

SENIOR PARTNER  
C. D. MICHEL\*

MANAGING PARTNER  
JOSHUA ROBERT DALE

PARTNERS  
ANNA M. BARVIR  
SEAN A. BRADY  
MATTHEW D. CUBEIRO  
W. LEE SMITH



ASSOCIATES  
TIFFANY D. CHEUVRONT  
ALEXANDER A. FRANK  
KONSTADINOS T. MOROS

OF COUNSEL  
JASON A. DAVIS  
JOSEPH DI MONDA  
SCOTT M. FRANKLIN  
MICHAEL W. PRICE  
TAMARA M. RIDER

\* ALSO ADMITTED IN TEXAS AND THE  
DISTRICT OF COLUMBIA

WRITER'S DIRECT CONTACT:  
562-216-4444  
SBRADY@MICHELLAWYERS.COM

June 30, 2022

**VIA E-FILING**

Molly Dwyer, Clerk of Court  
Office of the Clerk  
U.S. Court of Appeals for the Ninth Circuit  
95 7th Street  
San Francisco, CA 94103

**Re: *Flanagan, et al. v. Becerra*, Case No. 18-55717  
Notice of Supplemental Authority Pursuant to Rule 28(j)**

Dear Ms. Dwyer:

Appellants submit this Rule 28(j) letter to inform the panel of the Supreme Court's decision in *N.Y. State Rifle & Pistol Association v. Bruen*, *Superintendent of N.Y. State Police*, No. 20-843, 2022 U.S. LEXIS 3055, (June 23, 2022) ("*NYSRPA*"), which reversed a decision of the Second Circuit upholding New York's requirement that concealed-handgun-carry license applicants prove that "proper cause exists" to receive a license. Specifically, the Court held that "the Second and Fourteenth Amendments protect an individual's right to carry a handgun for self-defense outside the home," *id.* at \*1, and that New York's "proper-cause requirement violates the Fourteenth Amendment in that it prevents law-abiding citizens with ordinary self-defense needs from exercising their right to keep and bear arms." *Id.* at \*90.

In so holding, the Court confirmed that *Heller* "necessarily rejected intermediate scrutiny" in analyzing the Second Amendment; indeed, that decision constituted a "rejection of means end scrutiny" altogether. *NYSRPA*, 2022 U.S. LEXIS 3055, at \*29. Accordingly, *NYSRPA* explicitly rejects the district court's basis for upholding California's "good cause" requirement here.

*Flanagan, et al. v. Becerra, Case No. 18-55717*

June 30, 2022

Page 2 of 2

Instead of means end scrutiny, *NYSRPA* instructs that “[t]he government must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation.” *NYSRPA*, 2022 U.S. LEXIS 3055, at \*42. California’s “good cause” requirement at issue before this Court is essentially identical to New York’s requirement struck down in *NYSRPA*. The Supreme Court expressly described it as an “analogue” to the New York requirement. *Id.* at \*17. The Court has already performed the applicable historical analysis concerning bearing arms for us. *NYSRPA* thus unequivocally results in Appellants prevailing in this matter.

Additionally, the Supreme Court just today granted, vacated, and remanded to this Court for further consideration in light of *NYSRPA*, the case of *Young v. State of Hawaii*, No. 20-1639, 2022 U.S. LEXIS 3235 (June 30, 2022). This matter is no longer stayed. (ECF No. 57.) This Court’s path is clear to rule in Appellants’ favor immediately. There is no need to remand this case to the district court for anything other than to enter judgment in Appellants’ favor.

Sincerely,

**Michel & Associates, P.C.**

A handwritten signature in black ink, appearing to read "S. Brady", with a long horizontal flourish extending to the right.

Sean A. Brady