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5 Attorneys for Defendants, SUMMER STEPHAN, sued in her official capacity as District
Attorney of San Diego County; and LONNIE ELDRIDGE, sued in his official capacity
6 as County Counsel of San Diego County
7

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

10
11 B&L PRODUCTIONS, INC., d/b/a)
CROSSROADS OF THE WEST, et al.,)

12 Plaintiffs,)

13 v.)

14 GAVIN NEWSOM, in his official capacity)
15 as Governor of the State of California and)
in his personal capacity, et al.,)

16 Defendants.)
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No. 3:21-cv-01718-AJB-KSC

**DEFENDANTS SUMMER STEPHAN
AND LONNIE ELDRIDGE’S NOTICE
OF JOINDER AND JOINDER IN
STATE DEFENDANTS’ MOTION TO
DISMISS PLAINTIFFS’ COMPLAINT
[JOINDER IN ECF NOS. 17 through 17-
2]**

[CivLR 7.1(j)]

Date: April 7, 2022
Time: 2:00 p.m.
Courtroom: 4A
Judge: Hon. Anthony J. Battaglia
Magistrate Judge: Hon. Karen S. Crawford

Action Filed: October 4, 2021
Trial Date: Not Set

[Demand for Jury Trial]

1 TO THE COURT, ALL PARTIES, AND COUNSEL OF RECORD HEREIN:

2 PLEASE TAKE NOTICE THAT in response to plaintiffs’ Complaint [ECF No. 1]
3 filed in this action, and pursuant to CivLR 7.1(j), defendants, SUMMER STEPHAN,
4 sued in her official capacity as District Attorney of San Diego County (“District Attorney
5 Stephan”), and LONNIE ELDRIDGE, sued in his official capacity as County Counsel of
6 San Diego County (“County Counsel Eldridge”) (collectively referred to herein as
7 “County Defendants”), hereby join in the motion to dismiss the Complaint filed jointly by
8 defendants GAVIN NEWSOM, sued in his official capacity as Governor of the State of
9 California and in his personal capacity; ROBERT BONTA, sued in his official capacity
10 as Attorney General of the State of California and in his personal capacity; KAREN
11 ROSS, sued in her official capacity as Secretary of the California Department of Food &
12 Agriculture and in her personal capacity; and 22nd DISTRICT AGRICULTURAL
13 ASSOCIATION (collectively referred to herein as “State Defendants”). [State
14 Defendants’ Motion to Dismiss the Complaint, ECF Nos. 17 through 17-2.]

15 Plaintiffs, in their Complaint, challenge the constitutionality of a State law
16 (California Food and Agricultural Code § 4158 (enacted in 2019 as California Assembly
17 Bill 893)), and sue the County Defendants in their official capacities only, with Plaintiffs’
18 request for relief against the County Defendants limited to declaratory and injunctive
19 relief. [See Complaint, ECF No. 1, at ¶¶ 25-26; see also Notice of Substitution of Party in
20 Official Capacity, ECF No. 10 (substituting current County Counsel Lonnie Eldridge for
21 former County Counsel Thomas Montgomery, as an official-capacity defendant).]
22 Plaintiffs’ claims against the County Defendants are based on Plaintiffs’ allegations that
23 the County Defendants purportedly are among the government officials tasked by State
24 law with enforcing Food and Agricultural Code § 4158 by prosecuting violations of the
25 statute. [See Complaint, ECF No. 1, at ¶¶ 26, 160, 173, and 186.] Accordingly, Plaintiffs
26 contend that declaratory and/or injunctive relief against the County Defendants is
27 necessary to afford Plaintiffs complete relief if they prevail in their challenge to the
28 constitutionality of the subject State law. As the State Defendants have filed a Motion to

1 Dismiss the Complaint under Federal Rule of Civil Procedure 12(b)(6) on the grounds
2 that the Complaint, and each cause of action therein (including the causes of action
3 brought against the County Defendants), fails to state a claim upon which relief can be
4 granted, the County Defendants hereby join in the State Defendants’ Motion to Dismiss
5 the Complaint, together with all supporting facts, arguments, documents, and evidence
6 filed therewith.¹

7
8
9 DATED: January 24, 2022 OFFICE OF COUNTY COUNSEL

10
11 By s/Timothy M. White
12 TIMOTHY M. WHITE, Senior Deputy
13 Attorneys for Defendants SUMMER STEPHAN, sued
14 in her official capacity as District Attorney of San Diego
15 County; and LONNIE ELDRIDGE, sued in his official
16 capacity as County Counsel of San Diego County
17 E-mail: Timothy.White@sdcounty.ca.gov

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19 ¹ The County Defendants are included as defendants only on Plaintiffs’ federal
20 constitutional claims brought under 42 U.S.C. § 1983 (various First Amendment claims,
21 and an Equal Protection claim), and are not included as defendants on Plaintiffs’ state-
22 law claims. [*Compare* Complaint, ECF No. 1, at pp. 41 through 51, ¶¶ 155 through 220
23 (First through Sixth causes of action, alleging violations of the First and Fourteenth
24 Amendment to the United States Constitution and brought under § 1983), *with*
25 Complaint, ECF No. 1, at pp. 52 through 55, ¶¶ 221 through 248 (Seventh through Ninth
26 causes of action sounding in State tort law).] Accordingly, with respect to the
27 “Argument” section of the State Defendants’ Motion to Dismiss, the County Defendants’
28 join specifically in the legal arguments applicable to Plaintiffs’ § 1983 claims that are
brought against both the State Defendants and County Defendants. [*See, e.g.*, State
Defendants’ Motion to Dismiss, Memorandum of Points and Authorities, ECF No. 17-1,
at “Argument” section V and VI, at ECF pin cite pp. 20-32.]

Declaration of Service

I, the undersigned, declare:

That I am over the age of eighteen years and not a party to the case; I am employed in, or am a resident of, the County of San Diego, California where the service occurred; and my business address is: 1600 Pacific Highway, Room 355, San Diego, California.

On January 24, 2022, I served the following documents: **DEFENDANTS SUMMER STEPHAN AND LONNIE ELDRIDGE'S NOTICE OF JOINDER AND JOINDER IN STATE DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' COMPLAINT [JOINDER IN ECF NOS. 17 through 17-2]**; in the following manner:

- (By Email)** I served the above-listed document(s) by transmitting via email to the email address listed. I did not receive within a reasonable period of time after the transmission any electronic message or other indication that the transmission was unsuccessful.

Donald Kilmer LAW OFFICES OF DONALD KILMER, APC 14085 Silver Ridge Road Caldwell, Idaho 83607 Phone: (408) 264-8489 Email: Don@DKLawOffice.com	Attorney for Plaintiff <i>Second Amendment Foundation</i>
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- (BY CM/ECF)** I caused to be transmitted a copy of the foregoing document(s) this date via the United States District Court's ECF System, in accordance with the rules governing the electronic filing of documents in the **United States District Court for the Southern District of California**, which electronically notifies all counsel as follows:

SEE CM/ECF SERVICE LIST ON NEXT PAGE

I declare under penalty of perjury that the foregoing is true and correct.
Executed on January 24, 2022, at San Diego, California.

By: s/TIMOTHY M. WHITE
E-mail: timothy.white@sdcounty.ca.gov

CM/ECF SERVICE LIST

<p>C.D. Michel Anna M. Barvir Tiffany D. Chevront MICHEL&ASSOCIATES, P.C. 180 East Ocean Blvd., Suite 200 Long Beach, CA 90802 Phone: (562) 216-4444 Fax: (562) 216-4445; Email: cmichel@michellawyers.com</p>	<p>Attorneys for Plaintiffs <i>B&L Productions, Inc., Barry Bardack, Ronald J. Diaz, Sr., John Dupree, Christopher Irick, Robert Solis, Lawrence Michael Walsh, Captain Jon's Lockers, LLC, LAX Firing Range, Inc., California Rifle & Pistol Association, Incorporated, and South Bay Rod and Gun club, Inc.</i></p>
<p>Alexander A. Frank Severson & Werson APC 19100 Von Karman Avenue, Suite 700 Irvine, CA 92612 Phone: (949) 442-7110 Email: afrank@michellawyers.com</p>	
<p>Rob Bonta Attorney General of California Anthony R. Hakl Supervising Deputy Attorney General Charles J. Sarosy Deputy Attorney General CALIFORNIA ATTORNEY GENERAL'S OFFICE 300 South Spring Street, Suite 1702 Los Angeles, CA 90013 Phone: (213) 269-6356 Fax: (916) 731-2119 Email: Charles.Sarosy@doj.ca.gov</p>	<p>Attorneys for Defendants <i>Governor Gavin Newsom, Attorney General Rob Bonta, Secretary Karen Ross, and 22nd District Agricultural Association</i></p>