

1 RAYMOND M. DIGUISEPPE
2 CA State Bar No. 228457
3 THE DIGUISEPPE LAW FIRM, P.C.
4 4320 Southport-Supply Road
5 Suite 300
6 Southport, NC 28461
7 P: 910-713-8804
8 E: law.rmd@gmail.com

JOHN W. DILLON
CA State Bar No. 296788
DILLON LAW GROUP, APC
2647 Gateway Rd.
Suite 105 #255
Carlsbad, CA 92009
P: 760.642.7150
E: jdillon@dillonlawgp.com

7 WILLIAM SACK*
8 PA STATE BAR NO. 325863
9 FIREARMS POLICY COALITION
10 5550 Painted Mirage Road
11 Suite 320
12 Las Vegas, NV 89149-4584
13 P: (916) 596-3492
14 E: wsack@fpclaw.org
15 * *App. Pro Hac Vice Forthcoming*
16 *Attorneys for Plaintiffs*

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

16 JAMES FAHR; DESIREE
17 BERGMAN; COLIN RUDOLPH;
18 SAN DIEGO COUNTY GUN
19 OWNERS PAC; and FIREARMS
20 POLICY COALITION, INC.,

Plaintiffs,

v.

21 CITY OF SAN DIEGO,
22 CALIFORNIA; and DAVID
23 NISLEIT, in his official capacity as
24 Chief of Police of San Diego City,
25 California,

Defendants.

Case No.:
21CV1676BASBGS _____

DECLARATION OF JOHN W. DILLON IN SUPPORT OF PLAINTIFFS' EX PARTE APPLICATION FOR ORDER SHORTENING TIME TO HEAR PLAINTIFFS' APPLICATION FOR TEMPORARY RESTRAINING ORDER; ALTERNATIVE MOTION FOR PRELIMINARY INJUNCTION; DECLARATION OF JOHN W. DILLON

Judge: Hon. Cynthia Bashant
Date: TBD
Time: TBD
Courtroom: 4B

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

DECLARATION OF JOHN W. DILLON

I, John W. Dillon, declare as follows:

1. I am the principal attorney of Dillon Law Group APC and co-counsel for Plaintiffs in the above-captioned action. I have personal knowledge of the facts stated herein, and if called as a witness, I can and would competently testify thereto.

2. At approximately 7:24 p.m., September 23, 2021, Plaintiffs filed their complaint naming Defendants City of San Diego and David Nisleit in his official capacity as Chief of Police of San Diego City.

3. At approximately 11:00 a.m., on September 24, 2021, Plaintiffs filed their Application For Temporary Restraining Order; and Alternative Motion for Preliminary Injunction along with accompanying declarations.

4. I initiated service of all filed pleadings at approximately 2:30 p.m., on September 24, 2021, through Nationwide Legal in San Diego. I received confirmation that service was completed on Defendant City of San Diego at 4:20 p.m., today.

5. While service was attempted on Defendant David Nisleit, service could not be completed as the San Diego Police offices were closed. I received this status update from the process server at 3:48 p.m., September 24, 2021.

6. At this time, Plaintiffs' counsel is unaware of Defendants' assigned counsel, and thus, we have not been able to meet and confer with Defendants' counsel.

7. Plaintiffs intend to complete service of all filings, including this application and related documents on all Defendants by Monday, September 27, 2021, and can provide the Court proof of service to supplement this application.

1 8. Further, my co-counsel and I will continue to attempt to meet and
2 confer with opposing counsel, once identified, to determine if a reasonable briefing
3 schedule can be agreed upon — subject to the Court’s approval.

4 9. This case presents a 42 U.S.C. § 1983 action for deprivation of rights
5 guaranteed by the Second, Fifth, and Fourteenth Amendments of the United States
6 Constitution. Specifically, Plaintiffs challenge the constitutionality of the City of San
7 Diego Ordinance No. O-2022-7, which prohibits, *inter alia*, the possession,
8 purchase, sale, receipt, and transportation of non-serialized, unfinished frames and
9 receivers as well as non-serialized firearms. Plaintiffs claim the City of San Diego
10 Ordinance No. O-2022-7 violates the right to keep and bear arms protected by the
11 Second Amendment and constitutes an unlawful government taking under the
12 Takings and the Due Process clauses.

13 10. Plaintiffs’ *ex parte* application is made in good faith and for good cause.
14 The City Ordinance was passed by the San Diego City Council on September 14,
15 2021 and signed into law by Mayor Gloria on September 23, 2021. The Ordinance
16 is effective and enforceable by Defendants against all persons in the City of San
17 Diego, including named Plaintiffs herein, by no later than October 23, 2021, leaving
18 those who already lawfully acquired and possess proscribed items before the
19 Ordinance was enacted only 30 days to dispossess themselves of their personal
20 property, and it forever after prohibits all persons in San Diego from acquiring the
21 necessary products for and self-manufacturing firearms in compliance with State
22 law. Plaintiffs require a temporary restraining order, or alternatively, a preliminary
23 injunction, to prevent enforcement of the City Ordinance against Plaintiffs and all
24 other similarly situated individuals in the City of San Diego from being forced to
25 dispossess themselves of any item that could be construed by Defendants as an
26 “unfinished frame” or “unfinished receiver” to comply with the Ordinance, in
27 violation of their fundamental constitutional rights, or face enforcement and
28 prosecution by the Defendants.

1 11. Accordingly, a hearing before the Court on shortened time is necessary
2 because Plaintiffs must obtain a temporary restraining order or preliminary
3 injunction before the Ordinance goes into effect on October 23, 2021.

4 12. Plaintiffs respectfully request that the Court set a shortening briefing
5 and hearing schedule that would allow Plaintiffs’ application and motion to be heard
6 and decided before October 23, 2021, with the briefing schedule they have proposed.

7 I declare under penalty of perjury under the laws of the United States that the
8 foregoing is true and correct and that this declaration was executed on September
9 24, 2021, in San Diego, California.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

 /s/ John W. Dillon
By: John W. Dillon