposition to the Plaintiffs’ TRO Application (Dkt. No. 24) (“Opposition”). In their Opposition, the State Defendants asserted: “As the Governor has publicly confirmed, the Executive Order does not mandate the closure of firearms and ammunition retailers. To the extent any local official acting on his or her own authority requires the closure of those retailers, such actions do not concern the Executive Order.” (Opposition at 1:17-20). The Opposition further asserted: “The Executive

1 Order does not prohibit Plaintiffs from purchasing or selling firearms or
2 ammunition or mandate the closure of firearms retailers.” (Opposition at 8:5-7).


3 6. The State Defendants’ position has been and remains that the
4 challenged orders of Governor Newsom and Dr. Angell did not require the closure
5 of firearm retailers, ammunition vendors, or shooting ranges. To the extent any
6 local authority requires the closure of those retailers, vendors, or ranges, such
7 action is not required by the State Defendants’ orders. The State Defendants’
8 position is that this fact does not relieve Plaintiffs from any obligation to comply
9 with the State Defendants’ orders. The State Defendants’ position is that if these
10 businesses remain open, they must comply with the guidelines and requirements
11 under the State Defendants’ orders that apply to all businesses.

12
13 STIPULATION FOR DISMISSAL

14 NOW THEREFORE, and incorporating the foregoing recitals, Plaintiffs and
15 the State Defendants hereby STIPULATE to a dismissal by Plaintiffs of
16 Defendants GAVIN NEWSOM, sued in his official capacity as Governor and
17 Commander in Chief of the State of California, and SONIA Y. ANGELL, sued in
18 her official capacity as California Public Health Officer.

19
20 Dated: July 8, 2020

SEILER EPSTEIN LLP

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George M. Lee

24 Attorney for Plaintiffs

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Dated: July 8, 2020

Xavier Becerra
ATTORNEY GENERAL OF CALIFORNIA
Mark R. Beckington
Supervising Deputy Attorney General



Peter H. Chang
Deputy Attorney General

Attorneys for Defendants Gavin Newsom, in
his official capacity as Governor and Sonia
Y. Angell, in her official capacity as
California Public Health Officer

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15 Attorneys for Plaintiffs

16 **UNITED STATES DISTRICT COURT**
17 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

18 ADAM BRANDY, an individual, et al.,

Case No. 2:20-cv-2874

19 Plaintiffs,

**PLAINTIFFS’ NOTICE OF VOLUNTARY
DISMISSAL OF DEFENDANTS JUSTIN
HESS AND CITY OF BURBANK,
CALIFORNIA**

20 vs.

[FRCP 41(a)(1)(A)(i)]

21 ALEX VILLANUEVA, in his official
22 capacity as Sheriff of Los Angeles
23 County, California, and in his capacity as
24 the Director of Emergency Operations, et
al.,

25 Defendants.

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NOTICE OF VOLUNTARY DISMISSAL OF DEFENDANTS JUSTIN HESS AND CITY OF BURBANK, CALIFORNIA

PLEASE TAKE NOTICE that pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, Plaintiffs Adam Brandy, Jonah Martinez, Daemion Garro, DG2A Enterprises Inc., d.b.a. Gun World, Jason Montes, Weyland-Yutani LLC d.b.a. Match Grade Gunsmiths, Alan Kushner, The Target Range, Tom Watt, A Place To Shoot, Second Amendment Foundation, California Gun Rights Foundation, National Rifle Association of America, and Firearms Policy Coalition, Inc. (“Plaintiffs”) hereby file this Notice of Voluntary Dismissal, without prejudice, as to Defendant **Justin Hess**, sued in his official capacity as the City Manager and the Director of Emergency Services for the City of Burbank; and as to Defendant **City of Burbank, California**.

Dated: July 6, 2020

SEILER EPSTEIN LLP

/s/ George Lee
George M. Lee

Attorney for Plaintiffs

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.: CV 20-02874-AB (SKx)

Date: April 6, 2020

Title: *Adam Brandy, et al. v. Alex Villanueva, et al.*

Present: The Honorable **ANDRÉ BIROTTE JR., United States District Judge**

Carla Badirian
Deputy Clerk

N/A
Court Reporter

Attorney(s) Present for Plaintiff(s):
None Appearing

Attorney(s) Present for Defendant(s):
None Appearing

Proceedings: [In Chambers] ORDER DENYING PLAINTIFFS’ EX PARTE APPLICATION FOR A TEMPORARY RESTRAINING ORDER (DKT. NO. 14)

I. INTRODUCTION

Before the Court is Plaintiffs Adam Brandy’s, Jonah Martinez’s, Daemion Garro’s, DG2A Enterprises, Inc.’s, Jason Montes’s, Weyland-Yutani LLC’s, Alan Kushner’s, The Target Range’s, Tom Watt’s, A Place To Shoot’s, Second Amendment Foundation’s, California Gun Rights Foundation’s, National Rifle Association of America’s, and Firearms Policy Coalition, Inc.’s (“Plaintiffs”) *ex parte* application for a Temporary Restraining Order (“TRO”) against Defendants Alex Villanueva, Gavin Newsom, Sonia Y. Angell, Barbara Ferrer, County of Los Angeles, City of Los Angeles, and Eric Garcetti (“Defendants”). (Dkt. No. 14.) Defendants oppose Plaintiffs’ *ex parte* application. (Dkt. Nos. 19, 23, 24.) For the reasons stated below, the Court **DENIES** Plaintiffs’ *ex parte* application.

II. BACKGROUND

On March 4, 2020, the Governor of California, Gavin Newsom, declared a state of emergency in California as a result of the spread of COVID-19, a dangerous illness caused by SARS-CoV-2 (i.e., the novel coronavirus). (Dkt. Nos. 14-2, 21.)

On March 19, 2020, Governor Newsom signed Executive Order N-33-20, which ordered “all individuals living in the State of California to stay at home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors[.]” (Dkt. No. 14-2.) Noting that “[t]he federal government has identified 16 critical infrastructure sectors,” Executive Order N-33-20 states that “Californians working in those 16 critical infrastructure sectors may continue their work” (*Id.*) The Executive Order further provides that the Public Health Officer “may designate additional sectors as critical in order to protect the health and well-being of all Californians.” (*Id.*) On March 26, Governor Newsom publicly stated that he would defer to local sheriffs as to whether firearms and ammunition retailers constitute essential businesses that may remain open. (Dkt. No. 23-2.)

On the same day, March 19, 2020, the County of Los Angeles Department of Public Health issued the “Safer at Home Order for Control of COVID-19” (“County Order”). (Dkt. No. 14-2.) Pursuant to the County Order, the Los Angeles Health Officer ordered, among other things, the closure of all non-essential retail businesses, including all indoor malls and indoor shopping centers. (*Id.*) On March 30, 2020, Los Angeles County Sheriff Alex Villanueva (“Sheriff Villanueva”) publicly announced that the Los Angeles County Sheriff’s Department will treat businesses that sell or repair firearms, or sell ammunition, as essential businesses under the County Order, allowing them to continue operations. (Dkt. No. 23-2.) Sheriff Villanueva’s March 30, 2020 announcement reversed a prior decision to categorize firearms and ammunition retailers as non-essential businesses under the County Order. (*Id.*)

On March 19, 2020, the Mayor of the City of Los Angeles, Eric Garcetti, issued the “Safer at Home” Order, which ordered “all businesses within the City of Los Angeles . . . to cease operations that require in-person attendance by workers at a workplace[.]” with the exception of certain essential businesses. (Dkt. No. 20-1). The March 19, 2020 Safer at Home order did not include businesses that sell or repair firearms or sell ammunition as essential businesses. (*Id.*) Mayor Garcetti issued a revised order on April 1, 2020 (“City Order”), which similarly orders the

closure of all non-essential businesses and does not include firearms or ammunition retailers as essential businesses. (*Id.*)

Plaintiffs, which include individuals, businesses, and gun rights organizations, seek to enjoin enforcement of all three of these orders on the grounds that the orders infringe Plaintiffs' rights under the Second Amendment to the United States Constitution and that the orders are unconstitutionally vague.

III. LEGAL STANDARD

To obtain a TRO, Plaintiffs must show: (1) that they are likely to succeed on the merits of the claims, (2) that they are likely to suffer irreparable injury absent issuance of a TRO, (3) that the balance of equities tips in their favor, and (4) that injunctive relief is in the public interest. *See Santos v. JP Morgan Chase Bank, N.A.*, No. CV 10-9712, 2010 WL 5313740, at *1 (C.D. Cal. Dec. 17, 2010).

IV. DISCUSSION

a. Plaintiffs' Second Amendment claim against Executive Order N-33-20 is not ripe for judicial resolution.

Defendants Gavin Newsom and Sonia Y. Angell ("State Defendants") oppose Plaintiffs' TRO application on the ground that the Second Amendment claim against Executive Order N-33-20 is not ripe for judicial resolution.

"For a suit to be ripe within the meaning of Article III [of the United States Constitution], it must present concrete legal issues, presented in actual cases, not abstractions." *See Colwell v. Dept. of Health and Human Servs.*, 558 F.3d 1112, 1123 (9th Cir. 2009) (alteration added) (internal quotation marks omitted). Although Plaintiffs need not await arrest or prosecution, "the threat of enforcement must at least be credible, not simply imaginary or speculative." *See Thomas v. Anchorage Equal Rights Com'n*, 220 F.3d 1134, 1140 (9th Cir. 2000) (en banc). (internal quotation marks omitted).

With respect to Executive Order N-33-20, State Defendants have shown that the order does not require the closure of firearms or ammunition retailers. In particular, under Executive Order N-33-20, the decision to order the closure of firearms retailers lies with county sheriffs, not with the Governor or Public Health Officer. (Dkt. No. 23-2). Although it is hypothetically feasible that the State of California could issue a subsequent order requiring the closure of firearms and

ammunition retailers, such a dispute “hangs on future contingencies that may or may not occur,” making Plaintiffs’ challenge too speculative to present a justiciable controversy within the meaning of Article III. *See In re Coleman*, 560 F.3d 1000, 1005 (9th Cir. 2009).

b. Plaintiffs’ Second Amendment claim against the County Order presents a case or controversy.

Defendants County of Los Angeles, Sheriff Villanueva, and Barbara Ferrer oppose Plaintiffs’ TRO application on the ground that Plaintiffs’ Second Amendment claim against the County Order does not present a case or controversy within the meaning of Article III.

Under Article III, “[a] claim is moot if it has lost its character as a present, live controversy.” *Rosemere Neighborhood Ass’n v. EPA*, 581 F.3d 1169, 1172–73 (9th Cir. 2009). Under the voluntary cessation exception to mootness, however, “the mere cessation of [allegedly] illegal activity in response to pending litigation does not moot a case, unless the party alleging mootness can show that the allegedly wrongful behavior could not reasonably be expected to recur.” *Id.* (alteration added) (internal quotation marks omitted). Although a statutory change is “usually enough to render a case moot . . . a policy change not reflected in statutory changes or even in changes in ordinances or regulations will not necessarily render a case moot.” *Rosebrock v. Mathis*, 745 F.3d 963, 971 (9th Cir. 2014) (internal quotation marks omitted). As a general matter, courts “are less inclined to find mootness where the new policy . . . could easily be abandoned or altered in the future.” *Id.* at 972. (internal quotation marks omitted).

Defendants County of Los Angeles, Sheriff Villanueva, and Barbara Ferrer argue that Plaintiffs’ Second Amendment claim against the County Order is now moot because Sheriff Villanueva has stated that firearms and ammunition retailers constitute essential businesses under the County Order and thus may remain open. However, this change in policy is not reflected in changes in ordinances or regulations, but rather came from Sheriff Villanueva’s public announcement. (Dkt. No. 23-2). Further, Sheriff Villanueva previously ordered the closure of firearms and ammunition retailers on March 24, 2020, and Sheriff Villanueva states in his declaration that he “do[es] not know, nor would it be appropriate to speculate, how in the future the COVID-19 crisis is going to impact the County that [he] is sworn to protect.” (*Id.*) (alterations added). Accordingly, because Sheriff Villanueva’s shift in policy could easily be abandoned or altered in the future, Plaintiffs’ Second

Amendment claim against the County Order has not lost its character as a present, live controversy.

c. Plaintiffs fail to demonstrate a likelihood of success on the merits of their Second Amendment claim against the County Order or City Order.

Defendants County of Los Angeles, Sheriff Villanueva, Barbara Ferrer, City of Los Angeles, and Eric Garcetti oppose Plaintiffs' TRO application against the County Order and City Order on the ground that Plaintiffs have not demonstrated a likelihood of success on the merits of their claims.

To determine the merits of a Second Amendment claim, courts have adopted a two-step inquiry which "(1) asks whether the challenged law burdens conduct protected by the Second Amendment and (2) if so, directs courts to apply an appropriate level of scrutiny." *See United States v. Chovan*, 735 F.3d 1127, 1136 (9th Cir. 2013). Where it is unclear whether a challenged law burdens conduct protected by the Second Amendment, courts follow a "well-trodden and judicious course" of assuming that the Second Amendment applies and analyzing the regulation under the appropriate level of scrutiny. *See Pena v. Lindley*, 898 F.3d 969, 976 (9th Cir. 2018) (internal quotation marks omitted).

Assuming without deciding that the County and City Orders burden conduct protected by the Second Amendment by "affecting the ability of law-abiding citizens to possess [a handgun]," *Fyock v. Sunnyvale*, 779 F.3d 991, 999 (9th Cir. 2015), intermediate scrutiny is warranted because the County and City Orders are "simply not as sweeping as the complete handgun ban at issue in [*District of Columbia v. Heller*, 554 U.S. 570 (2008).]" *Id.*; *see also Donald McDougal v. Cty. of Ventura Cal.*, 20-CV-02927-CBM-ASx (C.D. Cal. March 31, 2020) (holding that the City Order is subject to intermediate scrutiny).

In applying intermediate scrutiny to the County and City Orders, the Court must consider (1) whether the government's stated objective is significant, substantial, or important, and (2) whether there is a reasonable fit between the challenged regulation and the asserted objective. *See Chovan*, 735 F.3d at 1139. The City's and County's stated objective—reducing the spread of COVID-19, a highly dangerous and infectious disease—undoubtedly constitutes an important government objective. Moreover, because this disease spreads where "[a]n infected person coughs, sneezes, or otherwise expels aerosolized droplets containing the virus," (Dkt. No. 21) the closure of non-essential businesses, including firearms

and ammunition retailers, reasonably fits the City's and County's stated objectives of reducing the spread of this disease. Accordingly, Plaintiffs fail to demonstrate a likelihood of success on the merits of the Second Amendment claim against the County and City Orders.

d. Plaintiffs fail to demonstrate a likelihood of success on the merits of their Due Process claim.

Plaintiffs challenge Executive Order N-33-20, the County Order, and the City Order on the additional ground that these orders are unconstitutionally vague.

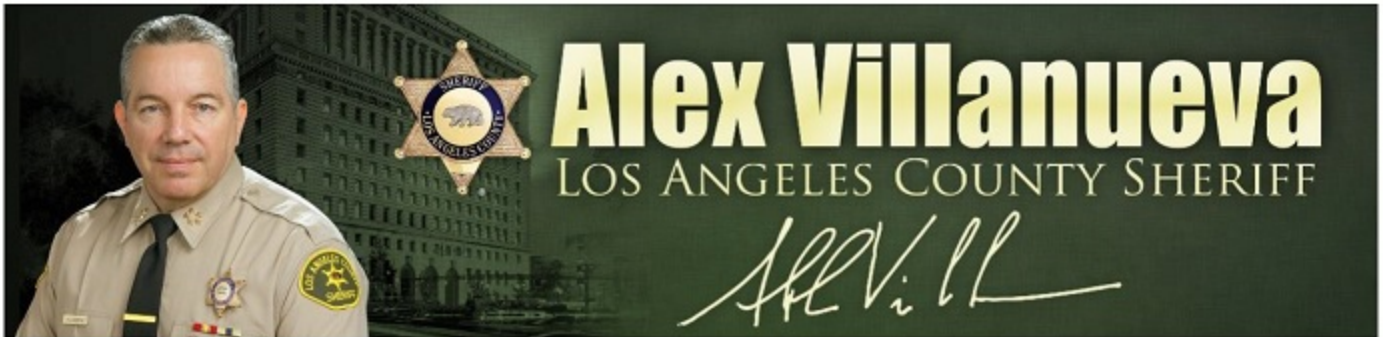
To demonstrate that a challenged statute is vague in violation of the Due Process Clause, Plaintiffs must show that the law is "so vague that it fails to give ordinary people fair notice of the conduct it punishes, or [is] so standardless that it invites arbitrary enforcement." *See Johnson v. United States*, 135 S. Ct. 2551, 2556 (2015) (alteration added).

All three orders at issue in this case are both clear and explicit. Under Executive Order N-33-20, all Californians are ordered to stay home or at their place of residence, with the exception of Californians working in the critical infrastructure sectors designated by the federal government and California's Public Health Officer. Under the County and City Orders, all non-essential businesses are ordered closed, with the exception of numerous categories of businesses delineated in detail in both orders. (Dkt. Nos. 14-2, 20-2.) Both orders extensively define which businesses are permitted to remain open, and which businesses must close. (*see* Dkt. Nos. 14-2, 20-2.) Accordingly, Plaintiffs likely cannot show that the orders fail to give ordinary people fair notice of what conduct is prohibited or invite arbitrary enforcement.

V. CONCLUSION

For the reasons stated above, Plaintiffs' *ex parte* application for a TRO is **DENIED**.

IT IS SO ORDERED.



Federal Clarity Regarding Essential Businesses (Firearm Retailers)

The Los Angeles County Sheriff's Department commends the community and all businesses in their continued efforts to protect the health and safety of all of our residents. We will achieve our goals of ensuring the health and safety of the community when we come together as a community to accomplish our respective missions.

Based on the changing environment, the various governmental entities have issued ongoing directives. On March 19, 2020 the County Health Officer issued a "Safer at Home Directive" with the intent of curbing the spread of COVID-19 through social distancing and the closure of non-essential businesses and services.

On March 28, 2020, the United States Department of Homeland Security issued an Advisory Memorandum in regard to Essential Critical Infrastructure Workers during COVID-19 response. Although explicitly advisory in nature, nonetheless the federal memorandum is persuasive given its national scope. Included in the list of essential critical infrastructure workers are workers supporting the operation of firearm or ammunition product manufacturers, retailers, importers, distributors, and shooting ranges.

Based on this further input from the federal government, the Los Angeles County Sheriff's Department will not order or recommend closure of businesses that sell or repair firearms or sell ammunition; will investigate reports of improper health practices such as poor sanitation or failure to maintain social distancing at all businesses; and forward detailed reports of unlawful health conditions to the District Attorney for their review and consideration.

Regardless of whether a business sells groceries, gasoline, firearms, or any other product or service, we encourage them to abide by all health and safety measures in place.

Sheriff Alex Villanueva

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6 Attorneys for Defendants
7 County of Los Angeles, Sheriff Alex Villanueva, and Barbara Ferrer

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

11 ADAM BRANDY, an individual;
12 JONAH MARTINEZ, an individual;
13 DAEMION GARRO, an individual;
14 DG 2A ENTERPRISES INC., d.b.a.
15 GUN WORLD; JASON MONTES,
16 an individual; WEYLAND-YUTANI
17 LLC, d.b.a. MATCH GRADE
18 GUNSMITHS; ALAN KUSHNER,
19 an individual; THE TARGET
20 RANGE; TOM WATT, an
21 individual; A PLACE TO SHOOT,
22 INC.; SECOND AMENDMENT
23 FOUNDATION; CALIFORNIA
24 GUN RIGHTS FOUNDATION;
25 NATIONAL RIFLE ASSOCIATION
26 OF AMERICA; and FIREARMS
27 POLICY COALITION, INC.,

28 Plaintiffs,

vs.

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

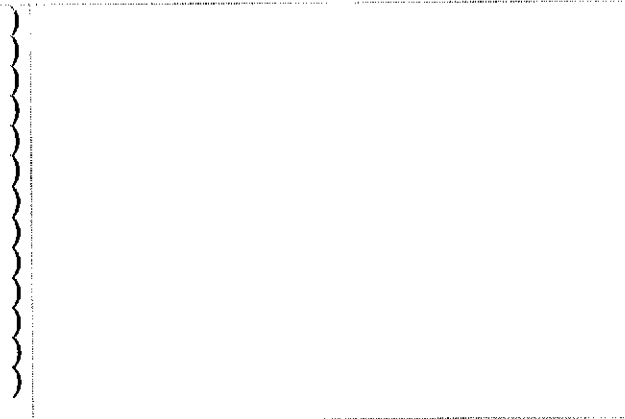
Case No. 2:20-cv-02874-AB-SK
Honorable Andre Birotte, Jr.

**DECLARATION OF SHERIFF
ALEX VILLANUEVA**

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COUNTY OF LOS ANGELES;
ERIC GARCETTI, in his official
capacity as Mayor of the City of Los
Angeles, California; CITY OF LOS
ANGELES, CALIFORNIA; JUSTIN
HESS, in his official capacity as City
Manager and Director of Emergency
Services for the City of Burbank; and
CITY OF BURBANK,
CALIFORNIA,

Defendants.



DECLARATION OF SHERIFF ALEX VILLANUEVA

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I, Sheriff Alex Villanueva, declare as follows:

1. I am the duly elected Sheriff of the County of Los Angeles. If called upon as a witness, I could and would competently testify to the following facts as personally known to me or upon information and belief.

2. Over the past several months, the virus known as Novel Coronavirus (“COVID-19”) has had an unprecedented impact upon not only the County of Los Angeles, but the state, nation and international community. As a result, it has posed unprecedented challenges upon the Sheriff’s Department and the County it serves. It has also resulted in numerous federal, state and local public health orders that law enforcement and other community stakeholders must adapt to on a constant basis, in addition to conducting normal operations.

3. On March 4, 2020, California Governor Gavin Newsom proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19.

4. On March 13, 2020, California Governor Gavin Newsom issued Executive Orders N-2520 and N-26-20.

5. On March 15, 2020, Governor Newsom issued Executive Order N-27-20.

6. On March 16, 2020, Governor Newsom issued Executive Order N-28-20.

7. On March 17, 2020, Governor Newsom issued Executive Orders N-29-20, N-30-20, and N-31-20.

8. On March 18, 2020, Governor Newsom issued Executive Order N-32-20.

9. On March 19, 2020, the County’s Department of Public Health issued a public health order, the Safer At Home Order for Control of COVID-19 (Temporary Prohibition of Events and Gatherings of 10 Persons or More/Closure

1 of Non-Essential Businesses and Areas). In short, the Safer at Home Order
2 restricts public movement (i.e., social distancing) and restricts the operations of
3 all but nonessential businesses.

4 10. On March 19, 2020, Governor Newsom issued Executive Order N-
5 33-20.

6 11. On March 20, 2020, Governor Newsom issued Executive Order N-
7 34-20.

8 12. On March 21, 2020, the County's Department of Public Health
9 issued a revised version of the Safer At Home Order for Control of COVID-19
10 (Temporary Prohibition of Events and Gatherings of 10 Persons or More/Closure
11 of Non-Essential Businesses and Areas). In short, the Safer at Home Order
12 restricts public movement (i.e., social distancing) and restricts of operations of all
13 but nonessential businesses.

14 13. On March 21, 2020, the Governor issued Executive Order N-35-20.

15 14. On March 24, 2020, the Governor issued Executive Order N-36-20.

16 15. On March 25, 2020, the County's Department of Public Health
17 issued its Health Officer Order for the Control of COVID-19 (Public Health
18 Emergency Quarantine Order), requiring the self-quarantining of those diagnosed
19 with or likely to have COVID-19. Also on March 25, 2020, Governor Newsom
20 publicly stated that he deferred to local sheriffs as to whether local gun operations
21 should be considered essential businesses under his Executive Orders.

22 16. Given the discretion accorded by the Governor to California sheriffs,
23 on Thursday March 26, 2020, I issued an order that gun and ammunition stores
24 were not considered essential businesses and must close to the general public, in
25 compliance with the Governor's Executive Order N-33 and the County of Los
26 Angeles Safer at Home Order for Control of COVID-19. I also made exceptions
27 that allowed for the sale of ammunition to security guard companies and for those
28

1 who had already purchased a firearm, possessed a valid California Firearms
2 Safety certificate, and simply needed to take possession of their firearm.

3 17. On March 27, 2020, the County's Department of Public Health
4 issued its Addendum to Safer At Home Order for Control of COVID-19,
5 regarding the temporary closure of public trails and trailheads, beaches, piers,
6 beach bike paths and beach access points.

7 18. On March 27, 2020, the Governor issued Executive Orders N-37-20
8 and N-38-20.

9 19. On Sunday March 28, 2020, the United States Department of
10 Homeland Security published an Advisory Memorandum on Identification of
11 Essential Critical Infrastructure Workers During COVID-19 Response. Although
12 explicitly advisory in nature, the federal memorandum is persuasive given its
13 national scope to this on-going emergency. The Department of Homeland
14 Security included in its list of essential critical infrastructure workers those
15 workers supporting the operation of firearm or ammunition product
16 manufacturers, retailers, importers, distributors, and shooting ranges.

17 20. Therefore, based on the additional and latest information from the
18 federal government, on Monday March 30, 2020, I publicly announced that the
19 Los Angeles County Sheriff's Department will not order or recommend closure of
20 businesses that sell or repair firearms, or sell ammunition. I have not changed
21 this position, and consistent with the recommendation of the Department of
22 Homeland Security, I will treat those businesses in the firearms industry (which
23 includes Plaintiffs) as essential businesses under the pending public health orders
24 applicable to COVID-19.

25 21. Of course, I do not know, nor would it be appropriate to speculate,
26 how in the future the COVID-19 crisis is going to impact the County that I am
27 sworn to protect. However, at this time, I have no intention of, and do not
28 reasonably foresee, changing my position concerning the treatment of members of

1 the firearms industry as essential businesses for purposes of public health orders
2 governing COVID-19.

3 I declare under penalty of perjury under the laws of the United States of
4 America that the foregoing is true and correct.

5 Executed on April 1, 2020, at Los Angeles, California.

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Sheriff Alex Villanueva

U.S. Department of Homeland Security
Cybersecurity & Infrastructure Security Agency
Office of the Director
Washington, DC 20528



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

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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.



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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.

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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.

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- 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.
- Providing services related to energy sector fuels (including, but not limited, petroleum (crude oil), natural gas, propane, natural gas liquids, other liquid fuels, nuclear, and coal), supporting the mining, processing, manufacturing, construction, logistics, transportation, permitting, operation/maintenance, security, waste disposal and storage, and monitoring of support for resources.
- Environmental remediation/monitoring, limited to immediate critical needs technicians.
- Manufacturing and distribution of equipment, supplies, and parts necessary to maintain production, maintenance, restoration, and service at energy sector facilities (across all energy sector segments).

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, 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.

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- 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 local distribution control centers.
- Mutual assistance personnel which may include workers from outside of the state or local jurisdiction.
- Vegetation management and traffic control for supporting those crews.
- Environmental remediation/monitoring workers limited to immediate critical need technicians.
- Instrumentation, protection, and control technicians.
- Essential support personnel for electricity operations.
- Generator set support workers such as diesel engineers used in power generation including those providing fuel.

Petroleum industry:

- Workers for onshore and offshore petroleum drilling operations; platform and drilling construction and maintenance; transportation (including helicopter operations), maritime transportation, supply, and dredging operations; maritime navigation; well stimulation, intervention, monitoring, automation and control, extraction, production; processing; waste disposal, and maintenance, construction, and operations.
- Workers for crude oil, petroleum and petroleum product storage and transportation, including pipeline, marine transport, terminals, rail transport, storage facilities and racks and road transport for use as end-use fuels such as gasoline, diesel fuel, jet fuel, and heating fuels or feedstocks for chemical manufacturing.
- Petroleum and petroleum product security operations center employees and workers who support maintenance and emergency response services.
- Petroleum and petroleum product operations control rooms/centers and refinery facilities.
- Retail fuel centers such as gas stations and truck stops, and the distribution systems that support them.
- Supporting new and existing construction projects, including, but not limited to, pipeline construction.

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.
- 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.
- Natural gas, propane, natural gas liquids, and other liquid fuel processing plants, including construction, maintenance, and support 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

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chemical manufacturing, or use in electricity generation.

- Dispatch and control rooms and emergency response and customer emergencies, including propane leak calls.
- Propane gas service maintenance and restoration, including call centers.
- Propane, natural gas liquids, and other liquid fuel distribution centers.
- Propane gas storage, transmission, and distribution centers.
- Supporting new and existing construction projects, including, but not limited to, pipeline construction.
- Ethanol and biofuel production, refining, and distribution.
- Workers in fuel sectors (including, but not limited to nuclear, coal, and gas types and liquid fuels) 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

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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.
- 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.

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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).

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- 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.

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- 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.

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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.

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- 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.

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21 Attorneys for Plaintiffs

22 **UNITED STATES DISTRICT COURT**

23 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

24 ADAM BRANDY, et al.,
25
26 Plaintiffs,

27 vs.

28 ALEX VILLANUEVA, in his official
capacity as Sheriff of Los Angeles
County, California, and in his capacity as

Case No. 2:20-cv-02874

**DECLARATION OF JONAH
MARTINEZ IN SUPPORT OF
PLAINTIFFS' APPLICATION
FOR TEMPORARY
RESTRAINING ORDER AND
ISSUANCE OF PRELIMINARY
INJUNCTION**

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the Director of Emergency Operations, et al.,

Defendants.

DECLARATION OF JONAH MARTINEZ

I, Jonah Martinez, declare as follows:

1. I am an adult resident of the County of Los Angeles, California, and am a named plaintiff in the above matter. I have personal knowledge of the facts stated herein, and if called as a witness, I could competently testify to these facts.
2. This declaration is executed in support of Plaintiffs’ Application for Temporary Restraining Order and Issuance of Preliminary Injunction.
3. I am not prohibited from possessing firearms or ammunition under federal and state law.
4. In light of the developing situation involving the spread of COVID-19, and the release of inmates, I am concerned about my ability to protect myself and my family. As such, I desire to obtain ammunition for self-defense and other purposes.
5. Firearm and ammunition product manufacturers, retailers, importers, distributors, and shooting ranges are “Essential Businesses” to me and my family.

- 1 6. I possess a firearms safety certificate (“FSC”) as required by the State of
2 California in order to purchase or acquire a firearm.
- 3 7. Unlike individuals in other states, I cannot lawfully purchase ammunition
4 online and have it shipped directly to my home.
- 5 8. In order for me to comply with California law, I can only acquire and take
6 possession of firearms and ammunition in a face to face transaction at a
7 licensed firearm and ammunition vendor. Defendants’ Orders and actions
8 have resulted in firearm and ammunition stores being closed in Los Angeles
9 County.
10
11
- 12 9. I want to exercise my right to acquire, keep, bear, and practice proficiency
13 training and shooting with arms – including firearms, ammunition,
14 magazines, and appurtenances – for lawful purposes including self-defense,
15 and would do so, but for the reasonable and imminent fear of arrest and
16 criminal prosecution under Defendants’ laws, policies, orders, practices,
17 customs, and enforcement.
18
- 19 10. Accordingly, and for reasons set for in Plaintiffs’ application, I respectfully
20 ask this Court to: (A) Declare that the operation of firearm and ammunition
21 product manufacturers, retailers, importers, distributors, and shooting ranges
22 are “essential” so that firearm and ammunition product manufacturers,
23 retailers, importers, distributors, and shooting ranges may continue to operate;
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(B) Grant Plaintiffs’ application and issue a temporary restraining order and a preliminary injunction enjoining State and Local Defendants from enforcing their Orders and enforcement policies, practices, and customs that individually and/or collectively violate the Second, Fifth, and Fourteenth Amendments, to restore the status quo ante and so that firearm and ammunition product manufacturers, retailers, importers, distributors, and shooting ranges may continue to operate; and, (C) Grant all other and further relief, including injunctive relief, against Defendants as necessary to effectuate the Court’s judgment, or as the Court otherwise deems just and equitable.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 30, 2020.


Jonah Martinez

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21 Attorneys for Plaintiffs

22 **UNITED STATES DISTRICT COURT**

23 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

24 ADAM BRANDY, et al.,
25
26 Plaintiffs,

27 vs.

28 ALEX VILLANUEVA, in his official
capacity as Sheriff of Los Angeles
County, California, and in his capacity as

Case No. 2:20-cv-02874

**DECLARATION OF JASON
MONTES IN SUPPORT OF
PLAINTIFFS' APPLICATION
FOR TEMPORARY
RESTRAINING ORDER AND
ISSUANCE OF PRELIMINARY
INJUNCTION**

1 the Director of Emergency Operations, et
2 al.,

3 Defendants.

4
5
6 **DECLARATION OF JASON MONTES**

7 I, Jason Montes, declare as follows:

- 8 1. I am an adult resident of the County of Los Angeles, California, the owner
9 and operator Plaintiff Weyland-Yyutani LLC, d.b.a. Match Grade Gunsmiths
10 (“Match Grade”) in Cerritos, California, and am personally named as a
11 plaintiff in the above matter. I have personal knowledge of the facts stated
12 herein, and if called as a witness, I could competently testify to these facts.
- 13 2. This declaration is executed in support of Plaintiffs’ Application for
14 Temporary Restraining Order and Issuance of Preliminary Injunction.
- 15 3. I am not prohibited from acquiring or possessing firearms and ammunition
16 under federal and state law.
- 17 4. Plaintiff Match Grade and I are licensed to sell and transfer firearms and
18 ammunition to non-prohibited individuals who meet federal and state
19 requirements for the purchase and transfer of such items.
- 20 5. Plaintiff Match Grade is a Veteran-owned, full-service manufacturer,
21 retailer, gunsmith, repair facility, and machine shop. It has gunsmiths that
22 are certified armorers for common firearm manufacturers including Sig
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Sauer, Smith and Wesson, Springfield Armory, and Glock. Plaintiff Match Grade “can customize anything you can think of,” and our “master gunsmith can manufacture custom parts, build custom rifles,” and configure pistols to customers’ needs.

6. Plaintiff Match Grade and I are concerned about our own safety, the safety of our customers, and the safety of the general public, especially in light of the developing situation involving the spread of COVID-19 and the release of criminals and inmates.
7. In order for individuals to comply with California law, they may only acquire and take possession of firearms and ammunition in a face to face transaction at a licensed firearm and ammunition vendor. Firearm and ammunition product manufacturers, retailers, importers, distributors, and shooting ranges are “Essential Businesses” to us and our customers.
8. Defendants’ Orders and actions have resulted in firearm and ammunition stores, like and including me and Plaintiff Match Grade, being shut down. Such closures damage me, Plaintiff Match Grade, other firearm and ammunition retailers, our customers, and law-abiding members of the public who wish to exercise their rights.
9. Plaintiff Match Grade and I have ceased to conduct sales and transfers of firearms and ammunition because of Defendants’ laws, policies, orders,

1 practices, customs, and enforcement actions, and for fear of liability,
2 prosecution, and loss of licenses under Defendants' laws, orders, policies,
3 practices, customs, and enforcement actions.
4

5 10. Plaintiff Match Grade and I would conduct training and education, perform
6 Firearms Safety Certificate ("FSC") testing for and issue FSC certificates to
7 eligible persons, and sell and transfer arms – including firearms,
8 ammunition, magazines, and appurtenances – at our licenses premises but
9 for the reasonable and imminent fear of criminal prosecution, penalties, and
10 the loss of our licenses under Defendants' laws, policies, orders, practices,
11 customs, and enforcement thereof.
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15 11. Plaintiff Match Grade and I, as well as our customers and individuals who
16 would be customers, have been and continue to be adversely and directly
17 harmed because of Defendants' laws, policies, orders, practices, customs, and
18 enforcement actions.
19

20 12. As detailed in the Plaintiffs' First Amended Complaint, Plaintiffs, Plaintiffs'
21 members and customers, and other similarly situated individuals would
22 exercise the fundamental human right to acquire, keep, bear, and practice
23 proficiency training and shooting with arms – including firearms, ammunition,
24 magazines, and appurtenances – for lawful purposes including self-defense,
25 and would do so, but for fear of liability and prosecution under Defendants'
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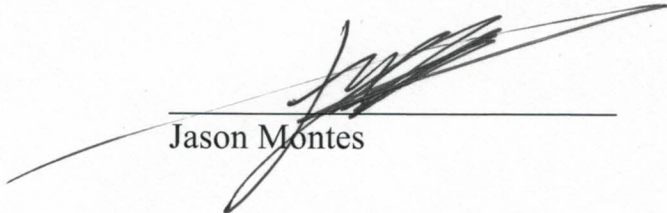
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laws, orders, policies, practices, customs, and enforcement actions.

13. Accordingly, and for reasons set for in Plaintiffs’ application, I respectfully ask this Court to: (A) Declare that the operation of firearm and ammunition product manufacturers, retailers, importers, distributors, and shooting ranges are “essential” so that firearm and ammunition product manufacturers, retailers, importers, distributors, and shooting ranges may continue to operate; (B) Grant Plaintiffs’ application and issue a temporary restraining order and a preliminary injunction enjoining State and Local Defendants from enforcing their Orders and enforcement policies, practices, and customs that individually and/or collectively violate the Second, Fifth, and Fourteenth Amendments, to restore the status quo ante and so that firearm and ammunition product manufacturers, retailers, importers, distributors, and shooting ranges may continue to operate; and, (C) Grant all other and further relief, including injunctive relief, against Defendants as necessary to effectuate the Court’s judgment, or as the Court otherwise deems just and equitable.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 30, 2020.



Jason Montes

CONTINUING COVERAGE

Coronavirus Pandemic



64°

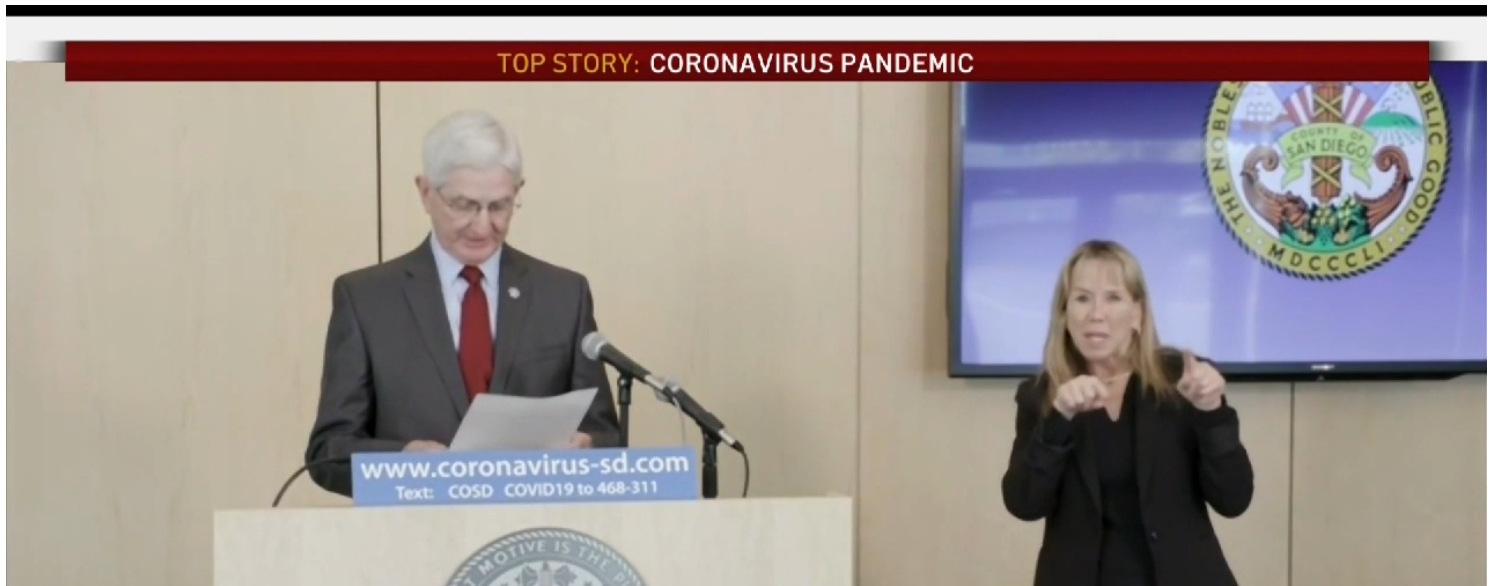
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SAN DIEGO SHERIFF

Sheriff Will Not Close San Diego County Gun Stores

Sheriff Bill Gore says gun shops provide a "valuable public service" by preventing black market sales, but he urges gun store owners to sell by mail or appointment and require social distancing by customers

By **Mari Payton, Paul Krueger** and **Tom Jones** • Published March 24, 2020 • Updated on March 24, 2020 at 7:32 pm



0:22 / 2:42

The debate over whether gun stores are essential... **Read more**

Sheriff Bill Gore said gun shops provide a “valuable public service” during the coronavirus pandemic and will be allowed to remain open, even though they are not included in the state government’s list of “essential businesses.”

Speaking at a county news conference Tuesday afternoon, and in a [released statement](#), Gore said county residents have a legitimate right to buy and possess guns.

The sheriff said licensed gun stores help maintain public safety by ensuring that buyers submit to a ten-day waiting period and pass a state license check. He warned that gun buyers could turn to the “black market” for illegal weapons if they can’t buy them legally at licensed stores.

But Gore said the situation is fluid, and indicated he could change his mind after talking with the state’s top law enforcement officials. He expects to have that conversation late Tuesday.

2:52

County Sheriff Keeps Gun Stores Open in Fear of ‘Black Market’

San Diego County Bill Gore responded to questions about keeping gun stores open even though Gov. Gavin...

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Gore’s decision to allow gun stores to stay open contrasts with his counterpart in Los Angeles County, who on Tuesday said gun stores are nonessential businesses and warned store owners to close or risk losing their business licenses.

“Gun shops, strip clubs, night clubs are non-essential businesses,” Sheriff Alex Villanueva [told the Los Angeles Times](#). “If they don’t close their doors, they will be cited.”

An informal survey of local gun stores by NBC 7 Investigates found at least two stores that have remained open despite the governor’s order for the closure of all non-essential businesses. Those stores are PWG Range in Poway and The Gun Range San Diego in Kearny Mesa.

At least two other stores were closed for sales of guns and ammo, and were only delivering those items to buyers who had purchased them before the state-ordered closure. All gun stores contacted in the survey said they have closed their shooting ranges.

Local gun stores have seen a marked increase in weapon and ammo sales during the coronavirus outbreak. In interviews with NBC 7 Investigates, store owners and their customers insist they have a constitutional right to buy and possess guns and ammo, especially in what they describe as a time of increasing social unrest.

NBC 7 Investigates



MAR 24

More Ventilators Ready to Be Deployed Across San Diego County



MAR 19

LISTEN: INSIGHT Podcast- The New Normal: Covering The Coronavirus in San Diego

“It’s all about what’s going on right now,” said gun owner Drew Hilliard, as he waited outside the PWG Range to buy more ammunition. “So, this is for home defense”

First-time gun buyer Zane Dashty said, “One day people might start looting and stuff, from being out of a job. You just really, really don’t know, and I just want to make sure I’m protected.”

San Diego County Supervisors Nathan Fletcher and Greg Cox have said they do not believe that gun stores are essential businesses, and have indicated that the stores should be closed. They did not respond to Gore’s comments at Tuesday’s county news conference.

But Poway Mayor Steve Vaus supports the gun stores. Vaus, a candidate for county supervisor, sent a letter Monday to President Trump, asking him to help ensure that California gun stores remain open during the pandemic.

Danielle Jaymes, director of sales at PWG Range agreed. Jaymes said she had no intention of closing the Poway store.

“We have the constitution saying that law-abiding citizens have the right to keep and bear arms,” Jaymes says. “And in order to do that, we have to be open.”

Gore did ask gun store owners to follow the state’s social distancing mandate, by keeping customers properly spaced inside their stores, and in line outside. He also asked owners to do as much business as possible by mail and appointment, to reduce traffic and human contact at their stores.

This article tagged under:

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LA County Sheriff's Dept. Enforcement efforts to close non-essential businesses have been suspended. CA Gov. Gavin Newsom to determine what qualifies as a non-essential business. Please click to view story



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ER-177



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COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC HEALTH
ORDER OF THE HEALTH OFFICER



SAFER AT HOME ORDER FOR CONTROL OF COVID-19

Temporary Prohibition of All Events and Gatherings

Closure of Non-Essential Businesses and Areas

Revised Order Issued: March 21, 2020

Please read this Order carefully. Violation of or failure to comply with this Order is a crime punishable by fine, imprisonment, or both. (California Health and Safety Code § 120295; Los Angeles County Code § 11.02.080.)

SUMMARY OF THE ORDER: This County of Los Angeles Health Officer Order (Order) amends and supersedes the Orders of the County of Los Angeles Health Officer (Health Officer) issued on March 16, and 19, 2020. This Revised Order is issued to comply with Executive Order N-33-20 issued by Governor Gavin Newsom, wherein the State Public Health Officer ordered all individuals living in the State of California to stay home or at their place of residence, except as needed to maintain continuity of operations of the federal critical infrastructure sectors. Further, this Order extends the closure of certain businesses required by the Health Officer's March 16, 2020 Order to April 19, 2020.

Due to the continued rapid spread of the Novel Coronavirus (COVID-19) and the need to protect the most vulnerable members of our community, this Order prohibits all indoor and outdoor public and private gatherings and events. The Order specifically requires all businesses to cease in-person operations and close to the public, unless the business is defined as an Essential Business by this Order. This Order is effective immediately within the County of Los Angeles Public Health Jurisdiction, defined as all unincorporated areas and cities within the County of Los Angeles, with the exception of the cities of Long Beach and Pasadena, on March 21, 2020 and continuing through April 19, 2020, subject to the terms and conditions set forth below.

For all Essential Businesses, the Health Officer orders those businesses to take the following infection control precautions: (1) practice social distancing by requiring patrons, visitors, and employees to be separated by six (6) feet, to the extent feasible; (2) provide access to hand washing facilities with soap and water or hand sanitizer that contains at least 60 percent alcohol; (3) post a sign in a conspicuous place at the public entry to the venue instructing members of the public to not enter if they are experiencing symptoms of respiratory illness, including fever or cough; and (4) adhere to communicable disease control recommendations provided by the County of Los Angeles Department of Public Health.

This Order does not prohibit any individual or family from engaging in outdoor activities, as an individual, or family, such as hiking, walking, biking, or shopping at Essential Businesses, including grocery stores and restaurants offering delivery, drive thru or carry out service, so long as all persons practice social distancing to the extent practicable.

Further, this Health Officer Order requires all indoor malls and shopping centers, all swap meets and flea markets, all indoor and outdoor playgrounds and all non-essential businesses to close. This Order does not supersede any stricter limitation imposed by a local public entity.

The County Health Officer will continue to monitor the rate of COVID-19 disease spread, the severity of the resulting illnesses and deaths caused, California Department of Public Health (CDPH) and Centers for Disease Control and Prevention (CDC) recommendations, and the effect of this Order. If needed, this Order may be extended, expanded, or otherwise modified to protect the public's health.

**COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC HEALTH
ORDER OF THE HEALTH OFFICER**



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

1. Effective immediately on March 21, 2020 and continuing through April 19, 2020, all public and private group events and gatherings are prohibited anywhere within the Los Angeles County Public Health Jurisdiction. All persons are to remain in their homes or at their place of residence, except to travel to and from Essential Businesses, to work at or provide service to a Healthcare Operation or Essential Infrastructure, to engage in Essential Activities, or to participate in an individual or family outdoor activity, while practicing social distancing.
2. For Essential Businesses not prohibited by this Order, the owner, manager, or operator of the Essential Business shall:
 - (a) Enforce social distancing measures by requiring members of the public to be separated by at least six (6) feet from others, to the extent feasible. Persons who are family members or household contacts, may stand or move together, but must be separated from others by a distance of at least six (6) feet.
 - (b) Provide access to hand washing facilities with soap and water or to hand sanitizer that contains at least 60 percent alcohol.
 - (c) Post a sign in a conspicuous place at all public entries that instructs members of the public to not enter if they are experiencing symptoms of respiratory illness, including fever or cough.
 - (d) Adhere to communicable disease control recommendations provided by the Los Angeles County Department of Public Health, including guidance for cleaning and disinfecting the site. See guidance posted at www.publichealth.lacounty.gov/media/Coronavirus/.
3. The Health Officer orders the immediate closure of the following types of commercial properties and businesses:
 - (a) Non-Essential Retail Businesses.
 - (b) Indoor Malls and Indoor Shopping Centers, including all stores and vendors therein regardless whether they are an Essential or Non-Essential Retail Business. As an exception, permanent Essential Businesses that are part of an Indoor Mall or Indoor Shopping Center, but that are accessible by the public from the exterior of the Indoor Mall or Shopping Center may remain open. The interior of the Indoor Mall or Indoor Shopping Center shall remain closed to the public.
 - (c) This Order does not require closure of Essential Businesses in Outdoor Malls and Shopping Centers. However, owners and operators of Outdoor Malls and Shopping Centers shall enforce social distancing measures among their visitors as provided in Section 2 (a)-(d).
 - (d) Indoor and Outdoor Playgrounds for Children, except for those located within childcare centers.
 - (e) Indoor and Outdoor Flea Markets and Swap Meets.
 - (f) Additional types of commercial properties and businesses: (i) Bars and Nightclubs that do not serve food; (ii) Gyms and fitness centers; (iii) Movie Theaters, Drive-In Theaters, Live Performance Theaters, Concert Halls, Arenas and Stadiums; (iv) Bowling Alleys and Arcades; and (v) Wineries, Breweries and Tap Rooms that provide tastings.

**COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC HEALTH
ORDER OF THE HEALTH OFFICER**



4. This Order does not supersede any stricter limitation imposed by a local public entity within the Los Angeles County Public Health Jurisdiction.
5. This Order does not apply to employees of government agencies working in the course and scope of their public service employment.

REASONS FOR THE ORDER

6. This Order is based upon scientific evidence and best practices, as currently known and available, to protect members of the public from avoidable risk of serious illness and death resulting from the spread of COVID-19, as well as to protect the healthcare system from a surge of cases into emergency rooms and hospitals. The Order supports the CDC's efforts to institute more stringent and necessary social distancing measures to reduce community transmission of COVID-19.
7. Existing community transmission of COVID-19 in Los Angeles County presents a substantial and significant risk of harm to the health of residents. Currently, there is no vaccine available to protect against and no specific treatment for COVID-19. As of March 20, 2020, there have been at least 351 cases of COVID-19 and 4 deaths reported in Los Angeles County. There remains a strong likelihood of a significant and increasing number of cases of community transmission.
8. The virus that causes COVID-19 can be spread easily through person-to-person contact. This risk of transmission is increased when people are in close proximity. All gatherings pose an increased risk for community transmission of COVID-19 and thus, are a substantial risk to public health. As such, places where people gather, such as Indoor Malls and Shopping Centers, Swap Meets and Flea Markets, Children's Playgrounds, and Non-Essential Retail Businesses, provide significant opportunities for patrons or groups of patrons to have close contact with each other. Characteristics of these gatherings that are likely to exacerbate the spread of COVID-19 include, without limitation: (a) that these gatherings and businesses will attract people from throughout the county when there is widespread COVID-19 community transmission, (b) the prolonged time period during which many people are in close proximity at these locations, (c) the difficulty in tracing and controlling additional exposures when large numbers of people visit these places, and (d) visitors may be unknowingly infected with COVID-19 and may not follow adequate hygienic and social distancing practices.
9. In the absence of a specific immunization or treatment for COVID-19, social distancing is essential to preventing this disease. Increasing social distancing and prohibiting events and gatherings is intended to slow transmission of COVID-19. Accordingly, to reduce the community transmission of COVID-19, the Health Officer has ordered the temporary prohibition of all events and gatherings, the closure of Indoor Malls and Shopping Centers as defined in Section 11, and the closure of certain businesses, as described in Section 12.

DEFINITIONS

10. For purposes of this Order, Essential Activities, are defined as travel for purposes of: (a) visiting a health or veterinary care professional; (b) obtaining medical supplies or medication; (c) obtaining grocery items for one's household or for delivery to others; (d) legally mandated governmental purposes, such as access to court, social and administrative services; (e) providing care for minors, the elderly, dependents, persons with disabilities, or other vulnerable persons; and (f) complying with an order of law enforcement or court.

**COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC HEALTH
ORDER OF THE HEALTH OFFICER**



11. For purposes of this Order, Indoor Malls and Shopping Centers are defined as:
A building with seven (7) or more "sales or retail establishments" with adjoining indoor space.
For purposes of this Order, Outdoor Malls and Shopping Centers are defined as:
A series of buildings on a common site, either under common ownership or common control or developed together, with seven (7) or more "sales or retail establishments."
12. Non-Essential Retail Businesses are establishments that provide goods or services to the public that do not come within the definition of Essential Businesses set forth in Paragraph 13 of this Order.
13. For purposes of this Order, Essential Businesses are defined as the following:
 - (a) Grocery stores, certified farmers' markets, farm and produce stands, supermarkets, food banks, convenience stores, warehouse stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruit and vegetables, pet supply, water, fresh meats, fish, and poultry, and any other household consumer products (such as cleaning or personal care products). This includes stores that sell groceries and sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences;
 - (b) Food processors, confectioners, food packagers, food testing labs that are not open to the public, and food cultivation, including farming, livestock, and fishing;
 - (c) Organizations and Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals (including gang prevention and intervention, domestic violence, and homeless service agencies);
 - (d) Newspapers, television, radio, magazine, podcast and journalism activities;
 - (e) Gas stations, auto-supply, mobile auto repair operations, auto repair shops (including, without limitation, auto repair shops adjacent to or otherwise in connection with a retail or used auto dealership), and bicycle repair shops and related facilities;
 - (f) Banks, credit unions, financial institutions and insurance companies;
 - (g) Hardware stores, nurseries; building supply stores;
 - (h) Plumbers, electricians, exterminators, custodial/janitorial workers, handyman services, funeral home workers and morticians, moving services, HVAC installers, carpenters, vegetation services, tree maintenance, landscapers, gardeners, property managers, private security personnel and other service providers who provide services to maintain the safety, sanitation, and essential operation to properties and other Essential Businesses;
 - (i) Businesses providing mailing and shipping services, including post office boxes;
 - (j) Educational institutions (including public and private K-12 schools, colleges, and universities) for purposes of facilitating distance learning, providing meals for pick-up, or performing essential functions, provided that social distancing is practiced;
 - (k) Laundromats, dry cleaners, laundry service providers;
 - (l) Restaurants and other food facilities that prepare and serve food, but only for delivery, drive thru or carry out. Indoor and outdoor table dining is not permitted. Cafeterias, commissaries, and restaurants located within hospitals, nursing homes, or other licensed health care facilities may provide dine-in service, as long as social distancing is practiced pursuant to Section 2(a)-(d).

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- (m) Businesses that supply office or computer products needed by people who work from home;
 - (n) Businesses that supply other Essential Businesses with the support or supplies necessary to operate;
 - (o) Businesses that ship, truck, provide logistical support or deliver groceries, food, goods or services directly to residences, Essential Businesses, Healthcare Operations, and Essential Infrastructure;
 - (p) Airlines, taxis, ride sharing services and other private transportation providers providing transportation services necessary for activities of daily living and other purposes expressly authorized in this Order;
 - (q) Businesses that manufacture parts and provide service for Essential Infrastructure;
 - (r) Home-based care for seniors, adults, disabled persons, or children;
 - (s) Residential facilities and shelters for homeless residents, disabled persons, seniors, adults, children and animals;
 - (t) Professional services, such as legal, payroll or accounting services, when necessary to assist in compliance with legally mandated activities, and the permitting, inspection, construction, transfer and recording of ownership of housing, including residential and commercial real estate and anything incidental thereto;
 - (u) Military/Defense Contractors/FFRDC (Federally Funded Research and Development Centers). For purposes of this Order, essential personnel may leave their residence to provide any service or perform any work deemed essential for national security including, but not limited to defense, intelligence and aerospace development and manufacturing for the Department of Defense, the Intelligence Community, and NASA and other federal government, and or United States Government departments and agencies. Essential personnel include prime, sub-primes, and supplier contractor employees, at both the prime contract level and any supplier levels at any tier, working on federal United States Government contracts such as contracts rated under the Defense Priorities and Allocations System (DPAS) and contracts for national intelligence and national security requirements;
 - (v) Childcare facilities providing services that enable employees exempted in this Order to work as permitted. To the extent possible, childcare facilities must operate under the following mandatory conditions: (1) Childcare must be carried out in stable groups of 12 or fewer ("stable" means the same twelve (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 (1) group of children is cared for at once 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.
 - (w) Hotels, motels, shared rental units and similar facilities.
 - (x) Construction Workers who support the construction, operation, inspection, and maintenance of construction sites and construction projects (including housing construction).
14. This Order is intended to deter the spread of COVID-19 by preventing people from being in unnecessary close contact. Certain activities are essential to the functioning of the County and the well-being of our residents and must continue.
15. This Order does not prohibit persons from leaving their residences to perform any work necessary or provide any services to or obtain services from the following Essential Infrastructure and Healthcare Operations:

COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC HEALTH
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- (a) Healthcare Operations (hospitals, clinics, laboratories, dentists, pharmacies, physical therapists and chiropractors, pharmaceutical and biotechnology companies, other licensed healthcare facilities, healthcare suppliers, home healthcare service providers, mental or behavioral health providers, alcohol and drug treatment providers, cannabis dispensaries with a medicinal cannabis license and all other required state and local licenses, medical or scientific research companies, or any related and/or ancillary healthcare services, manufacturers, distributors and servicers of medical devices, diagnostics, and equipment, veterinary care, and all healthcare provided to animals. This exemption shall be construed to avoid any impact to the delivery of healthcare, broadly defined. Healthcare Operations does not include fitness and exercise gyms and similar exercise or training facilities.
- (b) Essential Infrastructure, including but not limited to, public health, public works construction, construction of commercial, office and institutional buildings, construction of housing, airport operations, port operations, food supply, water, sewer, gas, electrical, oil extraction and refining, road and highways, public transportation, solid waste collection and removal, flood control and watershed protection, internet and telecommunications systems (including the provision of essential global, national, local infrastructure for computing services, business infrastructure, communications, and web-based services), and manufacturing and distribution companies deemed essential as part of the Essential Infrastructure supply chain, provided that they carry out those services or that work in compliance with social distancing requirements, to the extent practicable.

ADDITIONAL TERMS

- 16. This Order does not, in any way, restrict: (a) first responder access to the site(s) named in this Order during an emergency or (b) local, state or federal officers, investigators, or medical or law enforcement personnel from carrying out their lawful duties at the site(s) named in this Order.
- 17. The entities subject to this Order that are not required to close may otherwise remain open for business and perform essential functions and operations during the duration of this Order.
- 18. The County shall promptly provide copies of this Order by: (a) posting it on the Los Angeles Department of Public Health's website (www.publichealth.lacounty.gov), (b) posting it at the Kenneth Hahn Hall of Administration located at 500 West Temple Street, Los Angeles, CA 90012, (c) providing it to any member of the public requesting a copy, (d) issuing a press release to publicize the Order throughout the county, and (e) by serving via email on large facilities known to the County's Health Officer that are likely to be subject to this Order (but service via email is not required for compliance).
 - (a) The owner, manager, or operator of any facility that is likely to be impacted by this Order is strongly encouraged to post a copy of this Order onsite and to provide a copy to any member of the public requesting a copy.
 - (b) Because guidance may change, the owner, manager, or operator of any facility that is subject to this Order is ordered to consult the Los Angeles County Department of Public Health's website (www.publichealth.lacounty.gov) daily to identify any modifications to the Order and is required to comply with any updates until the Order is terminated.
- 19. If any subsection, sentence, clause, phrase, or word of this Order or any application of it to any person, structure, gathering, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions or applications of this Order.

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- 20. This Order incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom and the March 4, 2020 declarations of a local and public health emergency issued by the Los Angeles County Board of Supervisors and Los Angeles County Health Officer, respectively, and as they may be supplemented.
- 21. To protect the public's health, the Health Officer may take additional action(s) for failure to comply with this Order. Violation of this Order is a misdemeanor punishable by imprisonment, fine or both under California Health and Section Code Section 120295 *et seq.* Further, pursuant to Sections 26602 and 41601 of the California Government Code and Section 101029 of the California Health and Safety Code, the Health Officer requests that the Sheriff and the Chiefs of Police in all cities located in the Los Angeles County Public Health Jurisdiction ensure compliance with and enforcement of this Order.

IT IS SO ORDERED:

Muntu Davis MD, MPH

Muntu Davis, MD, MPH
Health Officer, County of Los Angeles

Date: March 21, 2020

SAFER AT HOME ORDER FOR CONTROL OF COVID-19

Temporary Prohibition of Events and Gatherings of 10 Persons or More

Closure of Non-Essential Businesses and Areas

Date Order Issued: March 19, 2020

Please read this Order carefully. Violation of or failure to comply with this Order is a crime punishable by fine, imprisonment, or both. (California Health and Safety Code § 120295; Los Angeles County Code § 11.02.080.)

SUMMARY OF THE ORDER: This Health Officer Order amends and supplements the Order of the County of Los Angeles Health Officer (Health Officer) issued on March 16, 2020, to control the spread of the Novel Coronavirus (COVID-19) within the County of Los Angeles. The purpose of this Order is to further restrict and limit the gathering of persons and require the closure of malls, shopping centers, children's playgrounds, and non-essential retail businesses in an effort to stem or slow the spread of COVID-19 within the greater Los Angeles community.

Because of the continued rapid spread of COVID-19 and the need to protect the most vulnerable members of our community, this Order prohibits all indoor public and private gatherings and all outdoor public and private events within a confined space, where at least 10 people are expected to be in attendance at the same time. This Order applies within the County of Los Angeles Public Health Jurisdiction, beginning at 11:59 p.m. on March 19, 2020 and continues through April 19, 2020, subject to the terms and conditions more particularly set forth below.

For all gatherings that are not prohibited and for all Essential Businesses, the Health Officer orders those persons attending an event or gathering and the venues holding the event or gathering implement the following infection control precautions: (1) practice social distancing within the confined space by requiring attendees to be separated by six (6) feet, to the extent feasible; (2) provide access to hand washing facilities with soap and water or hand sanitizer that contains at least 60 percent alcohol; (3) post a sign in a conspicuous place at the public entry to the venue instructing members of the public to not attend if they are experiencing symptoms of respiratory illness, including fever or cough; and (4) adhere to communicable disease control recommendations provided by the Los Angeles County Department of Public Health. As a point of clarity, this Order does not prohibit any individual or family from outdoor activities such as hiking, walking, shopping at Essential Businesses, including grocery stores and restaurants offering delivery, drive thru or carry out service, so long as all persons practice social distancing to the extent practicable.

Further, this Health Officer Order, requires all indoor malls, shopping centers, playgrounds and non-essential businesses to close. This Order applies to all cities in Los Angeles County except the cities of Pasadena and Long Beach. This Order does not supersede any stricter limitation imposed by a local public entity.

The County Health Officer will continue to monitor the rate of COVID-19 disease spread, State and CDC recommendations, and the impact of the required measures, and as needed, may revisit, extend, expand, or otherwise modify this Order to protect the public's health.

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

1. Effective 11:59 p.m. on March 19, 2020 and continuing through April 19, 2020, all public and private group events and gatherings, as defined below, of 10 or more people are prohibited anywhere within the Los Angeles County Public Health Jurisdiction.

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2. For public and private gatherings attended by between 2-9 persons, held in a confined or enclosed space, and not prohibited by this Order, the organizer or the owner, manager, or operator of the venue holding the gathering shall:
 - a. Enforce social distancing measures by requiring attendees who remain at the event or gathering for over 5 minutes to be separated by at least six (6) feet from other attendees during the entirety of the event or gathering. Persons who attend the event or gathering as a group, e.g., a group of family members or household contacts, may sit or remain together, but groups of attendees must be separated by a distance of at least six (6) feet.
 - b. Provide access to hand washing facilities with soap and water or with hand sanitizer that contains at least 60 percent alcohol.
 - c. Post a sign in a conspicuous place at all public entries to the venue that instructs members of the public to not enter or attend if they are experiencing symptoms of respiratory illness, including fever or cough.
 - d. Adhere to communicable disease control recommendations provided by the Los Angeles County Department of Public Health, including guidance for cleaning and disinfecting the site. See guidance posted at www.publichealth.lacounty.gov/media/Coronavirus/.
3. The Health Officer orders the immediate closure of the following types of commercial properties and businesses:
 - a. Non-Essential Retail Businesses.
 - b. Indoor Malls and Indoor Shopping Centers, including all stores therein regardless whether they are Essential or Non-Essential Retail Businesses. As an exception, Essential Businesses that are part of an Indoor Mall or Indoor Shopping Center, that are accessible to the public from the exterior of the Indoor Mall or Shopping Center may remain open. The interior of the Indoor Mall or Indoor Shopping Center shall remain closed to the public.
 - c. Owners and operators of Outdoor Malls and Shopping Centers shall enforce social distancing measures among their visitors as provided in Section 2 a-d.
 - d. Indoor or Outdoor Playgrounds for Children, except for those located within childcare centers.
4. This Order does not supersede any stricter limitation imposed by a local public entity within the Los Angeles County Public Health Jurisdiction.
5. This Order shall be exempt, for a 24-hour period following the effective date above, to allow employees and business owners to access to their workplaces to gather belongings, so long as social distancing requirements are followed. Such workplaces shall remain closed to the public in accordance with this Order.

REASONS FOR THE ORDER

6. This Order is based upon scientific evidence and best practices, as currently known and available, to protect members of the public from avoidable risk of serious illness and death resulting from the spread of COVID-19, as well as to protect the healthcare system from a surge of cases into its emergency rooms and hospitals. The Order supports the CDC's efforts to institute more stringent and necessary social distancing measures to reduce community transmission of COVID-19.
7. Existing community transmission of COVID-19 in Los Angeles County presents a substantial and significant risk of harm to the health of residents. Currently, there is no vaccine available to protect against and no specific treatment for COVID-19. As of March 19, 2020, there have been at least 231 cases of COVID-19 and 2 deaths reported in Los Angeles County. There remains a

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strong likelihood of a significant and increasing number of suspected cases of community transmission.

- 8. The virus that causes COVID-19 can be spread easily through person-to-person contact. This risk of transmission is increased when people are in close proximity. All gatherings pose an increased risk for community transmission of COVID-19 and thus, are a substantial risk to public health. As such, places where people gather, such as Indoor and Outdoor Malls, Shopping Centers, Children's Playgrounds, and Non-Essential Retail Businesses, provide significant opportunities for patrons or groups of patrons to have close contact with each other. Thus, the reasons that persons gathering at these locations are likely to exacerbate the spread of COVID-19 include, without limitation: (a) that these gatherings and businesses will attract people from throughout the county when there is widespread COVID-19 community transmission, (b) the prolonged time period during which many people are in close proximity at these locations, (c) the difficulty in tracing and controlling additional exposures when large numbers of people visit a Mall, Shopping Center, Playground or Non-Essential Retail Business, and (d) the visitor may be unknowingly infected with COVID-19 and may not follow adequate hygienic and social distancing practices.
- 9. In the absence of a specific immunization or treatment for COVID-19, social distancing is the only and most readily available tool to prevent this disease. Increasing social distancing and limiting events and gatherings slow transmission of communicable diseases. Accordingly, to reduce the community transmission of COVID-19, the Health Officer has ordered the temporary prohibition of all Events and Gatherings, as defined in Section 10, the closure of Indoor Malls and Shopping Centers as defined in Section 11, and is also requiring the closure of certain businesses, as described in Section 12.

DEFINITIONS

- 10. For purposes of this Order, Events and Gatherings are any gathering, assembly, event, or convening that brings together or is likely to bring together 10 or more persons at the same time in an indoor or outdoor confined or enclosed space for greater than 5 minutes, for any purpose including a business, cultural, athletic, entertainment, social, or other special event.
- 11. For purposes of this Order, Indoor Malls and Shopping Centers are defined for as either:
 - A building with seven (7) or more "sales or retail establishments" or
 - A series of buildings on a common site, either under common ownership or common control or developed together, with seven (7) or more "sales or retail establishments."
- 12. Non-Essential Retail Businesses are retail establishments that provide goods or services to the public that do not come within the definition of Essential Businesses set forth in Paragraph 13 of this Order.
- 13. For purposes of this Order, Essential Businesses are defined as the following:
 - (a) Grocery stores, certified farmers' markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruit and vegetables, pet supply, water, fresh meats, fish, and poultry, and any other household consumer products (such as cleaning or personal care products). This includes stores that sell groceries and sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences;
 - (b) Food cultivation, including farming, livestock, and fishing;

**COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC HEALTH
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- (c) **Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;**
- (d) **Newspapers, television, radio, magazine, podcast and other media services;**
- (e) **Gas stations, and auto-supply, auto-repair, car dealerships and related facilities;**
- (f) **Banks, credit unions, and related financial institutions;**
- (g) **Hardware stores, nurseries; building supplies;**
- (h) **Plumbers, electricians, exterminators, custodial/janitorial workers, handyman services, funeral home workers and morticians, moving services, HVAC installers, carpenters, vegetation services, tree maintenance, landscapers, gardeners, property managers, private security personnel and other service providers who provide services to maintain the safety, sanitation, and essential operation to properties and other Essential Businesses;**
- (i) **Businesses providing mailing and shipping services, including post office boxes;**
- (j) **Educational institutions (including public and private K-12 schools, colleges, and universities) for purposes of facilitating distance learning or performing essential functions, provided that social distancing of 6-feet per person is maintaining to the greatest extent possible;**
- (k) **Laundromats, dry cleaners, laundry service providers, personal grooming services;**
- (l) **Restaurants and other food facilities that prepare and serve food, but only for delivery, drive thru or carry out;**
- (m) **Businesses that supply office or computer products needed by people who work from home;**
- (n) **Businesses that supply other Essential Businesses with the support or supplies necessary to operate;**
- (o) **Businesses that ship, truck, provide logistical support or deliver groceries, food, goods or services directly to residences, Essential Businesses, Healthcare Operations, Essential Infrastructure;**
- (p) **Airlines, taxis, and other private transportation providers providing transportation services necessary for activities of daily living and other purposes expressly authorized in this Order;**
- (q) **Businesses that provide parts and service for Essential Infrastructure;**
- (r) **Home-based care for seniors, adults, disabled persons, or children;**
- (s) **Residential facilities and shelters for seniors, adults, disabled persons, and children;**
- (t) **Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities, and the permitting, inspection, construction, transfer and recording of ownership, of housing and anything incidental thereto;**
- (u) **Military/Defense Contractors/FFRDC (Federally Funded Research and Development Centers). For purposes of this Order, essential personnel may leave their residence to provide any service or perform any work deemed essential for national security including, but not limited to defense, intelligence and aerospace development and manufacturing for the Department of Defense, the Intelligence Community, and NASA and other federal government, and or United States Government departments and agencies. Essential**

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personnel include prime, sub-primes, and supplier contractor employees, at both the prime contract level and any supplier levels at any tier, working on federal United States Government contracts such as contracts rated under the Defense Priorities and Allocations System (DPAS) and contracts for national intelligence and national security requirements.;

- (v) Childcare facilities providing services that enable employees exempted in this Order to work as permitted. To the extent possible, childcare facilities must operate under the following mandatory conditions: (1) Childcare must be carried out in stable groups of 12 or fewer ("stable" means 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 once 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.

- (w) Hotels, motels, shared rental units and similar facilities.

14. This Order is intended to deter the spread of COVID-19 by preventing people from being in unnecessary close contact. Certain activities are essential to the functioning of the County and the well-being of our residents and must continue.
15. The limitations on events and gatherings contained in this Order do not apply to the following sites or situations where residents must obtain or participate in governmental or other essential services (those that meet basic human needs): (a) attendance at regular school classes, work at Essential Businesses, and essential governmental services, such as access to court, social and administrative services; (b) places where people are in transit or waiting for transit including airports or bus or train stations or terminals; (c) congregate living situations, including dormitories; or (d) hospitals and healthcare facilities.
- a. This Order does not prohibit use of enclosed spaces where 10 or more people may be present at different times during the day, as long as 10 or more people are not present in the space at the same time.
- b. This Order does not apply to the following essential infrastructure or operations:
- i. Healthcare Operations (hospitals, clinics, laboratories, dentists, pharmacies, pharmaceutical and biotechnology companies, other licensed healthcare facilities, healthcare suppliers, home healthcare service providers, mental health providers, cannabis dispensaries with a medicinal cannabis license, medical or scientific research companies, or any related and/or ancillary healthcare services, manufacturers, distributors and servicers of medical devices, diagnostics, and equipment, veterinary care, and all healthcare provided to animals. This exemption shall be broadly construed to avoid any impact to the delivery of healthcare, broadly defined. Healthcare Operations does not include fitness and exercise gyms and similar exercise or training facilities.
 - ii. Essential Infrastructure, including but not limited to, public health, public works construction, construction of housing (in particular affordable housing or housing for individuals experience homelessness), airport operations, port operations, water, sewer, gas, electrical, oil refining, road and highways, public transportation, solid waste collection and removal, internet and telecommunications systems (including the provision of essential global, national, local infrastructure for computing services, business infrastructure, communications, and web-based services), and manufacturing and distribution companies deemed essential as part of the Essential Infrastructure supply chain, provided that they carry out those services or that work in compliance with social distancing requirements, to the extent practicable.

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ADDITIONAL TERMS

- 16. This Order does not, in any way, restrict: (a) first responder access to the site(s) named in this Order during an emergency or (b) local, state or federal officers, investigators, or medical or law enforcement personnel from carrying out their lawful duties at the site(s) named in this Order.
- 17. The entities subject to this Order that are not required to close may otherwise remain open for business and perform essential functions and operations during the duration of this Order.
- 18. The County shall promptly provide copies of this Order by: (a) posting it on the Los Angeles Department of Public Health's website (www.publichealth.lacounty.gov), (b) posting it at the Kenneth Hahn Hall of Administration located at 500 West Temple Street, Los Angeles, CA 90012, (c) providing it to any member of the public requesting a copy, (d) issuing a press release to publicize the Order throughout the county, and (e) by serving via email on large facilities known to the County's Health Officer that are likely to be subject to this Order (but service via email is not required for compliance).
 - a. The owner, manager, or operator of any facility that is likely to be impacted by this Order is strongly encouraged to post a copy of this Order onsite and to provide a copy to any member of the public requesting a copy.
 - b. Because guidance may change, the owner, manager, or operator of any facility that is subject to this Order is ordered to consult the Los Angeles County Department of Public Health's website (www.publichealth.lacounty.gov) daily to identify any modifications to the Order and is required to comply with any updates until the Order is terminated.
- 19. If any subsection, sentence, clause, phrase, or word of this Order or any application of it to any person, structure, gathering, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions or applications of this Order.
- 20. This Order incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom and the March 4, 2020 declarations of a local and public health emergency issued by the Los Angeles County Board of Supervisors and Los Angeles County Health Officer, respectively, and as they may be supplemented.
- 21. To protect the public's health, the Health Officer may take additional action(s) for failure to comply with this Order. Violation of this Order is a misdemeanor punishable by imprisonment, fine or both under California Health and Section Code Section 120295 *et seq.* Further, pursuant to Sections 26602 and 41601 of the California Government Code and Section 101029 of the California Health and Safety Code, the Health Officer requests that the Sheriff and the Chiefs of Police in all cities located in the Los Angeles County Public Health Jurisdiction ensure compliance with and enforcement of this Order.

IT IS SO ORDERED:



Muntu Davis, MD, MPH

Health Officer, County of Los Angeles

Date: MARCH 19, 2020

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-33-20

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

WHEREAS in a short period of time, COVID-19 has rapidly spread throughout California, necessitating updated and more stringent guidance from federal, state, and local public health officials; and

WHEREAS for the preservation of public health and safety throughout the entire State of California, I find it necessary for all Californians to heed the State public health directives from the Department of Public Health.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8627, and 8665 do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) To preserve the public health and safety, and to ensure the healthcare delivery system is capable of serving all, and prioritizing those at the highest risk and vulnerability, all residents are directed to immediately heed the current State public health directives, which I ordered the Department of Public Health to develop for the current statewide status of COVID-19. Those directives are consistent with the March 19, 2020, Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response, found at: <https://covid19.ca.gov/>. Those directives follow:

ORDER OF THE STATE PUBLIC HEALTH OFFICER
March 19, 2020

To protect public health, I as State Public Health Officer and Director of the California Department of Public Health order all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>. In addition, and in consultation with the Director of the Governor's Office of Emergency Services, I may designate additional sectors as critical in order to protect the health and well-being of all Californians.

Pursuant to the authority under the Health and Safety Code 120125, 120140, 131080, 120130(c), 120135, 120145, 120175 and 120150, this order is to go into effect immediately and shall stay in effect until further notice.

The federal government has identified 16 critical infrastructure sectors whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or



destruction would have a debilitating effect on security, economic security, public health or safety, or any combination thereof. I order that Californians working in these 16 critical infrastructure sectors may continue their work because of the importance of these sectors to Californians' health and well-being.

This Order is being issued to protect the public health of Californians. The California Department of Public Health looks to establish consistency across the state in order to ensure that we mitigate the impact of COVID-19. Our goal is simple, we want to bend the curve, and disrupt the spread of the virus.

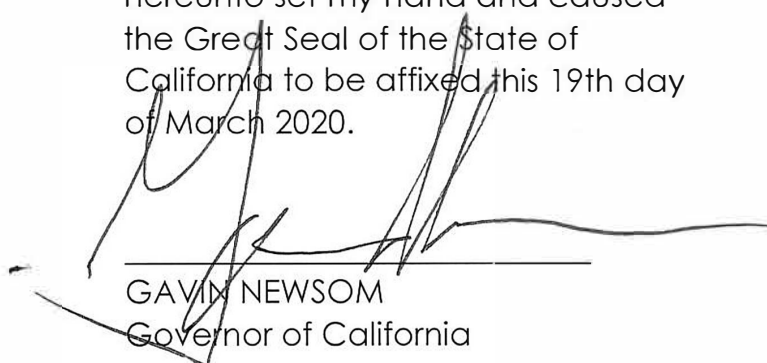
The supply chain must continue, and Californians must have access to such necessities as food, prescriptions, and health care. When people need to leave their homes or places of residence, whether to obtain or perform the functions above, or to otherwise facilitate authorized necessary activities, they should at all times practice social distancing.

- 2) The healthcare delivery system shall prioritize services to serving those who are the sickest and shall prioritize resources, including personal protective equipment, for the providers providing direct care to them.
- 3) The Office of Emergency Services is directed to take necessary steps to ensure compliance with this Order.
- 4) This Order shall be enforceable pursuant to California law, including, but not limited to, Government Code section 8665.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 19th day of March 2020.



 GAVIN NEWSOM
 Governor of California

ATTEST:

 ALEX PADILLA
 Secretary of State

1 George M. Lee (SBN 172982)
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21 Attorneys for Plaintiffs

22 **UNITED STATES DISTRICT COURT**
23 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

24 ADAM BRANDY, an individual; et al.,

25 Plaintiffs,

26 vs.

27 ALEX VILLANUEVA, in his official
28 capacity as Sheriff of Los Angeles
County, California, and in his capacity as
the Director of Emergency Operations, et
al.,

Defendants.

Case No. 2:20-cv-02874-AB-SK

**PLAINTIFFS' APPLICATION FOR
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE WHY A
PRELIMINARY INJUNCTION SHOULD
NOT ISSUE**

[FRCP 65; C.D. L.R. 65-1]

Date: TBD

Time: TBD

Courtroom 7B
Judge: Hon. André Birotte Jr.

**APPLICATION FOR TEMPORARY RESTRAINING ORDER
AND OSC RE PRELIMINARY INJUNCTION**

Plaintiffs Adam Brandy, Jonah Martinez, Daemion Garro, DG2A Enterprises Inc., d.b.a. Gun World, Jason Montes, Weyland-Yutani LLC d.b.a. Match Grade Gunsmiths, Alan Kushner, The Target Range, Tom Watt, A Place To Shoot, Second Amendment Foundation, California Gun Rights Foundation; National Rifle Association of America, and Firearms Policy Coalition, Inc. (“Plaintiffs”), by and through counsel undersigned, and pursuant to Fed. Rule of Civ. Pro. 65, and Central District Civ. Local Rule 65-1, hereby and respectfully apply to this Court, ex parte, for the issuance of a Temporary Restraining Order.

By and through this Application, Plaintiffs seek an order that would temporarily enjoin Defendants Alex Villanueva (sued in his official capacity as Sheriff of Los Angeles County, California, and in his capacity as the Director of Emergency Operations), Gavin Newsom (sued in his official capacity as Governor and Commander in Chief of the State of California), Sonia Y. Angell (sued in her official capacity as California Public Health Officer), Barbara Ferrer (sued in her official capacity as Director of Los Angeles County Department of Public Health), the County of Los Angeles, Eric Garcetti (sued in his official capacity as Mayor of the City of Los Angeles), and the City of Los Angeles (“Defendants”), and each of their respective employees, officers, agents, representatives, and those acting in concert or participation with them, from closing or compelling the closure of retail firearm and ammunition businesses on the grounds they are “non-essential businesses” under Executive Order N-33-20, the “Safer at Home Order for Control of COVID-19,” and Orders issued by Los Angeles County Sheriff Alex

1 Villanueva.

2 By and through this Application, Plaintiffs further request that this Court
3 issue an Order to Show Cause why a preliminary injunction should not issue,
4 granting Plaintiffs preliminary and permanent injunctive relief as sought herein.

5 As set forth in the memorandum of points and authorities supporting
6 Plaintiffs’ Application for Temporary Restraining Order and OSC re Preliminary
7 injunction, filed herewith, Plaintiffs’ Application is made on the following
8 grounds:

9 1. That Executive Order N-33-20 and the state’s policies, practices, and
10 customs that individually and/or collectively violate the Second and Fourteenth
11 Amendments;

12 2. That the County Defendants’ Safer at Home Order For Control of
13 COVID-19, the Los Angeles County Sheriff’s March 26, 2020 Order, and
14 Defendants’ policies practices, and customs individually and/or collectively violate
15 the Second and Fourteenth Amendments; and

16 3. That all of the Defendants’ orders, policies and practices which
17 amount to a prohibition on the acquisition, selling, transferring, and purchase of
18 firearms and ammunition during declared states of emergency violates the Second
19 and Fourteenth Amendments.

20 WHEREFORE, temporary, preliminary and permanent injunction should
21 issue restraining all Defendants and their officers, agents, servants, employees, and
22 all persons in concert or participation with them who receive notice of the
23 injunction, from enforcing Executive Order N-33-20, Los Angeles County Safer at
24 Home Order For Control of COVID-19, the Los Angeles County Sheriff’s March
25 26, 2020 Order, and Defendants’ policies, practices, and customs that individually
26 and/or collectively prohibit the purchase and sale of firearms and ammunition, and
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1 to cease and desist enacting or enforcing any Order or policy that firearm and
2 ammunition retailers are not an essential business, or, in the alternative, an
3 injunction preventing Defendants from enforcing their laws, policies, practices,
4 and customs that prevent individuals from buying and selling arms in accordance
5 with State and federal laws.

6 Dated: March 30, 2020

SEILER EPSTEIN LLP

7
8 /s/ George M. Lee
9 George M. Lee

Attorney for Plaintiffs

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21 Attorneys for Plaintiffs

22 **UNITED STATES DISTRICT COURT**

23 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

24 ADAM BRANDY, an individual;
25 JONAH MARTINEZ, an individual;
26 DAEMION GARRO, an individual;
27 DG 2A ENTERPRISES INC., d.b.a.
28 GUN WORLD; JASON MONTES, an
individual; WEYLAND-YUTANI LLC,
d.b.a. MATCH GRADE GUNSMITHS;
ALAN KUSHNER, an individual; THE
TARGET RANGE; TOM WATT, an
individual; A PLACE TO SHOOT, INC.;
SECOND AMENDMENT

Case No. 2:20-cv-02874-AB-AK

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

1 FOUNDATION; CALIFORNIA GUN
2 RIGHTS FOUNDATION; NATIONAL
3 RIFLE ASSOCIATION OF AMERICA;
4 and FIREARMS POLICY COALITION,
INC.,

5 Plaintiffs,

6
7 vs.

8 ALEX VILLANUEVA, in his official
9 capacity as Sheriff of Los Angeles
10 County, California, and in his capacity as
11 the Director of Emergency Operations;
12 GAVIN NEWSOM, in his official
13 capacity as Governor and Commander in
14 Chief of the State of California; SONIA
15 Y. ANGELL, in her official capacity as
16 California Public Health Officer;
17 BARBARA FERRER, in her official
18 capacity as Director of Los Angeles
19 County Department Of Public Health;
20 COUNTY OF LOS ANGELES; ERIC
21 GARCETTI, in his official capacity as
22 Mayor of the City of Los Angeles,
23 California; CITY OF LOS ANGELES,
24 CALIFORNIA; JUSTIN HESS, in his
25 official capacity as City Manager and
26 Director of Emergency Services for the
27 City of Burbank; and CITY OF
28 BURBANK, CALIFORNIA,

Defendants.

Plaintiffs Adam Brandy, *et al.* (“Plaintiffs”), by and through counsel of record,
bring this complaint for injunctive and declaratory relief against the named

1 Defendants, and allege as follows:

2 **INTRODUCTION**

3
4 1. California’s State and local governments cannot simply suspend the
5 Constitution. Authorities may not, by decree or otherwise, enact and/or enforce a
6 suspension or deprivation of constitutional liberties. And they certainly may not use
7 a public health crisis as political cover to impose bans and restrictions on rights they
8 do not like.
9

10
11 2. Firearm and ammunition product manufacturers, retailers, importers,
12 distributors, and shooting ranges are essential businesses that provide essential
13 access to constitutionally protected fundamental, individual rights. If firearms and
14 ammunition could be purchased online like other constitutionally protected artifacts,
15 such as paper, pens, ink, and technology products that facilitate speech, then
16 individuals could simply purchase what they need and have the items delivered to
17 their doorsteps. But because of an onerous and complicated federal, state, and local
18 regulatory scheme that prevents this, people in California cannot exercise their
19 Second Amendment right to keep and bear arms without such essential businesses.
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21

22
23 3. In California, individuals are required to purchase and transfer firearms
24 and ammunition through state and federally licensed dealers in face-to-face
25 transactions or face serious criminal penalties. Shuttering access to arms, the
26 ammunition required to use those arms, and the ranges and education facilities that
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1 individuals need to learn how to safely and competently use arms, necessarily closes
2 off the Constitutional right to learn about, practice with, and keep and bear those
3 arms. By forcing duly licensed, essential businesses to close or eliminate key
4 services for the general public, government authorities are foreclosing the only
5 lawful means to buy, sell, and transfer firearms and ammunition available to typical,
6 law-abiding individuals in California. Such a prohibition on the right to keep and
7 bear arms is categorically unconstitutional.

10
11 4. The circumstances posed by the COVID-19 Novel Coronavirus
12 outbreak present challenges to all of us, including the government. Responding to
13 those challenges, for example, Defendant Los Angeles County Sheriff Alex
14 Villanueva recently released approximately 1,700 inmates from his Los Angeles
15 County jails. And with governments having no legal duty to protect the people they
16 serve, and with no guarantee that law enforcement will even respond to one's 911
17 call during this crisis or after it (let alone in time to prevent a crime), people who
18 choose to turn to their fundamental, individual Second and Fourteenth Amendment
19 rights cannot be denied them.

22
23 5. The need for self-defense during uncertain times is precisely when
24 Plaintiffs and Plaintiffs' members must be able to exercise their fundamental rights
25 to keep and bear arms. The challenges we all face because of the COVID-19
26 Coronavirus, or any other such emergency, does not, cannot, and must not justify or
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1 excuse government infringements upon fundamental human rights.

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PARTIES

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Individual Plaintiffs

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6. Plaintiff Adam Brandy is a natural person, a citizen of the United States, and a resident of the County of Los Angeles, California. Plaintiff Brandy is not prohibited from possessing or acquiring arms, including firearms and ammunition, under state or federal law. Plaintiff Brandy is concerned about his safety and the safety of his family, wants to practice and exercise his right to keep and bear arms – including firearms, ammunition, magazines, and appurtenances – and would do so, but for the reasonable and imminent fear of arrest and criminal prosecution under Defendants’ laws, policies, orders, practices, customs, and enforcement.

7. Plaintiff Jonah Martinez is a natural person, a citizen of the United States, and a resident of the County of Los Angeles, California. Plaintiff Jonah Martinez is not prohibited from possessing or acquiring arms, including firearms and ammunition, under state or federal law. Plaintiff Martinez is concerned about his safety and the safety of his family, wants to practice and exercise his right to keep and bear arms – including firearms, ammunition, magazines, and appurtenances – and would do so, but for the reasonable and imminent fear of arrest and criminal prosecution under Defendants’ laws, policies, orders, practices, customs, and enforcement.

1 8. Plaintiff Daemion Garro is a natural person, a citizen of the United
2 States, and a resident of the County of Los Angeles, California. Plaintiff Garro is not
3 prohibited from possessing or acquiring arms, including firearms and ammunition,
4 under state or federal law. Plaintiff Garro is the owner and operator of DG 2A
5 Enterprises Inc., d.b.a. Gun World (“Gun World”) in Burbank, California. Plaintiff
6 Garro is concerned about his safety and the safety of his customers and the public.
7 On behalf of himself and his customers, Plaintiff Garro would conduct training and
8 education, perform California Firearm Safety Certificate (“FSC”) testing for and
9 issue FSC certificates to eligible persons, and sell and transfer arms – including
10 firearms, ammunition, magazines, and appurtenances – but for the reasonable and
11 imminent fear of criminal prosecution and loss of his license under Defendants’
12 laws, policies, orders, practices, customs, and enforcement thereof.
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18 9. Plaintiff Jason Montes is a natural person, a citizen of the United States,
19 and a resident of the County of Los Angeles, California. Plaintiff Montes is not
20 prohibited from possessing or acquiring arms, including firearms and ammunition,
21 under state or federal law. Plaintiff Montes is the owner and operator Weyland-
22 Yyutani LLC, d.b.a. Match Grade Gunsmiths (“Match Grade”) in Cerritos,
23 California. Plaintiff Montes is concerned about his safety and the safety of his
24 customers and the public. On behalf of himself and his customers, Plaintiff Montes
25 would conduct training and education, perform FSC testing for and issue FSC
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1 certificates to eligible persons, and sell and transfer arms – including firearms,
2 ammunition, magazines, and appurtenances – but for the reasonable and imminent
3 fear of criminal prosecution and loss of his license under Defendants’ laws, policies,
4 orders, practices, customs, and enforcement thereof.
5

6 10. Plaintiff Alan Kushner is a natural person, a citizen of the United States,
7 and a resident of California. Plaintiff Kushner is not prohibited from possessing or
8 acquiring arms, including firearms and ammunition, under state or federal law.
9 Plaintiff Kushner is the owner and operator of The Target Range (“Target Range”),
10 a firearm and ammunition retailer, indoor shooting range, and training facility in Van
11 Nuys, California, a neighborhood of the City of Los Angeles, California. Plaintiff
12 Kushner is concerned about his safety and the safety of his customers and the public.
13 On behalf of himself and his customers, Plaintiff Kushner would conduct training
14 and education, perform FSC testing for and issue FSC certificates to eligible persons,
15 and sell and transfer arms – including firearms, ammunition, magazines, and
16 appurtenances –but for the reasonable and imminent fear of criminal prosecution and
17 loss of his licenses because of Defendants’ laws, policies, orders, practices, customs,
18 and enforcement thereof.
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24 11. Plaintiff Tom Watt is a natural person, a citizen of the United States,
25 and a resident of California. Plaintiff Watt is not prohibited from possessing or
26 acquiring arms, including firearms and ammunition, under state or federal law.
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1 Plaintiff Watt is the owner and operator of A Place To Shoot, Inc. (“A Place To
2 Shoot”), a firearm and ammunition retailer, indoor shooting range, and training
3 facility in Santa Clarita, CA. Plaintiff Watt is concerned about his safety and the
4 safety of his customers and the public. On behalf of himself and his customers,
5 Plaintiff Watt would conduct training and education, perform FSC testing for and
6 issue FSC certificates to eligible persons, and sell and transfer arms – including
7 firearms, ammunition, magazines, and appurtenances –but for the reasonable and
8 imminent fear of criminal prosecution and loss of his licenses because of
9 Defendants’ laws, policies, orders, practices, customs, and enforcement thereof.
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13 *Retailer Plaintiffs*

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15 12. Plaintiff DG2A Enterprises, d.b.a. Gun World, is a corporation holding
16 federal, state, and local licenses to conduct the sales of arms, including firearms,
17 ammunition, magazines, and appurtenances, in Burbank, California. Plaintiff Gun
18 World is concerned about its safety and the safety of its customers and the public.
19 On behalf of itself and its customers, Plaintiff Gun World would conduct training
20 and education, perform California FSC testing for and issue FSC certificates to
21 eligible persons, and sell and transfer arms – including firearms, ammunition,
22 magazines, and appurtenances –but for the reasonable and imminent fear of criminal
23 prosecution and loss of its licenses because of Defendants’ laws, policies, orders,
24 practices, customs, and enforcement thereof.
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1 13. Plaintiff Weyland-Yutani LLC, d.b.a. Match Grade Gunsmiths (“Match
2 Grade”), is a limited liability corporation and holds federal, state, and local licenses
3 to conduct the manufacturing and sales of arms, including firearms, ammunition,
4 magazines, and appurtenances, in Cerritos, California. Plaintiff Match Grade is a
5 Veteran-owned, full-service manufacturer, retailer, gunsmith, and machine shop. It
6 has gunsmiths that are certified armorers for common firearm manufacturers
7 including Sig Sauer, Smith and Wesson, Springfield Armory, and Glock. Plaintiff
8 Match Grade “can customize anything you can think of,” and its “master gunsmith
9 can manufacture custom parts, build custom rifles,” and configure pistols to
10 customers’ needs. Plaintiff Match Grade is concerned about its safety and the safety
11 of its customers and the public. On behalf of itself and its customers, Plaintiff Match
12 Grade would conduct training and education, perform California FSC testing for and
13 issue FSC certificates to eligible persons, and sell and transfer arms – including
14 firearms, ammunition, magazines, and appurtenances –but for the reasonable and
15 imminent fear of criminal prosecution and loss of its licenses under Defendants’
16 laws, policies, orders, practices, customs, and enforcement thereof.

23 14. Plaintiff The Target Range (“Target Range”), is a California
24 corporation holding federal, state, and local licenses to conduct the temporary rental
25 and sale of arms, including firearms, ammunition, magazines, and appurtenances, as
26 well as to operate an indoor shooting range and training center, in Van Nuys,
27
28

1 California. Plaintiff Target Range is concerned about its safety and the safety of its
2 customers and the public. On behalf of itself and its customers, Plaintiff Target
3
4 Range would conduct training and education, perform California FSC testing for and
5 issue FSC certificates to eligible persons, rent arms for education and proficiency
6 training and other lawful purposes, and sell and transfer arms – including firearms,
7
8 ammunition, magazines, and appurtenances –but for the reasonable and imminent
9 fear of criminal prosecution and loss of his license under Defendants’ laws, policies,
10 orders, practices, customs, and enforcement thereof.
11

12 15. Plaintiff A Place To Shoot, Inc. (“A Place To Shoot”), is a California
13 corporation holding federal, state, and local licenses to conduct the temporary rental
14 and sale of arms, including firearms, ammunition, magazines, and appurtenances, as
15 well as to operate an shooting range and training center, in Santa Clarita, California.
16 Plaintiff A Place To Shoot is concerned about its safety and the safety of its
17
18 customers and the public. On behalf of itself and its customers, Plaintiff A Place To
19 Shoot would operate, conduct education and proficiency training, and sell and
20
21 transfer arms – including firearms, ammunition, magazines, and appurtenances – but
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23 for the reasonable and imminent fear of criminal prosecution and loss of his license
24 under Defendants’ laws, policies, orders, practices, customs, and enforcement
25 thereof.
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Institutional Plaintiffs

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2 16. Plaintiff Second Amendment Foundation, Inc. (“SAF”) is a nonprofit
3
4 educational foundation incorporated under the laws of Washington with its principal
5 place of business in Bellevue, Washington. SAF seeks to preserve the effectiveness
6
7 of the Second Amendment through education, research, publishing, and legal action
8
9 programs focused on the Constitutional right to possess firearms, and the
10 consequences of gun control. SAF has over 650,000 members and supporters
11 nationwide, including thousands of members in California. SAF brings this action
12 on behalf of itself and its members. Individual Plaintiffs and Retailer Plaintiff are
13 members of SAF.

14
15 17. Plaintiff California Gun Rights Foundation (“CGF”) is a nonprofit
16 foundation incorporated under the laws of California with its principal place of
17
18 business in Sacramento, California. CGF serves its members, supporters, and the
19 public through educational, cultural, and judicial efforts to defend and advance
20 Second Amendment and related rights. CGF has thousands of members and
21 supporters in California, including members in Los Angeles County and the
22 Individual and Retailer Plaintiffs herein. The interpretation and enforcement of the
23 Second Amendment directly impacts CGF’s organizational interests, as well as the
24 rights of CGF’s members and supporters. CGF has expended and diverted resources,
25
26 and has been adversely and directly harmed, because of Defendants’ laws, policies,
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1 practices, and customs challenged herein. CGF brings this action on behalf of itself,
2 its members, supporters who possess all the indicia of membership, and similarly
3 situated members of the public. Individual Plaintiffs and Retailer Plaintiff are
4 members of CGF.
5

6
7 18. Plaintiff National Rifle Association of America (“NRA”) is a nonprofit
8 corporation organized under the laws of the State of New York with its principal
9 place of business in Fairfax, Virginia. The NRA is America’s leading provider of
10 gun-safety and marksmanship education for civilians and law enforcement. It is also
11 an important defender of the Second Amendment to the United States Constitution.
12 The NRA has over five million members, and its programs reach millions more.
13 NRA’s members reside both outside and within the State of California, including in
14 Los Angeles County, California. NRA represents its members and supporters and
15 brings this action on behalf of itself, its members, supporters who possess all the
16 indicia of membership, and similarly situated members of the public. NRA has
17 expended and diverted resources, and is adversely and directly harmed, because of
18 Defendants’ laws, policies, orders, practices, and customs challenged herein.
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23 19. Plaintiff Firearms Policy Coalition, Inc. (“FPC”) is a nonprofit
24 organization incorporated under the laws of Delaware with a place of business in
25 Sacramento, California. The purposes of FPC include defending and promoting the
26 People’s rights – especially but not limited to First and Second Amendment rights –
27
28

1 advancing individual liberty, and restoring freedom. FPC serves its members and the
2 public through legislative advocacy, grassroots advocacy, litigation and legal efforts,
3 research, education, outreach, and other programs. FPC’s has members in the State
4 of California, including in Los Angeles County, California. FPC represents its
5 members and supporters—who include gun owners, individuals who wish to acquire
6 firearms and ammunition, licensed California firearm retailers, shooting ranges,
7 trainers and educators, and others—and brings this action on behalf of itself, its
8 members, supporters who possess all the indicia of membership, and similarly
9 situated members of the public. FPC has expended and diverted resources, and is
10 adversely and directly harmed, because of Defendants’ laws, policies, orders,
11 practices, and customs challenged herein. Individual Plaintiffs and Retailer Plaintiffs
12 are members of FPC.

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18 *State Defendants*

19 20. Defendant Gavin Newsom is the current Governor and Commander-in-
20 Chief of the State of California, and is responsible for executing and administering
21 California’s laws, orders, customs, practices, and policies at issue in this lawsuit.
22 Defendant Newsom is sued in his official capacity. Defendant Newsom issued
23 Executive Order N-33-20, and prior orders proclaiming a state of emergency to exist
24 in California due to the threat of COVID-19.
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1 with inherent and delegated powers to execute and enforce laws, orders, customs,
2 and/or practices at issue in this lawsuit. She is sued in her official capacity.

3
4 25. Defendant Justin Hess is the City Manager of, as well as the Director of
5 Emergency Services for, Defendant City of Burbank California, with inherent and
6 delegated powers to execute and enforce laws, orders, customs, and/or practices at
7 issue in this lawsuit. He is sued in his official capacity.

8
9 26. Defendant City of Burbank, California is a local governmental entity
10 organized under the Constitution and laws of the State of California, possessing legal
11 personhood within the meaning of 42 U.S.C. § 1983. The City is responsible for
12 executing and administering its laws, orders, customs, practices, and policies at issue
13 in this lawsuit.

14
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16 27. Defendant Eric Garcetti is the Mayor of Defendant City of Los Angeles,
17 California, with inherent and delegated powers to execute and enforce laws, orders,
18 customs, and/or practices at issue in this lawsuit. He is sued in his official capacity.

19
20 28. Defendant City of Los Angeles, California is a local governmental
21 entity organized under the Constitution and laws of the State of California,
22 possessing legal personhood within the meaning of 42 U.S.C. § 1983. The City is
23 responsible for executing and administering its laws, orders, customs, practices, and
24 policies at issue in this lawsuit.
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JURISDICTION AND VENUE

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

30. Venue lies in this Court under 28 U.S.C. § 1391, as the events giving rise to Plaintiffs’ causes of action arose or exist in this District in which the action is brought. Venue is also proper under 28 U.S.C. § 1391, as the venue rules of this State specifically permit this action to be filed in Los Angeles, since Defendants maintain offices within this District. Cal. Code of Civ. Pro. § 401(1).

STATEMENT OF FACTS COMMON TO ALL CLAIMS

31. 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.

32. The Second Amendment “guarantee[s] the individual right to possess and carry weapons in case of confrontation.” *District of Columbia v. Heller*, 554 U.S. 570, 592 (2008). 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 635.

1 33. The Second Amendment is fully applicable to the States through the
2 Fourteenth Amendment’s Due Process and Privileges or Immunities Clauses.
3
4 *McDonald v. City of Chicago*, 561 U.S. 742, 750 (2010); *id.* at 805 (Thomas, J.,
5 concurring).

6 34. The Fourteenth Amendment to the United States Constitution provides
7 in pertinent part:
8

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

15 35. Individuals have a right to keep and bear arms, including but not limited
16 to, buying, selling, transferring, transporting, and carrying firearms, ammunition,
17 magazines, and appurtenances, under the Second and Fourteenth Amendments to the
18 United States Constitution.
19

20 36. Individuals have a right to due process of the law under the Fifth and
21 Fourteenth Amendments to the United States Constitution, the fundamental precepts
22 which of protect them against the enforcement of vague, ambiguous, and arbitrary
23 and capricious laws.
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1 37. Licensed firearm and ammunition retailers are necessary to individuals’
2 lawful acquisition of firearms and ammunition, including but not limited to
3
4 complying with federal and state background check requirements.

5 38. On or about March 4, 2020, Defendant Governor Newsom proclaimed
6 a State of Emergency as a result of COVID-19.
7

8 39. Effective March 19, 2020, Governor Gavin Newsom signed Executive
9 Order N-33-20,¹ directing all individuals living in California to “stay home or at their
10 place of residence except as needed to maintain continuity of operations of the
11 federal critical infrastructure sectors.” Executive Order N-33-is in place until further
12 notice. The Governor’s Order directed all California residents “to heed” the
13 directives of the State Public Health Officer, Defendant Angell, and incorporated
14 into the Executive Order Defendant Angell’s Order of the same date.² An express
15 purpose of Defendant Angell’s Order is to “establish consistency across the state.”
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19 40. As augmented by the Order of Defendant Angell incorporated into it,
20 Executive Order N-33-20 states that the Governor “may designate additional
21

22 _____

23 ¹Executive Department, State of California, Executive Order N-33-20,
24 [https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-
25 20-COVID-19-HEALTH-ORDER.pdf](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,
27 [https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/
28 COVID-19/Health%20Order%203.19.2020.pdf](https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Health%20Order%203.19.2020.pdf).

1 sectors” but does not identify any additional sectors nor provide definitions or clarity
2 on the scope and extent of such sectors. Further, the Order provides that Californians
3
4 working in critical infrastructure sectors may continue their work because of the
5 importance of these sectors to Californians’ health and well-being. Executive Order
6 N-33-20 states that Californians must nonetheless have access to “necessities,” but
7
8 the term is not fully defined. It provides that people may “leave their homes or places
9 of residence, whether to obtain or perform” critical infrastructure, or “to otherwise
10 facilitate authorized necessary activities,” so long as they practice social distancing.
11 But Executive Order N-33-20 does not explain what is meant by “authorized
12 necessary activities.”
13

14
15 41. Executive Order N-33-20 “shall be enforceable pursuant to California
16 law, including, but not limited to, Government Code section 8665.”
17

18 42. Government Code section 8665 states:

19 Any person who violates any of the provisions of this
20 chapter or who refuses or willfully neglects to obey any
21 lawful order or regulation promulgated or issued as
22 provided in this chapter, shall be guilty of a misdemeanor
23 and, upon conviction thereof, shall be punishable by a fine
24 of not to exceed one thousand dollars (\$1,000) or by
25 imprisonment for not to exceed six months or by both such
26 fine and imprisonment.

27 43. On the same day the Governor and Defendant Angell issued their
28 Orders (March 19, 2020), the County of Los Angeles Department of Public Health,
through its Health Officer, issued an Order titled, “Safer at Home Order for Control

1 of COVID-19” (County Order) which addressed, among other things, the “Closure
2 of Non-Essential Businesses and Areas.” The County Order states that it does not
3
4 prohibit any individual or family from “shopping at Essential Businesses,” provided
5 social distancing is practiced “to the extent practicable.” But the County Order
6
7 “requires all ... non-essential businesses to close” and do so “immediately.” The
8 County Order’s reach extends to “all cities in Los Angeles County (except the cities
9 of Pasadena and Long Beach).” And a “[v]iolation of this Order is a misdemeanor
10 punishable by imprisonment, fine, or both under California Health and Section Code
11 120295 *et seq.*”
12

13 44. Health & Safety Code section 120295 states:
14

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

21 45. “Non-Essential Retail Businesses” are defined as “retail establishments
22 that provide goods and services to the public that do not come within the definition
23 of Essential Businesses set forth in Paragraph 13 of this Order.” Paragraph 13 defines
24 “Essential Businesses.” “Essential Businesses” are ... other establishments engaged
25 in the retail sale of ...household consumer products ... and this includes “stores that
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27
28

1 sell ... other ... products necessary to maintaining the safety ... and essential
2 operation of residences.” Other “Essential Businesses” include:

3
4 (a) “establishments engaged in the retail sale of ... household
5 consumer products ... includ[ing] stores that sell ... products necessary to
6 maintaining the safety, sanitation, and essential operation of residences”;...

7
8 (b) “Food cultivation, including farming, livestock, and fishing”;...

9
10 (h) “service providers who provide services to maintain the safety,
11 sanitation, and essential operation to properties and other Essential
12 Businesses;...

13
14 (n) “Businesses that supply other Essential Businesses with the support
15 or supplies necessary to operate”;...

16
17 (q) “Businesses that provide parts and service for Essential
18 Infrastructure”; ... and,

19
20 (u) “Military/Defense Contractors/FFRDC (Federally Funded
21 Research and Development Centers.)”³

22 46. Also on March 19, 2020, Defendant Mayor Garcetti and Defendant City
23 of Los Angeles issued an Order titled, “Public Order Under City of Los Angeles
24

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26
27 ³ [http://file.lacounty.gov/SDSInter/lac/1070029_COVID-](http://file.lacounty.gov/SDSInter/lac/1070029_COVID-19_SaferAtHome_HealthOfficerOrder_20200319_Signed.pdf)
28 [19_SaferAtHome_HealthOfficerOrder_20200319_Signed.pdf](http://file.lacounty.gov/SDSInter/lac/1070029_COVID-19_SaferAtHome_HealthOfficerOrder_20200319_Signed.pdf).

1 Emergency Authority,” with the subject of “SAFER AT HOME” (“City of LA
2 Order”) ⁴ which ordered and declared “[u]nder the provisions of Section 231(i) of
3 the Los Angeles City Charter and Chapter 3, Section 8.27 of the Los Angeles
4 Administrative Code,” *inter alia*, “all persons living within the City of Los Angeles
5 [] to remain in their homes,” and “all businesses within the City of Los Angeles []
6 to cease operations that require in-person attendance by workers at a workplace
7 (including, without limitation, indoor malls and indoor shopping centers, including
8 all stores except for those stores considered essential activities...)” ⁵

12 47. According to the City of LA Order, failure to comply “shall constitute
13 a misdemeanor subject to fines and imprisonment.” And in the City of LA Order,
14 Defendant Mayor Garcetti “urge[d] the Los Angeles Police Department and the City
15 Attorney to vigorously enforce this Order via Sections 8.77 and 8.78 of the Los
16 Angeles Administrative Code.”

22 ⁴ March 19, 2020 “Public Order Under City of Los Angeles Emergency
23 Authority”, online at
24 [https://www.lamayor.org/sites/g/files/wph446/f/article/files/SAFER_AT_HOME_
ORDER2020.03.19.pdf](https://www.lamayor.org/sites/g/files/wph446/f/article/files/SAFER_AT_HOME_ORDER2020.03.19.pdf).

25 ⁵ “CITY OF LOS ANGELES COVID-19 ORDERS” (March 19, 2020 Order listed
26 under the caption “Below are the Emergency Orders and Memorandum from
27 Mayor Eric Garcetti pertaining to COVID-19”), online at
28 <https://www.lamayor.org/COVID19Orders>.

1 48. On or about March 22, 2020, in accordance with Defendant Newsom’s
2 Executive Order N-33-20 and her own Order of the State Public Health Officer,
3 Defendant Angell designated a list of “Essential Critical Infrastructure Workers.”⁶
4

5 49. On March 24, 2020, Defendant County of Los Angeles Sheriff and
6 Director of Emergency Operations Alex Villanueva declared all firearms retailers in
7 the County of Los Angeles to be “non-essential.”
8

9 50. Also on or about March 24, 2020, in accordance with Defendant
10 Newsom’s Executive Order N-33-20, the San Diego Sheriff declared that firearm
11 retailers would perform a “valuable public service” during the coronavirus pandemic
12 and will be allowed to remain open. Sheriff Gore stated that licensed gun stores help
13 maintain public safety by ensuring that buyers submit to a ten-day waiting period
14 and pass a state license check. Sheriff Gore also warned that gun buyers could turn
15 to the “black market” for illegal weapons if they can’t buy them legally at licensed
16 stores.⁷
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24 ⁶ Essential Critical Infrastructure Workers, Mar. 22, 2020,
25 <https://covid19.ca.gov/img/EssentialCriticalInfrastructureWorkers.pdf>.

26 ⁷ NBC San Diego, “Sheriff Will Not Close San Diego County Gun Stores,”
27 [https://www.nbcsandiego.com/news/investigations/sheriff-will-not-close-san-](https://www.nbcsandiego.com/news/investigations/sheriff-will-not-close-san-diego-county-gun-stores/2292399/)
28 [diego-county-gun-stores/2292399/](https://www.nbcsandiego.com/news/investigations/sheriff-will-not-close-san-diego-county-gun-stores/2292399/).

1 51. The next day, March 25, 2020, Defendant Sheriff Villanueva “told
2 FOX 11 he’s adding 1,300 deputies to patrol, doubling the current amount, and in an
3 effort to prevent the spread of the coronavirus in jail, he has released 10% of the
4 inmate population from county jails...”⁸

5
6 52. Later the same day, Sheriff Villanueva announced that the *enforcement*
7 of the closure of firearm retailers was temporarily suspended; pending a decision on
8 their classification as non-essential by Defendant Governor Newsom.⁹

9
10 53. The next day, March 26, 2020, Defendant Governor Newsom issued a
11 public statement that each of the 58 county sheriffs had discretion to determine the
12 “essential” nature of firearm and ammunition retailers in each respective county in
13 the State.¹⁰

14
15
16 54. On March 26, 2020, Defendant Sheriff Villanueva, through the Los
17 Angeles County Sheriff’s Twitter account, released an image of his March 26, 2020

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21 ⁸ FOX 11 Los Angeles, “LA County Sheriff orders gun stores to close; adds 1,300
22 deputies to patrol,” <https://www.foxla.com/news/la-county-sheriff-orders-gun-stores-to-close-adds-1300-deputies-to-patrol>.

23 ⁹ NBC Los Angeles, “LA County Sheriff Reverses Decision on Closing Gun
24 Shops,” <https://www.nbclosangeles.com/news/local/coronavirus-covid-19-los-angeles-county-sheriff-gun-shops-second-amendment/2334792/>.

25
26 ¹⁰ ABC News Los Angeles, “Deja vu: LA County sheriff closes gun shops again,”
27 <https://abcnews.go.com/US/wireStory/deja-vu-la-county-sheriff-closes-gun-shops-69822931>
28

1 Order stating, “[b]y order of the Sheriff of Los Angeles County, gun and ammunition
2 stores are not considered essential businesses and must close to the general public,
3
4 in Compliance with Executive Order-N-33-20 and County of Los Angeles Safer at
5 Home Order for Control of COVID-19.”¹¹

6
7 55. Later the same day, Defendant Sheriff Villanueva, lifting his temporary
8 suspension of his prior order, formally reversed his position and stated that firearms
9 retailers are now considered “non-essential” and “must close to the general public,
10
11 in compliance with the Executive Order N-33-20 and the County of Los Angeles
12 Safer at Home Order for Control of COVID-19.”¹²

13
14 56. Defendant Sheriff Villanueva’s March 26 Order has a limited exception
15 allowing people who “have already purchased a firearm” and who *already* have “a
16 valid California Firearms Safety Certificate (CFS)” to “simply [] take possession of
17
18 their firearm.”

19
20 57. Defendant Sheriff Villanueva’s March 26 Order specified that licensed
21 firearm retailers would be permitted to sell ammunition only to “security guard
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25
26 ¹¹ <https://twitter.com/LACoSheriff/status/1243237017049128961/photo/1>.

27 ¹² APNews.com, “Deja vu: LA County Sheriff Closes Gun Shops Again,”
28 <https://apnews.com/c134e74f8813297d139b1d217a48c932>.

1 companies.” Sheriff Villanueva’s Order is a de facto ban on the sale and transfer of
2 ammunition.

3
4 58. Defendant Sheriff Villanueva’s March 26 Order is a de facto ban on the
5 sale and transfer of firearms and new California Firearms Safety Certificate testing
6 and issuance.

7
8 59. Defendant Sheriff Villanueva’s March 26 Order applies to and is being
9 enforced “in the 42 contract cities and unincorporated Los Angeles County areas
10 under [his] jurisdiction.” To make circumstances even less clear, Defendant Sheriff
11 Villanueva “deferred to the discretion of each individual chief of police” for each
12 non-contract city in the County of Los Angeles.

13
14 60. “About half of the 88 cities in [Los Angeles] county” – about 46 of the
15 total number of cities – “contract for law enforcement services from the County of
16 Los Angeles,” and “their ‘police department’ is Los Angeles Sheriff’s Department
17 (“LASD”).”¹³

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19
20 61. Thus, 42 cities within the County of Los Angeles are subject to the
21 Defendant Sheriff Villanueva’s March 26 Order, and the balance of cities within the
22 County of Los Angeles each have their own interpretations of State Defendants’ and
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26 ¹³ kcet.org, "A Guide for the Politically Perplexed in L.A. County", online at
27 [https://www.kcet.org/socal-focus/a-guide-for-the-politically-perplexed-in-la-](https://www.kcet.org/socal-focus/a-guide-for-the-politically-perplexed-in-la-county)
28 [county.](https://www.kcet.org/socal-focus/a-guide-for-the-politically-perplexed-in-la-county)

1 Los Angeles County Defendants’ various orders, delegations, directives, policies,
2 practices, and customs to enforce.

3
4 62. According to a March 26, 2020, Associated Press News (“AP News”) report by Stefanie Dazio and Don Thompson, “[Defendant Los Angeles] County
5 Supervisor Sheila Kuehl said while she personally thinks gun stores are not essential
6 businesses, the conflicting findings by [Defendant Los Angeles County Sheriff]
7 Villanueva and the [Defendant C]ounty likely need to get sorted out by a judge.” She
8 was reported to have said: “Let them go to court about it.”¹⁴

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12 63. According to that same AP News report, Defendant City of Los Angeles
13 “officials have deemed gun shops to be nonessential and must close, and that,
14 according to City of Los Angeles City Attorney Mike Feuer, only “life-sustaining”
15 businesses, such as grocery stores and pharmacies, can be open. Feuer was also
16 reported to have said: “There’s nothing essential about being able to purchase a new
17 handgun.”
18
19

20
21 64. On March 27, 2020, this action was commenced against the State
22 Defendants and County of Los Angeles Local Defendants.

23 65. Plaintiff Brandy purchased his first firearm on March 18, 2020. He was
24 eligible to pick up his firearm from Oak Tree Gun Club (an establishment in Los
25

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27
28 ¹⁴ Thus, Plaintiffs bring the instant action.

1 Angeles County) on March 28, 2020. Under Defendant Sheriff Villanueva’s current
2 Order, Plaintiff Brandy may not purchase any ammunition for it. Plaintiff Brady is
3 also prohibited from purchasing an additional self-defense firearm, much less the
4 ammunition required to actually use it, such as a backup handgun or long gun in case
5 his primary firearm fails or if circumstances suggest or require the use of a different
6 type of firearm, due to Defendant Sheriff Villanueva’s March 26 Order. Plaintiff
7 Brandy does not own or possess any ammunition and cannot purchase ammunition
8 except through a licensed ammunition vendor under California law. *See* California
9 Penal Code sections 30352, 30370. Thus, Plaintiff Brandy is prohibited from
10 exercising his right to keep and bear loaded, operable firearms for self-defense of
11 himself and his family, including in his home.
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16 66. Plaintiff Daemion Garro and Gun World have been forced to shut down,
17 reopen, and shut down again due to the extremely vague nature of Governor
18 Newsom’s Executive Order and the flip-flopping nature of Sheriff Villanueva’s
19 position on the essential nature of firearms retailers. This forced shutdown has
20 prevented Plaintiffs Garro and Gun World from providing necessary services and
21 products to ensure that their customers can exercise their fundamental rights to own
22 firearms for self-preservation. Plaintiff Garro and Gun World business and activities
23 of selling firearms are lawful and necessary for the safety and welfare of the public.
24 Plaintiff Garro’s business and activities of selling firearms to the general public are
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1 protected by the United States Constitution, by the laws of the State of California,
2 and authorized under the State and County Orders. Further, as a law-abiding gun
3 owner himself, Plaintiff Garro’s individual rights to keep and bear arms are being
4 deprived in the same manner as every other law-abiding gun owner in California
5 who is being and will continue to be barred from obtaining any additional
6 ammunition for the firearms he currently owns and any different or additional
7 firearms he may reasonably require to exercise those rights, for so long as the
8 challenged policies, practices, customs are permitted to remain in effect.
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12 67. Cities within the jurisdiction of the Defendant Los Angeles County
13 Sheriff’s Order have admitted to being confused about the State Defendants’ and
14 Los Angeles County Local Defendants’ differing and changing positions on the
15 essential nature of firearm retailers and ranges, and their ability to continue to
16 operate.
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18

19 68. The Los Angeles County Sheriff provides contract law enforcement for
20 dozens of cities in Los Angeles County, including the City of Cerritos, where
21 Plaintiff Match Grade is located, and in Santa Clarita, where Plaintiff A Place To
22 Shoot is located.¹⁵
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27 ¹⁵ See MUNICIPALITIES: Municipal Police Services - Contract Cities, online at
28 <http://shq.lasnews.net/content/uoa/CLB/CLEB%20Municipalities.pdf>.

1 69. Plaintiff Match Grade retained counsel to obtain legal advice in relation
2 to Defendant Sheriff Villanueva’s March 26 Order to determine whether it could
3 continue to operate. Further, Plaintiff Match Grade has ceased new sales due to
4 Defendant Sheriff Villanueva’s March 26 Order which has resulted in Plaintiff
5 Match Grade having to reduce hours of staff. Plaintiff Match Grade believes that it
6 will suffer further harm, including economic damages, and be forced to lay off its
7 specialized staff if the offending State and local orders and enforcement actions are
8 not enjoined.
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11 70. Further, as a law-abiding gun owner himself, the individual rights to
12 keep and bear arms of Plaintiff Montes (the owner and operator of Match Grade) are
13 being deprived in the same manner as every other law-abiding gun owner in
14 California who is being and will continue to be barred from obtaining any additional
15 ammunition for the firearms he currently owns and any different or additional
16 firearms he may reasonably require to exercise those rights, for so long as the
17 challenged policies, practices, customs are permitted to remain in effect.
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22 71. The City of Burbank issued the following statement on March 25, 2020,
23 regarding firearm and ammunition stores:

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

1 closed, but last night he reversed himself. The City is under the
2 jurisdiction of Los Angeles County Public Health for purposes of
3 the pandemic, and as such the City follows their orders.¹⁶

4 72. However, on March 27, 2020, Defendant Hess and Defendant City of
5 Burbank issued a new order (“Burbank March 27 Order”) that only allows “essential
6 businesses” under Local Defendants’ Safer at Home for Control of COVID-19 to
7 continue to operate subject to the City’s operating rules. A violation of the City’s
8 order is a misdemeanor crime under Burbank Municipal Code Section 1-1-105.¹⁷

9
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11 73. State Defendant Governor Newsom’s Executive Order N-33-20, and
12 State Defendant State Public Health Officer Angell’s March 19, 2020 Order and
13 March 22, 2020 list of “Essential Critical Infrastructure Workers,” are collectively
14 referred to as the “State Defendants’ Orders”.

15
16 74. Local Defendant City of Burbank, California and Local Defendant
17 Justin Hess’s March 25, 2020 Statement, and March 27, 2020, document captioned
18 “A Proclamation Instituting New Social Distancing Rules in the City of Burbank to
19 Prevent the Spread of COVID-19 by Director of Emergency Services,” are
20 collectively referred to as the “Burbank Defendants’ Orders”.

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26 ¹⁶ Burbank Police COVID-19 Updates, <https://www.burbankpd.org/covid19>.

27 ¹⁷ Burbank March 27 Order, online at
28 <https://www.burbankca.gov/home/showdocument?id=53116>.

1 75. Local Defendant City of Los Angeles, California and Local Defendant
2 Mayor Eric Garcetti’s “Public Order Under City of Los Angeles Emergency
3 Authority” is collectively referred to as the “City of Los Angeles Defendants’
4 Order”.

5
6 76. Local Defendant County of Los Angeles, California, and Local
7 Defendant Director of the Los Angeles County Department of Public Health Barbara
8 Ferrer’s “Safer at Home Order for Control of COVID-19” order, and Local
9 Defendant Los Angeles County Sheriff Alex Villanueva’s various Orders and
10 declarations, including his March 26 Order, are collectively referred to as the
11 “County of Los Angeles Defendants’ Orders”.

12
13 77. Plaintiffs, Plaintiffs’ Members and customers, and those similarly
14 situated to them, seek to exercise their right to keep and bear arms for self-defense
15 of themselves and their families, especially in times of crisis such as this.

16
17 78. The vague, arbitrary and capricious, overbroad, and mercurial nature of
18 the Defendants’ contradictory orders, policies, practices, customs, declarations, and
19 enforcement actions has only served only to further confuse Plaintiffs, Plaintiffs’
20 Members and customers, and those similarly situated to them, who seek to exercise
21 their rights and understand the laws without being subject to criminal and civil
22 liability for violations of said orders.

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1 79. Notably, on March 28, 2020, the Department of Homeland Security,
2 Cyber-Infrastructure Division (“CISA”), issued an “ADVISORY
3 MEMORANDUM ON IDENTIFICATION OF ESSENTIAL CRITICAL
4 INFRASTRUCTURE WORKERS DURING COVID-19 RESPONSE,” online at
5 <https://bit.ly/cisa-guidance-2020-3-28>, under its Web page for “Guidance on the
6 Essential Critical Infrastructure Workforce” during the COVID-19 pandemic.¹⁸
7
8 While the CISA’s guidance is advisory in nature, its findings and conclusions are
9 inherently entitled to great weight in this context, particularly since they were
10 “developed, in collaboration with other federal agencies, State and local
11 governments, and the private sector” for the specific purpose of “help[ing] State,
12 local, tribal and territorial officials as they work to protect their communities, while
13 ensuring continuity of functions critical to public health and safety, as well as
14 economic and national security.” To that very end, CISA specifically determined
15 that “[w]orkers supporting the operation of firearm or ammunition product
16 manufacturers, retailers, importers, distributors, and shooting ranges” fall squarely
17 within the “critical infrastructure workforce.”
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¹⁸ Guidance on the Essential Critical Infrastructure Workforce, <https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce>.

1 84. Defendants’ orders, directives, policies, practices, customs, and
2 enforcement actions prohibit law-abiding individuals from purchasing firearms and
3 ammunition for the purpose of protecting themselves and their families (or for any
4 other purpose). Independently and collectively, these stand as a bar on firearms
5 acquisition and ownership and amount to a categorical ban on and infringement of
6 the right to keep and bear arms and the privileges and immunities of citizenship.
7

9 85. State and local governments do not have the power categorically to
10 prohibit the keeping and bearing of arms by law-abiding people, nor to close off the
11 channels of access by which individuals lawfully obtain and transfer firearms and
12 ammunition.
13

14 86. Because firearm and ammunition transfers must be facilitated by a
15 licensed dealer, Defendants’ orders, directives, policies, practices, customs, and
16 enforcement actions amount to a ban on purchasing and transferring firearms and
17 ammunition. As a result, law-abiding citizens who wish to comply with state laws –
18 by submitting to, for example, background checks, waiting period laws, in-person
19 transfers and safety tests and demonstrations – are foreclosed from acquiring
20 firearms and ammunition legally.
21

22 87. Defendants’ policies, laws, acts, and omissions are untailed and
23 irrational, and expressly allow some goods retailers to continue operating but prevent
24 Retailer Plaintiffs and others similarly situated from operating and selling their
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1 goods to their customers and members of the public, including Individual Plaintiffs
2 and Institutional Plaintiffs’ members, thereby violating Plaintiffs’ rights. The
3
4 CISA’s recently published “Guidance on the Essential Critical Infrastructure
5 Workforce” strongly punctuates this point, through its considered determination that
6
7 “[w]orkers supporting the operation of firearm or ammunition product
8 manufacturers, retailers, importers, distributors, and shooting ranges” fall squarely
9 within the “critical infrastructure workforce” and thus should not only be permitted
10 to, but supported in, continuing their essential operations for the benefit of the public.
11

12 88. Individual and Retailer Plaintiffs reasonably fear that Defendants will
13 enforce against them State Defendants’ Orders, Burbank Defendants’ Orders, City
14 of Los Angeles Defendants’ Order, County of Los Angeles Defendants’ Orders, and
15 Defendants’ related policies, practices, and customs.
16

17 89. Institutional Plaintiffs reasonably fear that Defendants will enforce
18 against their members –including Individual and Retailer Plaintiffs and similarly
19 situated persons – the challenged laws, policies, practices, and customs.
20
21

22 90. Defendants’ laws and ongoing enforcement and threats of enforcement
23 of State Defendants’ Orders, Burbank Defendants’ Orders, City of Los Angeles
24 Defendants’ Order, County of Los Angeles Defendants’ Orders, against the Plaintiffs
25 and/or the Plaintiffs’ members, as well as their ongoing customs, polices, and/or
26 practices of State Defendants’ Orders, Burbank Defendants’ Orders, City of Los
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1 Angeles Defendants’ Order, County of Los Angeles Defendants’ Orders,, violate the
2 Second and Fourteenth Amendments.

3
4 91. Defendants’ laws, policies, practices, customs, and ongoing
5 enforcement and threats of enforcement of their various orders and directives against
6 the Plaintiffs, the Plaintiffs’ members and customers, and similarly situated members
7 of the public, which prevent the Plaintiffs, Plaintiffs’ members and customers, and
8 similarly situated members of the public from exercising their rights, including the
9 purchase, sale, transfer of, and training with constitutionally protected arms,
10 ammunition, magazines, and appurtenances – are thus causing injury and damage
11 that is actionable under 42 U.S.C. § 1983.
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14

15 **COUNT TWO**
16 **DEPRIVATION OF CIVIL RIGHTS**
17 **DUE PROCESS**
18 **U.S. CONST., AMENDS. V AND XIV, 42 U.S.C. § 1983**

19 92. Plaintiffs incorporate herein by reference paragraphs 1 through 91 as if
20 fully set forth herein.

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

22
23 94. Defendants’ conflicting and confusing orders, policies, practices,
24 customs, and enforcement actions are arbitrary and capricious, overbroad,
25 unconstitutionally vague, and violate Plaintiffs, Plaintiffs’ members and customers,
26 and similarly situated members of the public’s Due Process rights.
27
28

1 95. No one of reasonable intelligence, or high intelligence for that matter,
2 with honest intentions of complying with the various conflicting directives at the
3 state and local level could determine to any reasonable degree of certainty whether
4 a firearm and/or ammunition retailer is or is not an “essential” business that can or
5 should remain open to serve the constitutionally protected needs of the general public
6 in this time of crisis.
7

8
9 96. The general edict of Defendant Governor Newsom in Executive Order
10 N-33-20 expressly declared that “all residents are directed to immediately heed the
11 current State public health directives.” He specifically cited and incorporated into
12 the edict those directives set forth in the Safer at Home Order for Control of COVID-
13 19. Besides his later *ad hoc* response to a question posed at a news conference,
14 stating he would ultimately leave it to local sheriffs to determine whether gun shops
15 in the localities are “essential,” the Governor has not since issued any formal
16 statements or other amendments to his initial Order advising residents to follow the
17 directives of anyone other than the State Public Health Officer on the matter of which
18 retailers may continue operating as “essential” businesses.
19

20
21 97. An *ad hoc* statement of the Governor at a news conference, reaching
22 only those who happened to be tuned into the broadcast or who read a news article
23 about it later, cannot reasonably be deemed to have superseded an official written
24 publication posted on the Governor’s website and circulated statewide. Similarly,
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1 such a statement could not reasonably be deemed to have superseded the Local
2 Defendants’ orders. The County’s Order specifically provides that it “does not
3 supersede any stricter limitation imposed by a local public entity within the *Los*
4 *Angeles County Public Health Jurisdiction.*” Because the County Sheriff is not part
5 of the public health jurisdiction, any “stricter limitation” he may have declared in
6 this respect would *not* supersede this Order, leaving it unaffected. Consequently,
7 residents of Los Angeles County are effectively left with two distinctly different
8 standards on this same subject – the orders of the State and County Health Officers,
9 which do *not* expressly deem firearm retailers as “non-essential,” and the Sheriff’s
10 declaration which does expressly deem them as “non-essential.” This conflict alone
11 produces constitutionally intolerable vagueness because residents have no clear idea
12 or notice of which of these directives applies in the first instance.

17
18 98. Moreover, to whatever extent the Governor’s *ad hoc* press conference
19 declaration deferring to local sheriffs here may have the force of law, as the County
20 Sheriff is currently using it, that declaration itself violates fundamental principles of
21 due process, because it sets the stage for the very sort of arbitrary and capricious
22 enforcement at the heart of the void-for-vague doctrine. If allowed to stand, citizens
23 around the state will be faced with varying declarations, edicts, and orders
24 concerning whether and under what circumstances firearm retailers may remain in
25 operation as “essential” service providers. This can already be seen in the existing
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1 conflict between San Diego and Los Angeles County, where the residents of these
2 two Southern California counties within close proximity to one another are being
3 subjected to two completely different forms of law enforcement concerning the same
4 subject even though it all of them in the very same way.

6 99. And what is to be made of the 46 “non-contract” cities within the
7 County of Los Angeles that are *not* subject to the Defendant Sheriff Villanueva’s
8 declaration that firearms retailers are “non-essential?” Since, according to the
9 Sheriff’s own words, the declaration does not apply to these cities, all of them will
10 apparently be left to establish and implement their individual determinations,
11 creating the possibility of significant variation throughout the entire County.

12 100. A similar breed of arbitrariness subsists within the County’s Safer at
13 Home Order itself, as the order classifies as “essential” a variety of businesses which
14 have no clear connection to *essential* goods and services, particularly in a time of
15 crisis. For example, mowing, landscaping, gardening, and personal grooming
16 services are deemed to expressly fall within this category, while firearms retailers
17 are not, even though their connection to the *essentials* of life in a crisis – securing
18 the fundamental right of defense of the self and home through all lawful means – is
19 crystal clear, as highlighted in CISA’s published guidelines.

20 201. Additionally, while the Safer at Home Order does not expressly include
21 firearms retailers as “essential” businesses, it does not expressly *exclude* them either,
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1 creating further confusion since, again, the Order stands independent of and
2 unaffected by the declaration of the Sheriff. For instance, Paragraph 13(a) of the
3 Order defines “Essential Businesses” as including “establishments engaged in the
4 retail sale of ... other household consumer products ... [including] stores that sell ...
5 products necessary to maintaining the safety ... and essential operation of
6 residences.” Paragraph 13(h) also “other service providers who provide services to
7 maintain the safety ... and essential operation of properties and other Essential
8 Businesses.” And Paragraph 13(n) includes businesses that “supply other Essential
9 Businesses with the support or supplies necessary to operate.” Paragraph 13(o)
10 protects “businesses that ship ... goods ... to residences, Essential Businesses[.]”

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15 102. As so defined, the Order could reasonably be interpreted to mean
16 firearm retailers fall within the intended definition of “essential businesses,” contrary
17 to the Sheriff’s “non-essential declaration.”
18

19 103. Plaintiffs are comprised of individuals eligible to possess and acquire
20 firearms and ammunition, firearm and ammunition retailers, education facilities and
21 shooting ranges, and institutional entities who desire to shop, purchase, transfer and
22 sell firearms, including ammunition, magazines, and appurtenances, but are
23 precluded from doing so — without reasonable fear of criminal prosecution — as a
24 direct result of the unlawful, vague, and unduly overbroad laws, orders, policies,
25 practices, customs, and enforcement issued by Defendants in this case.
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1 104. Retailer Plaintiffs, and others similarly situated, are firearms dealers
2 supplying retail sales and services for self-defense and law enforcement (itself an
3 essential service). These sales include items like firearms, ammunition, accessories,
4 appurtenances, survival gear, and other consumer products both at retail and online
5 (including shipping). The services include those that are mandated by state law to
6 effect firearm transfers, such as the initiation of background checks, administration
7 and collection of personal identifying data (including fingerprints), administration
8 of waiting period laws, administration of firearm safety tests, and safe handling
9 demonstrations, all of which must be conducted in person pursuant to state law.
10

11 105. These same Plaintiffs fall within the essential meaning of “Essential
12 Businesses” definitions in the County’s Safer at Home Order, and within any other
13 reasonable definition of that term, because they are establishments engaged in the
14 retail sale of household consumer products necessary for maintaining the safety of
15 its residents, including the sale or transfer of pistols, rifles, shotguns, ammunition,
16 accessories, and components necessary for the defense of their home, selves, and
17 defense of others. They are service providers who provide products such as firearms,
18 ammunition, and servicing of same that are needed to maintain the safety and
19 essential operation of residences (home and personal defense) and other essential
20 businesses. They are businesses that ship goods to residences and essential
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1 businesses. They are, in every meaningful sense, “essential,” as CISA has recognized
2 and as San Diego County has declared in expressly deeming them such.

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4 106. However, the subject Orders deprive or fail to accord these business
5 such status; they do not define critical terms; they encompass protected and non-
6 protected actions; they omit definitions of key terms; they operate as complete bans;
7 they do not require specific intent to commit an unlawful act; and they permit and
8 encourage arbitrary and erratic arrests and convictions with too much discretion
9 committed to law enforcement. This breadth and built-in vagueness run afoul of the
10 due process clause because the subject Orders fail to give adequate guidance to those
11 who would be law-abiding, to advise them of the nature of the offense with which
12 they may be charged, or to guide courts in trying those who are accused of violating
13 such Orders. Plaintiffs, including retailers and consumers, cannot be required to
14 guess at the meaning of such Orders. As a direct result, such Orders must be
15 invalidated on their face and as applied.

16
17 107. The subject Orders are also unconstitutionally vague and overly broad
18 because they are worded in a standard-less way that invites arbitrary enforcement.
19 This impermissible uncertainty is illustrated when sheriffs from two different
20 counties (San Diego and Los Angeles) openly and publicly disagree on whether gun
21 shops/firearm retail stores (including shipping activities) are essential businesses or
22 not. If the Governor of the State of California, the State Public Health Officer, 58
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1 county sheriffs, the 88 cities within Los Angeles County, the various county counsel,
2 city leaders and police chiefs, and local health officials of each municipality cannot
3 agree on and clearly declare what individuals and businesses are or are not “covered”
4 under the State Defendants’ orders, and how local authorities should interpret and
5 apply them, then it is neither reasonable nor feasible for persons of reasonable
6 intelligence and honest intentions, including Plaintiffs and Plaintiffs’ members and
7 customers, to understand and abide by such Orders.
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11 108. Defendants’ laws and ongoing enforcement and threats of enforcement
12 of their various orders and directives against the Plaintiffs, the Plaintiffs’ members
13 and customers, and similarly situated members of the public, as well as their ongoing
14 policies and practices are unconstitutionally vague, arbitrary and capricious, fail to
15 provide adequate notice, and place Plaintiffs, Plaintiffs’ members and customers,
16 and similarly situated members of the public at risk of serious criminal and civil
17 liability, including arrest, prosecution, loss of rights, fines, and, with respect to the
18 Retailer Plaintiffs, loss of their licenses. Defendants’ orders and actions violate the
19 Fifth and Fourteenth Amendment rights of Plaintiffs, Plaintiffs’ members and
20 customers, and similarly situated members of the public and are thus causing injury
21 and damage that is actionable under 42 U.S.C. § 1983.
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26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiffs pray for the following relief:
28

1 1. A declaratory judgment that the operation of firearm and ammunition
2 product manufacturers, retailers, importers, distributors, and shooting ranges are
3 essential under the State Defendants’ Orders and the Federal Government’s March
4 28, 2020 “Essential Critical Infrastructure Workforce” Guidance and allowed to
5 operate, or in the alternative, that State Defendants’ Orders, enforcement policies,
6 practices, and customs individually and/or collectively prohibit the operation of
7 licensed firearm and ammunition product manufacturers, retailers, importers,
8 distributors, and shooting ranges and thus individually and/or collectively violate the
9 Second, Fifth, and Fourteenth Amendments;
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13 2. If State Defendants’ Orders, enforcement policies, practices, and
14 customs individually and/or collectively prohibit the operation of licensed firearm
15 retailers and shooting ranges and thus individually and/or collectively violate the
16 Second, Fifth, and Fourteenth Amendment, a preliminary and permanent injunction
17 restraining State Defendants and their officers, agents, servants, employees, and all
18 persons in concert or participation with them who receive notice of the injunction,
19 from enforcing State Defendants’ Orders and enforcement policies, practices, and
20 customs that individually and/or collectively violate the Second, Fifth, and
21 Fourteenth Amendments;
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26 3. A declaratory judgment that Local Defendants’ Orders, including the
27 County of Los Angeles Defendants’ Orders, Burbank Defendants’ Orders, and City
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1 of Los Angeles Defendants’ Order, and Local Defendants’ enforcement policies,
2 practices, and customs challenged herein individually and/or collectively violate the
3
4 Second, Fifth, and Fourteenth Amendments;

5 4. A preliminary and permanent injunction restraining Local Defendants
6 and their officers, agents, servants, employees, and all persons in concert or
7 participation with them who receive notice of the injunction, from enforcing their
8 respective Orders and enforcement policies, practices, and customs that individually
9 and/or collectively violate the Second, Fifth, and Fourteenth Amendments;
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12 5. Nominal damages against Local Defendants;

13 6. All other and further relief, including injunctive relief, against
14 Defendants as necessary to effectuate the Court’s judgment, or as the Court
15 otherwise deems just and equitable; and,
16

17 7. Attorney’s fees and costs pursuant to 42 U.S.C. § 1988 and any other
18 applicable law.
19

20 Respectfully submitted this 29th day of March 2020.
21

22
23 **SEILER EPSTEIN LLP**

24 */s/ George M. Lee*
25 _____
George M. Lee

26 Attorney for Plaintiffs
27
28

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7 Fax: (415) 979-0511

8 Attorney for Plaintiffs

9 **UNITED STATES DISTRICT COURT**

10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

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

21 Plaintiffs,

22 vs.

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

Case No.

**COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF**

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

4 Defendants.

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

10 **INTRODUCTION**

11
12 1. In California, individuals are required to purchase and transfer firearms
13 and ammunition through state and federally licensed dealers or face serious criminal
14 penalties.

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

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

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

7
8 **PARTIES**

9
10 *Individual Plaintiffs*

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

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

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

9 12. Plaintiff California Gun Rights Foundation (“CGF”) is a nonprofit
10 foundation incorporated under the laws of California with its principal place of
11 business in Sacramento, California. CGF serves its members, supporters, and the
12 public through educational, cultural, and judicial efforts to defend and advance
13 Second Amendment and related rights. CGF has thousands of members and
14 supporters in California, including in Los Angeles County and Individual and
15 Retailer Plaintiffs herein. The interpretation and enforcement of the Second
16 Amendment directly impacts CGF’s organizational interests, as well as the rights of
17 CGF’s members and supporters. CGF has expended and diverted resources, and
18 adversely and directly harmed, because of Defendants’ laws, policies, practices, and
19 customs challenged herein. CGF brings this action on behalf of itself, its members,
20 supporters who possess all the indicia of membership, and similarly situated
21 members of the public. Individual Plaintiffs and Retailer Plaintiff are, each and every
22 one, members of FPC.
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1 13. Plaintiff the National Rifle Association of America (“NRA”) is a
2 nonprofit corporation organized under the laws of the State of New York with its
3 principal place of business in Fairfax, Virginia. The NRA is America’s leading
4 provider of gun-safety and marksmanship education for civilians and law
5 enforcement. It is also an important defender of the Second Amendment to the
6 United States Constitution. The NRA has over five million members, and its
7 programs reach millions more. NRA’s members reside both outside and within the
8 State of California, including in Los Angeles County, California. NRA represents its
9 members and supporters and brings this action on behalf of itself, its members,
10 supporters who possess all the indicia of membership, and similarly situated
11 members of the public. NRA has expended and diverted resources, and adversely
12 and directly harmed, because of Defendants’ laws, policies, orders, practices, and
13 customs challenged herein.

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19 14. Plaintiff Firearms Policy Coalition, Inc. (“FPC”) is a non-profit
20 organization incorporated under the laws of Delaware with a place of business in
21 Sacramento, California. The purposes of FPC include defending and promoting the
22 People’s rights, especially but not limited to First and Second Amendment rights,
23 advancing individual liberty, and restoring freedom. FPC serves its members and the
24 public through legislative advocacy, grassroots advocacy, litigation and legal efforts,
25 research, education, outreach, and other programs. FPC’s members reside both
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1 outside and within the State of California, including in Los Angeles County,
2 California. FPC represents its members and supporters — who include gun owners,
3 individuals who wish to acquire firearms and ammunition, licensed California
4 firearm retailers, and others — and brings this action on behalf of itself, its members,
5 supporters who possess all the indicia of membership, and similarly situated
6 members of the public. FPC has expended and diverted resources, and adversely and
7 directly harmed, because of Defendants’ laws, policies, orders, practices, and
8 customs challenged herein. Individual Plaintiffs and Retailer Plaintiff are, each and
9 every one, members of FPC.

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13 *State Defendants*

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

21
22
23 16. Defendant Sonia Y. Angell is the California Public Health Officer.
24 Defendant Angell is the head of the California Department of Public Health
25 (“CDPH”). The CDPH is the State department responsible for public health in
26 California and a subdivision of the California Health and Human Services Agency
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1 (“CHHSA”). It enforces some of the laws in the California Health and Safety Codes,
2 including those at issue herein. Defendant Angell is sued in her official capacity.
3

4 *Local Defendants*

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

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

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

21 20. This Court has jurisdiction over all claims for relief pursuant to 28
22 U.S.C. §§ 1331, 1343, 2201, and 2202, and 42 U.S.C. §§ 1983 and 1988, as this
23 action seeks to redress the deprivation under color of the laws, statutes, ordinances,
24 regulations, customs, and usages of the State of California, of the rights, privileges
25 or immunities secured by the United States Constitution.
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1 21. Venue lies in this Court under 28 U.S.C. § 1391, as the events giving
2 rise to Plaintiffs’ causes of action arose or exist in this District in which the action is
3 brought. Venue is also proper under 28 U.S.C. § 1391, as the venue rules of this State
4 specifically permit this action to be filed in Los Angeles, since Defendants maintain
5 offices within this District; Cal. Code of Civ. Pro. § 401(1).
6
7

8 **PERTINENT CONSTITUTIONAL PROVISIONS**

9 22. The Second Amendment to the United States Constitution provides:
10

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

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

25 25. The Fourteenth Amendment to the United States Constitution provides
26 in pertinent part:
27
28

1 No state shall make or enforce any law which shall abridge
2 the privileges or immunities of citizens of the United
3 States; nor shall any state deprive any person of life,
4 liberty, or property, without due process of law; nor deny
5 to any person within its jurisdiction the equal protection of
6 the laws.

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PERTINENT STATUTES AND REGULATIONS

9

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

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

6
7 27. Government Code section 8665 states:

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

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

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

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

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

...

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

...

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

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

11
12 **STATEMENT OF FACTS**

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

16 33. On March 4, 2020, Defendant Newsom proclaimed a State of
17 Emergency as a result of COVID-19.
18

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

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

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

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

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

14
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16 37. Defendant Angell’s Order also reserved to Defendant Angell the
17 authority to “designate additional sectors as critical in order to protect the health and
18 well-being of all Californians.”

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

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

26
27 ⁵ Order of the State Public Health Officer, Mar. 19, 2020,
28 [https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/
COVID-19/Health%20Order%203.19.2020.pdf](https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Health%20Order%203.19.2020.pdf).

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

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

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

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

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

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

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

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

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

23
24 ⁹ FOX 11 Los Angeles, “LA County Sheriff orders gun stores to close; adds 1,300
25 deputies to patrol,” <https://www.foxla.com/news/la-county-sheriff-orders-gun-stores-to-close-adds-1300-deputies-to-patrol>.

26
27 ¹⁰ NBC Los Angeles, “LA County Sheriff Reverses Decision on Closing Gun
28 Shops,” <https://www.nbclosangeles.com/news/local/coronavirus-covid-19-los-angeles-county-sheriff-gun-shops-second-amendment/2334792/>.

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

6
7 47. Sheriff Villanueva’s Order specified that licensed firearm retailers shall
8 be permitted to sell ammunition to “security guard companies” and those who “have
9 already lawfully purchased a firearm, possess a valid California Firearms Safety
10 Certificate (CFS), and simply need to take possession of their firearm.

11
12 48. Plaintiff Brandy purchased his first firearm on March 18, 2020. He is
13 eligible to pick up his firearm from Oak Tree Gun Club on March 28, 2020. Under
14 Sheriff Villanueva’s current Order, Plaintiff Brandy will be able to take possession
15 of his firearm. However, Plaintiff Brandy is now unable to purchase any ammunition
16 for his firearm or able to purchase an additional firearm due to Sheriff Villanueva’s
17 most recent Order prohibiting firearm and ammunition sales in Los Angeles County.
18 Plaintiff Brandy does not own or possess any ammunition, and is prohibited from
19 purchasing ammunition except through a license ammunition vender under
20 California law. See California Penal Code sections 30352, 30370. Thus, Plaintiff
21

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27 _____
28 ¹¹ WTRF.com, “Déjà vu: LA County Sheriff Closes Gun Shops Again,”
<https://www.wtrf.com/news/national/deja-vu-la-county-sheriff-closes-gun-shops-again/>.

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

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

15
16 50. Cities within the jurisdiction of Los Angeles County Sheriff’s Order
17 have admitted to the confusion of the Governor’s Executive Order and Sheriff
18 Villanueva’s changing positions on the essential nature of firearm retailers. The City
19 of Burbank issued the following statement on March 25, 2020 regarding gun stores:

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

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

4 51. Plaintiffs, as well as those similarly situated, seek to exercise their
5 Second Amendment right to defend themselves and their families, especially in times
6 of crisis such as this. The extremely vague nature of the Governor’s Executive Order,
7 the County of Los Angeles Public Health Order, and Sheriff Villanueva’s Orders
8 have only served to confuse those wishing to ensure their safety and subjected
9 Plaintiffs and those similarly situated to criminal liability for violation of said orders.

10 52. As to all claims made in a representative capacity herein, there are
11 common questions of law and fact that substantially affect the rights, duties, and
12 liabilities of many similarly-situated California residents and visitors who knowingly
13 or unknowingly are subject to the California statutes, regulations, policies, practices,
14 and customs in question. The relief sought in this action is declaratory and injunctive
15 in nature, and the action involves matters of substantial public interest.
16 Considerations of necessity, convenience, and justice justify relief to individual and
17 institutional Plaintiffs in a representative capacity. Further, to the extent it becomes
18 necessary or appropriate, the institutional Plaintiffs are uniquely able to
19 communicate with and provide notice to their thousands of California members and
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28 ¹² Burbank Police COVID-19 Updates, <https://www.burbankpd.org/covid19/>.

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

3
4 **DECLARATORY JUDGMENT ALLEGATIONS**

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

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18 **INJUNCTIVE RELIEF ALLEGATIONS**

19
20 54. Plaintiffs are presently and continuously injured by Defendants’
21 enforcement of Executive Order N-33-20, Safer at Home Order For Control of
22 COVID-19, the Los Angeles County Sheriff’s March 26, 2020 Order, and
23 Defendants’ policies, practices, and customs, insofar as those provisions violate
24 Plaintiffs’ rights under the Due Process, Second and Fourteenth Amendments by
25 prohibiting the lawful acquisition, sale, transfer, transport, use, and ownership of
26 constitutionally protected arms.
27
28

1 55. If not enjoined by this Court, Defendants will continue to enforce
2 Executive Order N-33-20, Safer at Home Order For Control of COVID-19, the Los
3 Angeles County Sheriff’s March 26, 2020 Order and Defendants’ policies, practices,
4 and customs in derogation of the constitutional rights of Plaintiffs and similarly
5 situated law-abiding people.
6
7

8 56. Plaintiffs have no plain, speedy, and adequate remedy at law. Except
9 for the economic damages to Retailer Plaintiffs, damages are indeterminate or
10 unascertainable and, in any event, would not fully redress any harm suffered by
11 Plaintiffs because they are unable to engage in constitutionally protected activity.
12
13

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

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

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

21 59. Executive Order N-33-20, Safer at Home Order For Control of COVID-
22 19, the Los Angeles County Sheriff’s March 26, 2020 Order and Defendants’
23 policies, practices, and customs prohibit law-abiding individuals from purchasing
24 firearms and ammunition for the purpose of protecting themselves and their families
25 (or for any other purpose). Independently and collectively, these acts stand as a bar
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1 on firearms acquisition and ownership and amount to a categorical ban on and
2 infringement of the right to keep and bear arms and the privileges and immunities of
3
4 citizenship.

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

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

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

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

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

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

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

23 67. Defendants’ laws and ongoing enforcement and threats of enforcement
24 of Executive Order N-33-20, Safer at Home Order For Control of COVID-19, the
25
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1 Los Angeles County Sheriff’s March 26, 2020 Order against the Plaintiffs and/or the
2 Plaintiffs’ members, as well as their ongoing policy or practice of Executive Order
3
4 N-33-20, Safer at Home Order For Control of COVID-19, the Los Angeles County
5 Sheriff’s March 26, 2020 Order, prevents the Plaintiffs, Plaintiffs’ members, and
6
7 those similarly situated from exercising their rights, including the purchase, sale, and
8
9 transfer of constitutionally protected arms including but not limited to firearms,
10
11 ammunition, magazines, and appurtenances, thus causing injury and damage that is
12
13 actionable under 42 U.S.C. § 1983.

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

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

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

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

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

V. An injunction directing Defendants 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 Defendants from enforcing their laws, policies, practices, and customs that prevent individuals from buying and selling arms in accordance with State and federal laws;

VI. Nominal damages against Local Defendants;

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- VII. All other and further relief, including injunctive relief, against Defendants as necessary to effectuate the Court’s judgment, or as the Court otherwise deems just and equitable; and,
- VIII. Attorney’s fees and costs pursuant to 42 U.S.C. § 1988 and any other applicable law.

Respectfully submitted this 27th day of March 2020.

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George M. Lee

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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

ADAM BRANDY, an individual;
JONAH MARTINEZ, an individual;
DAEMION GARRO, an individual;
DG 2A ENTERPRISES INC., d.b.a.
GUN WORLD; JASON MONTES, an
individual; WEYLAND-YUTANI LLC,
d.b.a. MATCH GRADE GUNSMITHS;
ALAN KUSHNER, an individual; THE
TARGET RANGE; TOM WATT, an
individual; A PLACE TO SHOOT, INC.;
SECOND AMENDMENT
FOUNDATION; CALIFORNIA GUN
RIGHTS FOUNDATION; NATIONAL
RIFLE ASSOCIATION OF AMERICA;
and FIREARMS POLICY COALITION,
INC.,

Plaintiffs,

Case No. 2:20-cv-02874-AB-AK

vs.

ALEX VILLANUEVA, in his official capacity as Sheriff of Los Angeles County, California, and in his capacity as the Director of Emergency Operations;
BARBARA FERRER, in her official capacity as Director of Los Angeles County Department Of Public Health;
COUNTY OF LOS ANGELES,

Defendants.

NOTICE OF APPEAL

PLEASE TAKE NOTICE that Plaintiffs Jonah Martinez, Jason Montes, Weyland-Yutani LLC, d.b.a. Match Grade Gunsmiths, Alan Kushner, The Target Range, Tom Watt, A Place to Shoot, Inc., Second Amendment Foundation, California Gun Rights Foundation, National Rifle Association of America, 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 respectively on October 20, 2020 and November 9, 2020 (ECF Doc. 68 and Doc. 70). A copy of the order and judgment are attached hereto.

Further, Plaintiffs Adam Brandy, Daemion Garro, DG 2A Enterprises Inc., d.b.a. Gun World, who are parties to the order and judgment, *do not* enter a notice of appeal.

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

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA (Western Division - Los Angeles)
CIVIL DOCKET FOR CASE #: 2:20-cv-02874-AB-SK**

Adam Brandy et al v. Alex Villanueva et al
Assigned to: Judge Andre Birotte Jr
Referred to: Magistrate Judge Steve Kim
Case in other court: Ninth CCA, 20-56233
Cause: 42:1983 Civil Rights Act

Date Filed: 03/27/2020
Date Terminated: 11/09/2020
Jury Demand: Defendant
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

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V.

Defendant

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California, and in his capacity as the Director of
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TERMINATED: 07/08/2020

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Sonia Y. Angell

*in her official capacity as California Public Health Officer
TERMINATED: 07/08/2020*

represented by **Peter H Chang**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Defendant

Barbara Ferrer

*in her official capacity as Director of Los Angeles County
Department Of Public Health*

represented by **Paul B Beach**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Jin S Choi

(See above for address)
ATTORNEY TO BE NOTICED

Defendant

County of Los Angeles

represented by **Paul B Beach**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Jin S Choi

(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Eric Garcetti

*in his official capacity as Mayor of the City of Los Angeles
TERMINATED: 07/08/2020*

represented by **Jonathan H Eisenman**
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ATTORNEY TO BE NOTICED

Defendant

City of Los Angeles California
TERMINATED: 07/08/2020

represented by **Jonathan H Eisenman**
 (See above for address)
ATTORNEY TO BE NOTICED

Benjamin F Chapman
 (See above for address)
ATTORNEY TO BE NOTICED

Defendant

Justin Hess
*in his official capacity as City Manager and Director of
 Emergency Services for the City of Burbank*
TERMINATED: 07/06/2020

Defendant

City of Burbank California
TERMINATED: 07/06/2020

Date Filed	#	Docket Text
03/27/2020	1	COMPLAINT Receipt No: ACACDC-25883116 - Fee: \$400, filed by plaintiffs National Rifle Association of America, DG2A Enterprises Inc., Firearms Policy Coalition, Daemion Garr, Adam Brandy, Second Amendment Foundation, California Gun Rights Foundation. (Attachments: # 1 Civil Cover Sheet) (Attorney George M Lee added to party Adam Brandy(pty:pla), Attorney George M Lee added to party California Gun Rights Foundation(pty:pla), Attorney George M Lee added to party DG2A Enterprises Inc.(pty:pla), Attorney George M Lee added to party Firearms Policy Coalition(pty:pla), Attorney George M Lee added to party Daemion Garr(pty:pla), Attorney George M Lee added to party National Rifle Association of America (pty:pla), Attorney George M Lee added to party Second Amendment Foundation(pty:pla))(Lee, George) (Entered: 03/27/2020)
03/27/2020	2	Request for Clerk to Issue Summons on Complaint (Attorney Civil Case Opening),,, 1 filed by plaintiffs Adam Brandy, California Gun Rights Foundation, DG2A Enterprises Inc., Firearms Policy Coalition, Daemion Garr, National Rifle Association of America, Second Amendment Foundation. (Lee, George) (Entered: 03/27/2020)
03/27/2020	3	NOTICE of Interested Parties and Corporate Disclosure Statement filed by plaintiffs Adam Brandy, California Gun Rights

		Foundation, DG2A Enterprises Inc., Firearms Policy Coalition, Daemion Garr, National Rifle Association of America, Second Amendment Foundation. (Lee, George) (Entered: 03/27/2020)
03/27/2020	4	NOTICE OF ASSIGNMENT to District Judge Andre Birotte Jr and Magistrate Judge Steve Kim. (lh) (Entered: 03/27/2020)
03/27/2020	5	NOTICE TO PARTIES OF COURT-DIRECTED ADR PROGRAM filed. (lh) (Entered: 03/27/2020)
03/27/2020	6	21 DAY Summons Issued re Complaint (Attorney Civil Case Opening), 1 as to Defendants Sonia Y. Angell, County of Los Angeles, Barbara Ferrer, Gavin Newsom, Alex Villanueva. (lh) (Entered: 03/27/2020)
03/27/2020	7	NOTICE OF DEFICIENCIES in Attorney Case Opening RE: Notice (Other), 3 . The following error(s) was found: Other error(s) with document(s): An incorrect event was selected for Document No. 3. The correct event is Certificate/Notice of Interested. You are not required to take any action in response to this notice unless the Court so directs. (lh) (Entered: 03/27/2020)
03/27/2020	8	NOTICE OF DEFICIENCIES in Attorney Case Opening RE: Complaint (Attorney Civil Case Opening), 1 . The following error(s) was found: Other error(s) with document(s): Attachments No. 1 Civil Cover Sheet should not have been attached to Docket Entry No. 1. Each document should have been filed separately. You are not required to take any action to correct this deficiency unless the Court so directs. (lh) (Entered: 03/27/2020)
03/29/2020	9	FIRST AMENDED COMPLAINT against defendants All Defendants amending Complaint (Attorney Civil Case Opening),,, 1 , filed by plaintiffs Firearms Policy Coalition, Inc., Daemion Garr, Adam Brandy, National Rifle Association of America, DG2A Enterprises Inc., Second Amendment Foundation, California Gun Rights Foundation, Jason Montes, The Target Range, A Place to Shoot, Alan Kushner, Jonah Martinez, Weyland-Yutani LLC, Tom Watt(Attorney George M Lee added to party Jonah Martinez(pty:pla), Attorney George M Lee added to party Weyland-Yutani LLC(pty:pla), Attorney George M Lee added to party Alan Kushner(pty:pla), Attorney George M Lee added to party Jason Montes(pty:pla), Attorney George M Lee added to party The Target Range(pty:pla), Attorney George M Lee added to party A Place to Shoot(pty:pla), Attorney George M Lee added to party Tom Watt(pty:pla))(Lee, George) (Entered: 03/29/2020)
03/29/2020	10	Request for Clerk to Issue Summons on Amended Complaint/Petition,,, 9 filed by plaintiffs A Place to Shoot, Adam Brandy, California Gun Rights Foundation, DG2A Enterprises Inc., Firearms Policy Coalition, Inc., Daemion Garr, Alan Kushner, Jonah Martinez, Jason Montes, National Rifle Association of America, Second Amendment Foundation, The Target Range, Tom Watt, Weyland-Yutani LLC. (Lee, George) (Entered: 03/29/2020)
03/29/2020	11	<i>Amended</i> NOTICE of Interested Parties filed by counsel of record All Plaintiffs, (Lee, George) (Entered: 03/29/2020)
03/30/2020	12	STANDING ORDER upon filing of the complaint by Judge Andre Birotte Jr. (cb) (Entered: 03/30/2020)
03/30/2020	13	21-DAY Summons Issued re First Amended Complaint 9 as to Defendants Alex Villanueva, in his official capacity as Sheriff of Los Angeles County, California; Gavin Newsom, in his official capacity as Governor and Commander in Chief of the State of California; Sonia Y. Angell, in her official capacity as California Public Health Officer; Barbara Ferrer, in her official capacity as Los Angeles County Department of Public Health; County of Los Angeles; Eric Garcetti, in his official capacity as Mayor of the City of Los Angeles; City of Los Angeles, California; Justin Hess, in his official capacity as City Manager and Director of Emergency Services for the City of Burbank; City of Burbank, California. (gk) (Entered: 03/30/2020)

03/30/2020	14	EX PARTE APPLICATION for Temporary Restraining Order as to Enforcement of Firearm Business Closure Orders filed by counsel for plaintiffs A Place to Shoot, Adam Brandy, California Gun Rights Foundation, DG2A Enterprises Inc., Firearms Policy Coalition, Inc., Daemion Garr, Alan Kushner, Jonah Martinez, Jason Montes, National Rifle Association of America, Second Amendment Foundation, The Target Range, Tom Watt, Weyland-Yutani LLC. (Attachments: # 1 Memorandum in Support of Application, # 2 Declaration of George M. Lee, # 3 Declaration of Jason Montes, # 4 Declaration of Jonah Martinez, # 5 Declaration of Alan Gottlieb, # 6 Declaration of Gene Hoffman, # 7 Declaration of Brandon Combs, # 8 Declaration of Josh Savani, # 9 Proposed Order) (Lee, George) (Entered: 03/30/2020)
03/30/2020	15	DECLARATION of George M. Lee in support of EX PARTE APPLICATION for Temporary Restraining Order as to Enforcement of Firearm Business Closure Orders 14 <i>re Notice to Defendants</i> filed by Plaintiffs A Place to Shoot, Adam Brandy, California Gun Rights Foundation, DG2A Enterprises Inc., Firearms Policy Coalition, Inc., Daemion Garr, Alan Kushner, Jonah Martinez, Jason Montes, National Rifle Association of America, Second Amendment Foundation, The Target Range, Tom Watt, Weyland-Yutani LLC. (Lee, George) (Entered: 03/30/2020)
04/01/2020	16	(IN CHAMBERS) ORDER by Judge Andre Birotte Jr. Defendants Alex Villanueva, Gavin Newsom, Sonia Y. Angell, Barbara Ferrer, County of Los Angeles, Eric Garcetti, City of Los Angeles, Justin Hess, and City of Burbank ("Defendants") are ORDERED to file a response to Plaintiffs' ex parte application for a Temporary Restraining Order on or before 5:00pm Friday, April 3, 2020. IT IS SO ORDERED. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (cb) TEXT ONLY ENTRY (Entered: 04/01/2020)
04/01/2020	17	DECLARATION of George M. Lee in support of EX PARTE APPLICATION for Temporary Restraining Order as to Enforcement of Firearm Business Closure Orders 14 (<i>Supplemental Declaration</i>) filed by Plaintiffs A Place to Shoot, Adam Brandy, California Gun Rights Foundation, DG2A Enterprises Inc., Firearms Policy Coalition, Inc., Daemion Garr, Alan Kushner, Jonah Martinez, Jason Montes, National Rifle Association of America, Second Amendment Foundation, The Target Range, Tom Watt, Weyland-Yutani LLC. (Lee, George) (Entered: 04/01/2020)
04/03/2020	18	DECLARATION of Alan Kushner In Support of TRO Application EX PARTE APPLICATION for Temporary Restraining Order as to Enforcement of Firearm Business Closure Orders 14 filed by Plaintiffs A Place to Shoot, Adam Brandy, California Gun Rights Foundation, DG2A Enterprises Inc., Firearms Policy Coalition, Inc., Daemion Garr, Alan Kushner, Jonah Martinez, Jason Montes, National Rifle Association of America, Second Amendment Foundation, The Target Range, Tom Watt, Weyland-Yutani LLC. (Attachments: # 1 Exhibit LAPD Email)(DiGuissepe, Raymond) (Entered: 04/03/2020)
04/03/2020	19	OPPOSITION to EX PARTE APPLICATION for Temporary Restraining Order as to Enforcement of Firearm Business Closure Orders 14 filed by Defendants City of Los Angeles California, Eric Garcetti. (Attorney Jonathan H Eisenman added to party City of Los Angeles California(pty:dft), Attorney Jonathan H Eisenman added to party Eric Garcetti(pty:dft))(Eisenman, Jonathan) (Entered: 04/03/2020)
04/03/2020	20	DECLARATION of Jonathan H. Eisenman in opposition to EX PARTE APPLICATION for Temporary Restraining Order as to Enforcement of Firearm Business Closure Orders 14 filed by Defendants City of Los Angeles California, Eric Garcetti. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C)(Eisenman, Jonathan) (Entered: 04/03/2020)
04/03/2020	21	DECLARATION of Paul Simon, M.D., M.P.H. in opposition to EX PARTE APPLICATION for Temporary Restraining Order as to Enforcement of Firearm Business Closure Orders 14 filed by Defendants City of Los Angeles California, Eric Garcetti.

		(Eisenman, Jonathan) (Entered: 04/03/2020)
04/03/2020	22	DECLARATION of Benjamin Meda in opposition to EX PARTE APPLICATION for Temporary Restraining Order as to Enforcement of Firearm Business Closure Orders 14 filed by Defendants City of Los Angeles California, Eric Garcetti. (Eisenman, Jonathan) (Entered: 04/03/2020)
04/03/2020	23	OPPOSITION in Opposition re: EX PARTE APPLICATION for Temporary Restraining Order as to Enforcement of Firearm Business Closure Orders 14 filed by Defendants County of Los Angeles, Barbara Ferrer, Alex Villanueva. (Attachments: # 1 Declaration of Paul B. Beach and Exhibits A-E, # 2 Declaration of Sheriff Alex Villanueva)(Attorney Paul B Beach added to party County of Los Angeles(pty:dft), Attorney Paul B Beach added to party Barbara Ferrer(pty:dft), Attorney Paul B Beach added to party Alex Villanueva(pty:dft))(Beach, Paul) (Entered: 04/03/2020)
04/03/2020	24	OPPOSITION re: EX PARTE APPLICATION for Temporary Restraining Order as to Enforcement of Firearm Business Closure Orders 14 filed by Defendants Sonia Y. Angell, Gavin Newsom. (Attorney Peter H Chang added to party Sonia Y. Angell(pty:dft), Attorney Peter H Chang added to party Gavin Newsom(pty:dft))(Chang, Peter) (Entered: 04/03/2020)
04/03/2020	25	DECLARATION of Peter H. Chang in Opposition to EX PARTE APPLICATION for Temporary Restraining Order as to Enforcement of Firearm Business Closure Orders 14 in Support of OPPOSITION to EX PARTE APPLICATION filed by Defendants Sonia Y. Angell, Gavin Newsom. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6)(Chang, Peter) (Entered: 04/03/2020)
04/03/2020	26	NOTICE of Interested Parties filed by Defendants County of Los Angeles, Barbara Ferrer, Alex Villanueva, (Beach, Paul) (Entered: 04/03/2020)
04/03/2020	27	Notice of Appearance or Withdrawal of Counsel: for attorney Jin S Choi counsel for Defendants County of Los Angeles, Barbara Ferrer, Alex Villanueva. Adding Jin S. Choi as counsel of record for Defendants County of Los Angeles, Sheriff Alex Villanueva, and Barbara Ferrer for the reason indicated in the G-123 Notice. Filed by Defendants County of Los Angeles, Sheriff Alex Villanueva, and Barbara Ferrer. (Attorney Jin S Choi added to party County of Los Angeles(pty:dft), Attorney Jin S Choi added to party Barbara Ferrer(pty:dft), Attorney Jin S Choi added to party Alex Villanueva(pty:dft))(Choi, Jin) (Entered: 04/03/2020)
04/06/2020	28	REPLY in support of EX PARTE APPLICATION for Temporary Restraining Order as to Enforcement of Firearm Business Closure Orders 14 filed by Plaintiffs A Place to Shoot, Adam Brandy, California Gun Rights Foundation, DG2A Enterprises Inc., Firearms Policy Coalition, Inc., Daemion Garr, Alan Kushner, Jonah Martinez, Jason Montes, National Rifle Association of America, Second Amendment Foundation, The Target Range, Tom Watt, Weyland-Yutani LLC. (Lee, George) (Entered: 04/06/2020)
04/06/2020	29	MINUTES (IN CHAMBERS) ORDER DENYING PLAINTIFFS' EX PARTE APPLICATION FOR A TEMPORARY RESTRAINING ORDER 14 by Judge Andre Birotte Jr. See document for details. Court Reporter: N/A. (gk) (Entered: 04/06/2020)
04/09/2020	30	NOTICE OF MOTION AND MOTION of John W. Dillon to Withdraw as Attorney filed by Plaintiff A Place to Shoot, Adam Brandy, California Gun Rights Foundation, DG2A Enterprises Inc., Firearms Policy Coalition, Inc., Daemion Garr, Alan Kushner, Jonah Martinez, Jason Montes, National Rifle Association of America, Second Amendment Foundation, The Target

		Range, Tom Watt, Weyland-Yutani LLC. (Attachments: # 1 Proposed Order Proposed Order) (Dillon, John) (Entered: 04/09/2020)
04/10/2020	31	ORDER by Judge Andre Birotte Jr.: This Court has reviewed counsel's notice of motion and motion for withdrawal as one of the attorneys of record in this case 30 . The Court finds that no prejudice or delay will result from counsel's withdrawal and that Plaintiffs are and will continue to be represented by other counsel of record. IT IS HEREBY ORDERED that John W. Dillon withdraw from the case and docket as counsel of record. (gk) (Entered: 04/10/2020)
04/17/2020	32	STIPULATION Extending Time to Answer the complaint as to City of Los Angeles California answer now due 5/4/2020, filed by Defendant City of Los Angeles California.(Attorney Benjamin F Chapman added to party City of Los Angeles California(pty:dft))(Chapman, Benjamin) (Entered: 04/17/2020)
04/17/2020	33	STIPULATION Extending Time to Answer the complaint as to Gavin Newsom answer now due 4/23/2020; Sonia Y. Angell answer now due 4/23/2020, re Amended Complaint/Petition,,, 9 filed by Defendants Gavin Newsom; Sonia Y. Angell. (Attachments: # 1 Proposed Order)(Chang, Peter) (Entered: 04/17/2020)
04/20/2020	34	ORDER EXTENDING STATE DEFENDANTS TIME TO RESPOND TO FIRST AMENDED COMPLAINT BY 30 DAYS 33 by Judge Andre Birotte Jr. The Court hereby ORDERS that the time for Defendants Gavin Newsom, California Governor, and Sonia Y. Angell, California Public Health Officer to respond to the First Amended Complaint (Dkt. No. 9) is extended by 30 days, to and including May 25, 2020. (lom) (Entered: 04/20/2020)
04/27/2020	35	STIPULATION for Extension of Time to File Answer to May 25, 2020 re Amended Complaint/Petition,,, 9 filed by Defendant City of Los Angeles California. (Attachments: # 1 Proposed Order)(Chapman, Benjamin) (Entered: 04/27/2020)
04/27/2020	36	STIPULATION Extending Time to Answer the complaint as to Barbara Ferrer answer now due 5/25/2020; County of Los Angeles answer now due 5/25/2020; Alex Villanueva answer now due 5/25/2020, re Amended Complaint/Petition,,, 9 filed by Defendants Barbara Ferrer; County of Los Angeles; Alex Villanueva. (Attachments: # 1 Proposed Order)(Beach, Paul) (Entered: 04/27/2020)
04/28/2020	37	ORDER EXTENDING DEFENDANT CITY OF LOS ANGELES'S TIME TO RESPOND TO FIRST AMENDED COMPLAINT 35 by Judge Andre Birotte Jr. The Court hereby orders that the time for defendant the City of Los Angeles to respond to the First Amended Complaint (Dkt No. 9) is extended to and including May 25, 2020. (lom) (Entered: 04/28/2020)
04/29/2020	38	ORDER GRANTING EXTENSION OF TIME TO RESPOND TO FIRST AMENDED COMPLAINT by Judge Andre Birotte Jr.: Upon Stipulation 36 , IT IS HEREBY ORDERED that Defendants County of Los Angeles, Sheriff Alex Villanueva, and Barbara Ferrer's response to Plaintiffs' First Amended Complaint 9 is due 5/25/2020. (gk) (Entered: 04/29/2020)
05/21/2020	39	Second STIPULATION for Extension of Time to File Answer to 06/24/2020 re Amended Complaint/Petition,,, 9 filed by Defendant City of Los Angeles California. (Attachments: # 1 Proposed Order)(Chapman, Benjamin) (Entered: 05/21/2020)
05/22/2020	40	STIPULATION for Extension of Time to File Answer to 6/24/20 re Amended Complaint/Petition,,, 9 filed by Defendants County of Los Angeles, Barbara Ferrer, Alex Villanueva. (Attachments: # 1 Proposed Order)(Beach, Paul) (Entered: 05/22/2020)
05/22/2020	42	ORDER EXTENDING DEFENDANT CITY OF LOS ANGELES'S TIME TO RESPOND TO FIRST AMENDED

		COMPLAINT by Judge Andre Birotte Jr.: Upon Stipulation 39 , the Court hereby orders that the time for defendant the City of Los Angeles to respond to the First Amended Complaint 9 is extended to and including 6/24/2020. (gk) (Entered: 05/26/2020)
05/25/2020	41	Second STIPULATION for Extension of Time to File Answer to 6/24/2020 re Amended Complaint/Petition,, 9 filed by Defendants Sonia Y. Angell, Gavin Newsom. (Attachments: # 1 Proposed Order)(Chang, Peter) (Entered: 05/25/2020)
05/26/2020	43	ORDER GRANTING EXTENSION OF TIME TO RESPOND TO FIRST AMENDED COMPLAINT by Judge Andre Birotte Jr.: Upon Stipulation 40 , IT IS HEREBY ORDERED that Defendants County of Los Angeles, Sheriff Alex Villanueva, and Barbara Ferrer's response to Plaintiffs' First Amended Complaint 9 is due 6/24/2020. (gk) (Entered: 05/26/2020)
05/26/2020	44	ORDER EXTENDING STATE DEFENDANTS' TIME TO RESPOND TO FIRST AMENDED COMPLAINT BY 30 DAYS by Judge Andre Birotte Jr.: Upon Stipulation 41 , the Court hereby ORDERS that the time for Defendants Gavin Newsom, California Governor, and Sonia Y. Angell, California Public Health Officer to respond to the First Amended Complaint 9 is extended by 30 days, to and including 6/24/2020. (gk) (Entered: 05/26/2020)
06/24/2020	45	ANSWER to Amended Complaint/Petition,, 9 with JURY DEMAND filed by Defendants County of Los Angeles, Barbara Ferrer, Alex Villanueva.(Choi, Jin) (Entered: 06/24/2020)
06/24/2020	46	NOTICE OF MOTION AND MOTION to Dismiss Case <i>per Fed. R. Civ. P. 12(b)(1), 12(b)(6)</i> filed by defendant City of Los Angeles California, Eric Garcetti. Motion set for hearing on 8/21/2020 at 10:00 AM before Judge Andre Birotte Jr. (Eisenman, Jonathan) (Entered: 06/24/2020)
06/24/2020	47	REQUEST FOR JUDICIAL NOTICE re NOTICE OF MOTION AND MOTION to Dismiss Case <i>per Fed. R. Civ. P. 12(b)(1), 12(b)(6)</i> 46 filed by Defendants City of Los Angeles California, Eric Garcetti. (Eisenman, Jonathan) (Entered: 06/24/2020)
06/25/2020	48	ORDER SETTING SCHEDULING CONFERENCE by Judge Andre Birotte Jr. Scheduling Conference set for 9/25/2020 at 10:00 AM before Judge Andre Birotte Jr. (cb) (Entered: 06/25/2020)
06/26/2020	49	NOTICE TO FILER OF DEFICIENCIES in Electronically Filed Documents RE: NOTICE OF MOTION AND MOTION to Dismiss Case <i>per Fed. R. Civ. P. 12(b)(1), 12(b)(6)</i> 46 . The following error(s) was/were found: Proposed order not submitted pursuant to Local Rule 52-4.1. 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. (gk) (Entered: 06/26/2020)
06/26/2020	50	EX PARTE APPLICATION to Extend Time to File Answer to 7/6/2020 re Amended Complaint/Petition,, 9 filed by Defendants Sonia Y. Angell, Gavin Newsom. (Attachments: # 1 Memorandum of Points and Authorities, # 2 Declaration of Peter H. Chang, # 3 Exhibit 1, # 4 Proposed Order) (Chang, Peter) (Entered: 06/26/2020)
07/02/2020	51	ORDER GRANTING STATE DEFENDANTS' EX PARTE APPLICATION TO EXTEND TIME TO RESPOND TO FIRST AMENDED COMPLAINT BY 12 DAYS by Judge Andre Birotte Jr.: The Court hereby GRANTS the ex parte application of Defendants Gavin Newsom, California Governor, and Sonia Y. Angell, California Public Health Officer 50 and ORDERS that their time to respond to the First Amended Complaint 9 is extended by 12 days, to and including 7/6/2020. (gk) (Entered: 07/06/2020)
07/06/2020	52	NOTICE OF DISMISSAL filed by plaintiffs Firearms Policy Coalition, Inc., Daemion Garr, Jason Montes, Adam Brandy,

		National Rifle Association of America, The Target Range, DG2A Enterprises Inc., Weyland-Yutani LLC, A Place to Shoot, Second Amendment Foundation, Tom Watt, Jonah Martinez, Alan Kushner, California Gun Rights Foundation pursuant to FRCP 41a(1) as to City of Burbank California, Justin Hess. (Lee, George) (Entered: 07/06/2020)
07/08/2020	53	NOTICE OF DISMISSAL filed by plaintiffs Firearms Policy Coalition, Inc., Daemion Garr, Jason Montes, Adam Brandy, National Rifle Association of America, The Target Range, DG2A Enterprises Inc., Weyland-Yutani LLC, A Place to Shoot, Second Amendment Foundation, Tom Watt, Jonah Martinez, Alan Kushner, California Gun Rights Foundation pursuant to FRCP 41a(1) as to Sonia Y. Angell, Gavin Newsom. (Lee, George) (Entered: 07/08/2020)
07/08/2020	54	NOTICE OF DISMISSAL filed by plaintiffs Firearms Policy Coalition, Inc., Daemion Garr, Jason Montes, Adam Brandy, National Rifle Association of America, The Target Range, DG2A Enterprises Inc., Weyland-Yutani LLC, A Place to Shoot, Second Amendment Foundation, Tom Watt, Jonah Martinez, Alan Kushner, California Gun Rights Foundation pursuant to FRCP 41a(1) as to City of Los Angeles California, Eric Garcetti. (Lee, George) (Entered: 07/08/2020)
08/13/2020	55	(IN CHAMBERS) CONTINUING CITY DEFENDANTS' MOTION TO DISMISS 46 by Judge Andre Birotte Jr. The hearing date regarding this motion is continued from August 21, 2020 to September 18, 2020 at 10:00 AM before Judge Andre Birotte Jr. IT IS SO ORDERED.THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (cb) TEXT ONLY ENTRY (Entered: 08/13/2020)
08/21/2020	56	NOTICE OF MOTION AND MOTION for Judgment on the Pleadings as to All Claims filed by Defendants County of Los Angeles, Barbara Ferrer, Alex Villanueva. Motion set for hearing on 9/18/2020 at 10:00 AM before Judge Andre Birotte Jr. (Attachments: # 1 Exhibit "A", # 2 Proposed Order) (Choi, Jin) (Entered: 08/21/2020)
08/21/2020	57	REQUEST FOR JUDICIAL NOTICE re NOTICE OF MOTION AND MOTION for Judgment on the Pleadings as to All Claims 56 filed by Defendants County of Los Angeles, Barbara Ferrer, Alex Villanueva. (Attachments: # 1 Exhibit "1", # 2 Exhibit "2", # 3 Exhibit "3", # 4 Exhibit "4", # 5 Exhibit "5", # 6 Exhibit "6", # 7 Exhibit "7", # 8 Exhibit "8", # 9 Exhibit "9", # 10 Exhibit "10")(Choi, Jin) (Entered: 08/21/2020)
08/25/2020	58	(IN CHAMBERS) ORDER by Judge Andre Birotte Jr. In light of the recently filed Notice of Dismissal (Dkt. No. 54), the City Defendants' Motion to Dismiss (Dkt. No. 46) is denied as moot. The Court's Order at docket entry 55 is stricken. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (cb) TEXT ONLY ENTRY (Entered: 08/25/2020)
08/25/2020	59	STIPULATION to Continue Motion for Judgment on the Pleadings and Scheduling Conference from 9/18/20 and 9/25/20 to 10/2/20 Re: Initial Order Setting R26 Scheduling Conference - form only 48 , NOTICE OF MOTION AND MOTION for Judgment on the Pleadings as to All Claims 56 filed by plaintiffs A Place to Shoot, Adam Brandy, California Gun Rights Foundation, DG2A Enterprises Inc., Firearms Policy Coalition, Inc., Daemion Garr, Alan Kushner, Jonah Martinez, Jason Montes, National Rifle Association of America, Second Amendment Foundation, The Target Range, Tom Watt, Weyland-Yutani LLC. (Attachments: # 1 Proposed Order)(Lee, George) (Entered: 08/25/2020)
08/28/2020	60	OPPOSITION to NOTICE OF MOTION AND MOTION for Judgment on the Pleadings as to All Claims 56 filed by Plaintiffs A Place to Shoot, Adam Brandy, California Gun Rights Foundation, DG2A Enterprises Inc., Firearms Policy Coalition, Inc., Daemion Garr, Alan Kushner, Jonah Martinez, Jason Montes, National Rifle Association of America, Second Amendment Foundation, The Target Range, Tom Watt, Weyland-Yutani LLC. (Lee, George) (Entered: 08/28/2020)

08/28/2020	61	ORDER CONTINUING HEARING ON COUNTY DEFENDANTS' MOTION FOR JUDGMENT ON THE PLEADINGS AND SCHEDULING CONFERENCE by Judge Andre Birotte Jr.: Upon Stipulation 59 , the Court ORDERS that the County Defendants' Motion for Judgment on the Pleadings 56 is hereby continued to 10/2/2020 at 10:00 AM before Judge Andre Birotte Jr. The Scheduling Conference shall also be continued to 10/2/2020 at 10:00 AM before Judge Andre Birotte Jr. All dates and deadlines associated with the Scheduling Conference shall be continued in accord with the new, continued date. Plaintiffs' Opposition to the County Defendants' Motion for Judgment on the Pleadings shall be filed on or before 9/4/2020, via ECF. The County Defendants' Reply to the Opposition, and supporting their Motion, shall be filed on or before 9/18/2020, via ECF. (gk) (Entered: 08/31/2020)
09/18/2020	62	JOINT REPORT of Rule 26(f) filed by Plaintiffs A Place to Shoot, Adam Brandy, California Gun Rights Foundation, DG2A Enterprises Inc., Firearms Policy Coalition, Inc., Daemion Garr, Alan Kushner, Jonah Martinez, Jason Montes, National Rifle Association of America, Second Amendment Foundation, The Target Range, Tom Watt, Weyland-Yutani LLC. (Attachments: # 1 Schedule Worksheet)(Lee, George) (Entered: 09/18/2020)
09/18/2020	63	REPLY IN SUPPORT OF NOTICE OF MOTION AND MOTION for Judgment on the Pleadings as to All Claims 56 filed by Defendants County of Los Angeles, Barbara Ferrer, Alex Villanueva. (Choi, Jin) (Entered: 09/18/2020)
09/18/2020	64	REQUEST FOR JUDICIAL NOTICE re NOTICE OF MOTION AND MOTION for Judgment on the Pleadings as to All Claims 56 <i>Supplemental</i> filed by Defendants County of Los Angeles, Barbara Ferrer, Alex Villanueva. (Attachments: # 1 Exhibit "11")(Choi, Jin) (Entered: 09/18/2020)
09/29/2020	65	REQUEST FOR JUDICIAL NOTICE re NOTICE OF MOTION AND MOTION for Judgment on the Pleadings as to All Claims 56 <i>In Support of Plaintiffs' Opposition to Motion for Judgment on the Pleadings</i> filed by Plaintiffs A Place to Shoot, Adam Brandy, California Gun Rights Foundation, DG2A Enterprises Inc., Firearms Policy Coalition, Inc., Daemion Garr, Alan Kushner, Jonah Martinez, Jason Montes, National Rifle Association of America, Second Amendment Foundation, The Target Range, Tom Watt, Weyland-Yutani LLC. (Attachments: # 1 Exhibit A)(DiGuiseppe, Raymond) (Entered: 09/29/2020)
10/01/2020	66	(IN CHAMBERS) ORDER TAKING SCHEDULING CONFERENCE AND DEFENDANTS COUNTY OF LOS ANGELES, SHERIFF ALEX VILLANUEVA AND BARBARA FERRER'S MOTION FOR JUDGMENT ON THE PLEADINGS 56 UNDER SUBMISSION by Judge Andre Birotte Jr.: The Court has considered the matters raised with respect to the Motion and has concluded that pursuant to Local Rule 7.15, the matter can be decided without oral argument. The Court advises counsel that the Motion, noticed for hearing on October 2, 2020, has been taken under submission and off its motion calendar. No appearance by counsel is necessary. The Scheduling Conference is also taken under submission. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (cb) TEXT ONLY ENTRY (Entered: 10/01/2020)
10/09/2020	67	REQUEST FOR JUDICIAL NOTICE re NOTICE OF MOTION AND MOTION for Judgment on the Pleadings as to All Claims 56 <i>Supplemental</i> filed by Defendants County of Los Angeles, Barbara Ferrer, Alex Villanueva. (Attachments: # 1 Exhibit "12")(Choi, Jin) (Entered: 10/09/2020)
10/20/2020	68	MINUTES [In Chambers] ORDER GRANTING DEFENDANTS' MOTION FOR JUDGMENT ON THE PLEADINGS (ECF 56) by Judge Andre Birotte Jr.: For the reasons stated above, Defendants' Motion for Judgment on the Pleadings is GRANTED. This matter is DISMISSED WITH PREJUDICE. The scheduling conference is VACATED AS MOOT. Defendants are ORDERED to submit a proposed judgment within 14 days of the issuance of this Order. (bm) (Entered: 10/20/2020)

10/21/2020	69	NOTICE OF LODGING filed re Order on Motion for Judgment on the Pleadings, 68 (Attachments: # 1 Proposed Judgment) (Beach, Paul) (Entered: 10/21/2020)
11/09/2020	70	JUDGMENT by Judge Andre Birotte Jr.: The Court having entered an Order on 10/20/2020, granting the Motion for Judgment on the Pleadings by Defendants County of Los Angeles, Sheriff Alex Villanueva, and Barbara Ferrer, and dismissing with prejudice the claims brought by Plaintiffs Adam Brandy, Jonah Martinez, Daemion Garro, DG 2A Enterprises Inc., d.b.a. Gun World, Jason Montes, Weyland-Yutani LLC, d.b.a. Match Grade Gunsmiths, Alan Kushner, The Target Range, Tom Watt, A Place to Shoot, Inc., Second Amendment Foundation, California Gun Rights Foundation, National Rifle Association of America, and Firearms Policy Coalition, Inc. 68 ; IT IS ORDERED AND ADJUDGED that judgment be entered on all claims in favor of Defendants County of Los Angeles, Sheriff Alex Villanueva, and Barbara Ferrer, and against Plaintiffs Adam Brandy, Jonah Martinez, Daemion Garro, DG 2A Enterprises Inc., d.b.a. Gun World, Jason Montes, Weyland-Yutani LLC, d.b.a. Match Grade Gunsmiths, Alan Kushner, The Target Range, Tom Watt, A Place to Shoot, Inc., Second Amendment Foundation, California Gun Rights Foundation, National Rifle Association of America, and Firearms Policy Coalition, Inc. (MD JS-6, Case Terminated). (gk) (Entered: 11/10/2020)
11/19/2020	71	NOTICE OF APPEAL to the 9th Circuit Court of Appeals filed by Plaintiff A Place to Shoot, California Gun Rights Foundation, Firearms Policy Coalition, Inc., Alan Kushner, Jonah Martinez, Jason Montes, National Rifle Association of America, Second Amendment Foundation, The Target Range, Tom Watt, Weyland-Yutani LLC. Appeal of Judgment,,,, 70 , Order on Motion for Judgment on the Pleadings, 68 . (Appeal Fee - \$505 Previously Paid on 11/19/2020, Receipt No. 29106380.) (Attachments: # 1 Representation Statement, # 2 Order, # 3 Judgment)(DiGuissepe, Raymond) (Entered: 11/19/2020)
11/23/2020	72	NOTIFICATION from Ninth Circuit Court of Appeals of case number assigned and briefing schedule. Appeal Docket No. 20-56233 assigned to Notice of Appeal to 9th Circuit Court of Appeals 71 as to Plaintiffs A Place to Shoot, Adam Brandy, California Gun Rights Foundation, DG2A Enterprises Inc., Firearms Policy Coalition, Inc., Alan Kushner, Jonah Martinez, Jason Montes, National Rifle Association of America, Second Amendment Foundation, The Target Range, Tom Watt, Weyland-Yutani LLC. (gk) (Entered: 11/24/2020)
02/24/2021	73	NOTICE Notice re Reporter's Transcripts filed by Plaintiff A Place to Shoot, California Gun Rights Foundation, Firearms Policy Coalition, Inc., Alan Kushner, Jonah Martinez, Jason Montes, National Rifle Association of America, Second Amendment Foundation, The Target Range, Tom Watt, Weyland-Yutani LLC. <i>No Reporter's Transcripts Necessary</i> (DiGuissepe, Raymond) (Entered: 02/24/2021)

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