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11 TODD NIELSEN, THE CALGUNS FOUNDATION,
FIREARMS POLICY COALITION,
12 FIREARMS POLICY FOUNDATION,
and SECOND AMENDMENT FOUNDATION

13 UNITED STATES DISTRICT COURT

14 FOR THE EASTERN DISTRICT OF CALIFORNIA

15 WILLIAM WIESE, et al.,

16 Plaintiffs,

17 vs.

18 XAVIER BECERRA, in his official capacity as
19 Attorney General of California, et al.,

20 Defendants.

Case No. 2:17-cv-00903-WBS-KJN

**DECLARATION OF LUONG Q. DANG IN
SUPPORT OF PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER AND
ISSUANCE OF PRELIMINARY INJUNCTION**

[FRCP 65; E.D. L.R. 231]

Date: TBA
Time: TBA
Courtroom 5
Judge: Hon. William B. Shubb

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DECLARATION OF LUONG Q. DANG

I, Luong Q. Dang, declare as follows:

1. I am an adult resident of the County of Alameda, California, and I am a named plaintiff in this matter. I have personal knowledge of the facts stated in this declaration, and if called as a witness, could competently testify thereto.

2. This declaration is executed in support of plaintiffs' motion for the issuance of a temporary restraining order, and issuance of a preliminary injunction, made pursuant to FRCP 65, whereby we are seeking an injunction prohibiting the temporary/permanent enforcement of the prohibition on the *possession* of large-capacity magazines, set forth in Pen. Code § 32310, subdiv. (c) and (d) as enacted in 2016.

3. After emigrating from Vietnam after the conflict there, I have lived in California. I am a law-abiding individual, and I am not prohibited from owning firearms.

4. Since I emigrated to the United States, I have been a long-standing collector of firearms, some of which are rare and unique. In conjunction with such collection, I acquired, before 2000, two large capacity magazines as that term is defined by the statute. These large-capacity magazines were originally manufactured for, and made a part of a Steyr GB pistol, chambered in 9mm, which I subsequently purchased and acquired legally.

5. As far as I am aware, the magazines that I have for the Steyr GB pistol were the only magazines made for that pistol. On information and belief, I am not aware of the existence of any subsequently-manufactured ten-round magazines compatible with this particular pistol. Without these magazines, I have no way of operating this pistol. I therefore believe that the law that would require me to relinquish these magazines presents a substantial burden on my rights as a gun and property owner.

6. I have therefore brought this action on my own behalf, and in a representative capacity on behalf of the class of law-abiding California citizens who have lawfully possessed large-capacity magazines (as that term is defined by statute), since before 2000. Each of these "pre-ban" magazines which I own are inherent operating parts of firearms. Each such firearm

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1 containing these “pre-ban” large capacity magazines is lawfully owned by me, as is my right, as
2 guaranteed by the U.S. Constitution.

3 7. I do not wish to remove or sell these pre-ban large-capacity magazines in my
4 possession, as they are literally irreplaceable, given the prohibition on the further purchase,
5 acquisition or manufacture of such items under California law. I am unwilling to destroy or
6 surrender these pre-ban large capacity magazines in my possession.

7 8. Therefore, I believe that these large-capacity magazines in my possession have
8 substantial value, as irreplaceable items. Moreover, it would likely cost me substantial amounts
9 to replace the magazines with functional equivalents, using magazines holding ten or fewer
10 rounds, if any are or even would be available at all. In my view, this deprives me of the
11 beneficial use of the firearm as it was intended to be used, and undermines its utility.

12 9. I believe, as the owner of a firearm for which no magazines holding 10 or fewer
13 rounds is available, that I am subject to the exemption set forth in Pen. Code § 32406, subdiv. (f),
14 as enacted pursuant to SB 1446, because I have lawfully possessed these large-capacity
15 magazines solely for use with the Steyr GB. However, I am informed and believe that there are
16 two separate versions of Pen. Code § 32406, both of which are chaptered and are currently on the
17 books. I am unable to tell which version controls. I am told that the Attorney General has taken
18 the position in other litigation that the Proposition 63 version (to which no such exception
19 applies), controls because it was passed after the SB 1446 version was passed and signed into
20 law. I therefore desire clarification by the court on this point.

21
22 10. Because of these facts and circumstances, as of July 1, unless the enforcement of
23 Pen. Code § 32310(c) is enjoined, I will suffer a permanent physical deprivation of personal
24 property, which happen to be inherent, operating parts of firearms, the ownership of which is
25 protected by the Constitution. I will therefore and for the reasons stated here suffer irreparable
26 injury unless the law is enjoined.

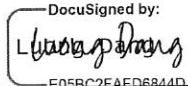
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11. As of July 1, 2017, if Penal Code § 32310(c) remains in effect and is enforced, I will comply with the law, but in so doing, I will be deprived of all beneficial use of the property. For these reasons stated in this declaration, I am respectfully asking the court to enjoin the enforcement of the ban on the prohibition of these “pre-ban” large-capacity magazines set forth in Pen. Code § 32310(c) and (d) as amended.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 10 2017.

DocuSigned by:

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Luong Q. Dang

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