



**ROB BONTA**  
**Attorney General**

**State of California**  
**DEPARTMENT OF JUSTICE**

1300 I STREET  
SACRAMENTO, CA 95814

Telephone: (916) 210-6269  
E-Mail: Sam.Siegel@doj.ca.gov

July 27, 2021

**VIA ECF**

Molly C. Dwyer  
Clerk of the Court  
United States Court of Appeals for the Ninth Circuit  
James R. Browning Courthouse  
95 7th Street  
San Francisco, CA 94103

**Re: *Virginia Duncan, et al. v. Rob Bonta*, Case No. 19-55376 (en banc)**

Dear Ms. Dwyer:

The Attorney General respectfully submits this response to plaintiffs' Rule 28(j) letter concerning the Supreme Court's recent decision in *Cedar Point Nursery v. Hassid*, No. 20-107 (U.S. June 23, 2021).

*Cedar Point* does not support plaintiffs' argument that California's large-capacity magazine restrictions violate the Takings Clause. The Supreme Court held that a California Agricultural Labor Relations Board regulation authorizing union organizers to "physically enter and occupy the growers' land" for limited periods of time effects a taking. Slip op. 7. The Court focused on precedent regarding landowners' "right to exclude," *id.*, reasoning that it "has long treated government-authorized physical invasions as takings requiring just compensation," *id.* at 8. This case does not implicate any similar physical invasion. Individuals who lawfully obtained LCMs may modify and retain their magazines, or they may sell them for fair market value. Cal. Penal Code §§ 16740(a), 32310(d)(2). If owners modify their magazines—a process that costs less than \$10 and takes a few minutes, *see, e.g.*, Training Videos, <https://www.magazineblocks.com/magento/training-videos> (last visited July 27, 2021)—they may continue to possess and use them for their primary purpose: "hold[ing] multiple rounds of ammunition in a single magazine." *Ass'n of N.J. Rifle & Pistol Clubs, Inc. v. Att'y Gen. N.J.*, 910 F.3d 106, 125 (3d Cir. 2018). The Third Circuit relied on equivalent features of New Jersey's LCM law to reject a similar takings challenge, *see id.*, and *Cedar Point* provides no basis for a different result here.

As the Attorney General has noted, California's LCM restrictions are far more protective of property rights than laws in other States that have flatly prohibited the possession of personal property posing a threat to public health or safety. *See* Att'y Gen. Supp. Reply Br. (Dkt. 172) 13 (discussing laws banning bump stocks and previously legal gambling machines). Courts have

July 27, 2021

Page 2

rejected takings challenges to those laws, *see id.* (collecting cases), and nothing in *Cedar Point* calls those precedents into question.

Sincerely,

*s/ Samuel P. Siegel*

SAMUEL P. SIEGEL  
Deputy Solicitor General

For ROB BONTA  
Attorney General