

20-55437

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**KIM RHODE, et al.,**

Plaintiffs-Appellees,

**v.**

**ROB BONTA, in his official capacity as  
Attorney General of the State of California,**

Defendant-Appellant.

On Appeal from the United States District Court  
for the Southern District of California

No. 3:18-cv-00802-BEN-JLB  
The Honorable Roger T. Benitez, Judge

**UNOPPOSED MOTION FOR EXTENSION OF  
TIME TO FILE SUPPLEMENTAL BRIEF;  
DECLARATION OF JOHN D. ECHEVERRIA**

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California*

**UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE  
SUPPLEMENTAL BRIEF**

Pursuant to Ninth Circuit Rule 31-2.2(b), Defendant-Appellant Rob Bonta, in his official capacity as Attorney General of the State of California (Defendant-Appellant), respectfully submits this unopposed motion for an extension of time in which to file his supplemental brief in response to this Court's order, dated June 24, 2022, directing the parties "to file supplemental briefing in light of the Supreme Court's decision in *New York Rifle & Pistol Ass'n v. Bruen*, No. 20-843." Dkt. 87.

The current deadline for Defendant-Appellant's supplemental brief is July 24, 2022. Under the June 24 Order, Plaintiffs-Appellees must file their supplemental brief no later than 30 days after Defendant-Appellant's supplemental brief is filed, after which Defendant-Appellant may file an optional supplemental reply brief no later than 21 days after Plaintiffs-Appellees' supplemental brief is filed. Defendant-Appellant requests a 15-day extension, up to and including Monday, August 8, 2022, by which to file his supplemental brief. If granted, under the terms of the June 24 Order, Plaintiffs-Appellees' supplemental brief would be due no later than September 7, 2022, and Defendant-Appellant's optional supplemental reply brief would be due no later than September 28, 2022.

As set forth below and in the accompanying Declaration of John D. Echeverria, there is substantial need for the requested extension, and good cause exists to grant the unopposed request. *See* 9th Cir. R. 31-2.2(b); Echeverria Decl. ¶¶ 4-5. Several considerations support this request.

**First**, the extension of time will provide the parties with additional time to consider the implications of the Supreme Court’s decision in *New York State Rifle & Pistol Ass’n v. Bruen*, 142 S. Ct. 2111, 2022 WL 2251305 (U.S. June 23, 2022). In *Bruen*, the Supreme Court announced a new framework for analyzing Second Amendment claims. In lieu of the “two-step test” that this Court and most other federal courts of appeals had adopted for resolving those claims, *Bruen* held that courts must apply a standard “rooted in the Second Amendment’s text, as informed by history,” *id.* at \*9, and provided important guidance about how that test should be applied, *see id.* at \*11-\*14. Counsel for Defendant-Appellant requires an additional two weeks to assess the proper application of the new text-and-history standard to the ammunition purchase requirements at issue here. Echeverria Decl. ¶ 4.

**Second**, undersigned counsel has recently assumed primary responsibility for the representation of Defendant-Appellant in this case and would benefit from the additional time to review the materials submitted,

including materials submitted in the district court proceeding. Echeverria Decl. ¶ 5.

Defendant-Appellant has exercised diligence in making this request and intends to file the supplemental brief by the date requested. Echeverria Decl. ¶ 6; *see also* 9th Cir. R. 31-2.2(b)(5). None of the parties has previously requested an extension of the deadline to file the supplemental briefs required under the June 24 Order. Echeverria Decl. ¶ 7. In compliance with Circuit Rule 31-2.2(b), this motion is being filed at least 7 days before the deadline for Defendant-Appellant's supplemental brief.

Counsel for the parties have met and conferred about this request, and Plaintiffs-Appellees do not oppose this request, provided that Plaintiffs-Appellees' supplemental brief remains due no later than 30 days after the filing of Defendant-Appellant's supplemental brief. Echeverria Decl. ¶ 3.

### **CONCLUSION**

For the reasons stated above and set forth in the Declaration of John D. Echeverria, filed herewith, Defendant-Appellant respectfully requests that the Court grant a 15-day extension of time for Defendant-Appellant to file his supplemental brief, up to and including Monday, August 8, 2022, with Plaintiffs-Appellees' supplemental brief remaining due no later than 30 days after the filing of Defendant-Appellant's supplemental brief and Defendant-

Appellant's optional supplemental reply brief remaining due no later than 21 days after Plaintiffs-Appellees' supplemental brief is filed.

Dated: July 12, 2022

Respectfully submitted,

ROB BONTA  
Attorney General of California  
THOMAS S. PATTERSON  
Senior Assistant Attorney General  
P. PATTY LI  
Supervising Deputy Attorney General

*s/ John D. Echeverria*

JOHN D. ECHEVERRIA  
Deputy Attorney General  
*Attorneys for Defendant-Appellant Rob  
Bonta, in his Official Capacity as Attorney  
General for the State of California*

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**DECLARATION OF JOHN D. ECHEVERRIA IN  
SUPPORT OF UNOPPOSED MOTION FOR EXTENSION  
OF TIME TO FILE SUPPLEMENTAL BRIEF**

ROB BONTA  
Attorney General of California  
THOMAS S. PATTERSON  
Senior Assistant Attorney General  
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Bonta, in his Official Capacity as  
Attorney General for the State of  
California*

I, John D. Echeverria, declare:

1. I am an attorney duly licensed to practice law in the State of California. I am authorized to appear before the above-entitled Court. I am employed as a Deputy Attorney General for the California Attorney General's Office within the California Department of Justice. I am the lead attorney assigned to represent Defendant-Appellant Rob Bonta, in his official capacity as Attorney General of the State of California, in this action.

2. I make this declaration in support of the unopposed motion of Defendant-Appellant for an extension of time of 15 days in which to file his supplemental brief. The current deadline for Defendant-Appellant's supplemental brief is July 24, 2022. If the motion is granted, Defendant-Appellant will be required to file his supplemental brief by Monday, August 8, 2022.

3. On July 11, 2022, I spoke with Erin Murphy, counsel for Plaintiffs-Appellees, by telephone to discuss Defendant-Appellant's intention to seek a two-week extension of time in which to file his supplemental brief. I also spoke with Ms. Murphy telephonically on July 12 to further discuss this request. Ms. Murphy informed me during these calls that Plaintiffs-Appellees do not oppose this request, provided that Plaintiffs-

Appellees' supplemental brief remains due no later than 30 days after the filing of Defendant-Appellant's supplemental brief.

4. There is substantial need for the 15-day requested extension, and good cause exists to grant the request. The extension of time will provide the parties with additional time to consider the implications of the Supreme Court's decision in *New York State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111, 2022 WL 2251305 (U.S. June 23, 2022). Counsel for Defendant-Appellant requires an additional two weeks to assess the proper application of the new text-and-history standard to the ammunition purchase requirements at issue here.

5. Furthermore, Defendant-Appellant's prior counsel, Nelson Richards, has left the Attorney General's Office, and I have assumed primary responsibility for the representation of Defendant-Appellant in this case. I would benefit from the additional time to review the materials submitted, including materials submitted in the district court proceeding.

6. Defendant-Appellant has exercised diligence in making this request and intends to file the supplemental brief by the date requested.

7. None of the parties has previously requested an extension of the deadline to file the supplemental briefs required under the June 24 Order.



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

Executed this 12th day of July, 2022, at San Francisco, California.

*s/ John D. Echeverria*  
John D. Echeverria

**CERTIFICATE OF SERVICE**

Case Name: ***Kim Rhode, et al. v. Rob Bonta***

Case No. **20-55437**

I hereby certify that on July 12, 2022, I electronically filed the following document with the Clerk of the Court by using the CM/ECF system:

**UNOPPOSED MOTION FOR EXTENSION OF TIME TO  
FILE SUPPLEMENTAL BRIEF; DECLARATION OF  
JOHN D. ECHEVERRIA**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct.

Executed on July 12, 2022, at San Francisco, California.

\_\_\_\_\_  
Vanessa Jordan

Declarant

\_\_\_\_\_  
*s/ Vanessa Jordan*

Signature