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15 IN THE UNITED STATES DISTRICT COURT
16 FOR THE EASTERN DISTRICT OF CALIFORNIA
17 SACRAMENTO DIVISION

19 **WILLIAM WIESE, et al.,**

20 Plaintiffs,

21 v.

23 **XAVIER BECERRA, et al.,**

24 Defendants.

2:17-cv-00903-WBS-KJN

JOINT STATUS REPORT

Date: April 15, 2019
Time: 1:30 p.m.
Courtroom: 5, 14th Floor
Judge: Hon. William B. Shubb
Trial Date: None Set
Action Filed: April 28, 2017

26 Pursuant to the Court’s Minute Order entered on March 5, 2019 (Dkt. No. 104), the parties
27 hereby jointly submit this Joint Status Report. The parties conferred telephonically in accordance
28

1 with Federal Rule of Civil Procedure (“FRCP”) 26(f) on March 6, 2019, March 26, 2019, March
2 29, 2019 and April 1, 2019.

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4 **I. REQUEST FOR CONTINUANCE OF SCHEDULING CONFERENCE**

5 In anticipation of the Scheduling Conference set for April 15, 2019, the parties met and
6 conferred, and had agreed in principle to a proposed abbreviated discovery schedule, utilizing
7 largely the same record that was used in *Duncan v. Becerra*, S.D. Cal. No. 3:17-cv-01017-BEN-
8 JLB (“*Duncan*”). The parties had exchanged and agreed to a Joint Status Report for submission
9 today.

10 However, on the afternoon of March 29, 2019, Judge Benitez issued his Judgment and
11 memorandum decision in *Duncan* [Doc. 88]. The parties in the present case are reviewing the
12 decision and judgment in *Duncan* and are continuing to meet and confer about how best to
13 proceed in this action. Accordingly, the parties in the present case respectfully request a
14 continuance of the scheduling conference for a period of thirty (30) days to allow the parties to
15 continue to confer, to finalize the procedural posture in *Duncan*, and to submit a new Joint Status
16 Report in the instant case.

17
18 **II. STATEMENTS ON SUBJECTS LISTED IN THE COURT’S APRIL 28, 2017 ORDER**

19 In addition to the parties’ request for the Court to continue the Scheduling Conference in
20 this matter, the parties hereby provide statements on the subjects listed in paragraph 2 of the April
21 28, 2017 Order:

22 **a. Summary of the Claims**

23 Plaintiffs challenge California’s prohibition on the possession of firearm magazines that can
24 hold more than ten rounds of ammunition, or “large-capacity magazines,” as set forth in
25 California Penal Code § 32310. Plaintiffs claim that the prohibition (1) violates the Second
26 Amendment to the U.S. Constitution (Count I), (2) violates the Takings Clauses of the U.S. and
27 California Constitutions and the Due Process Clause of the Fourteenth Amendment to the
28 U.S. Constitution (Count II), and (3) violates the Equal Protection Clauses of the U.S. and

1 California Constitutions (Count V). *See* Pls.’ 3d Am. Compl. for Declaratory & Injunctive Relief
2 (the “Third Amended Complaint”) (Dkt. No. 76). The Court has dismissed with prejudice
3 Plaintiffs’ claims that the prohibition is unconstitutionally vague (Count III) and is
4 unconstitutionally vague and overbroad (Count IV). *See* Dkt. No. 103 at 9.

5 **b. Status of Service**

6 All defendants have been served with, and answered the Third Amended Complaint. There
7 are no cross-defendants in this action.

8 **c. Possible Joinder of Additional Parties**

9 At present, the parties do not anticipate joining any additional parties in this action.

10 **d. Contemplated Amendments to the Pleadings**

11 In light of *Duncan*, the plaintiffs will consider this prior to the Scheduling Conference.

12 **e. Jurisdiction and Venue**

13 The Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1367(a). Venue is proper
14 under 28 U.S.C. § 1391(b).

15 **f. Proposed Discovery Plan**

16 As discussed in Part I, *supra*, the parties agree that discovery and scheduling should be
17 continued for a period of thirty days. Provisionally, in the event this Court deems a continuance
18 of the Scheduling Conference to be unwarranted, the parties would submit a plan that conforms to
19 the following proposed discovery cutoff dates set forth below.

20 **g. Proposed Discovery Cut-Off Date**

21 In the event this Court deems a continuance of the Scheduling Conference to be
22 unwarranted, the parties would provisionally submit the following proposed discovery schedule:

23 Exchange of Initial Disclosures: Parties will meet and confer.

24 Fact Witness Discovery Cutoff: September 27, 2019.

25 Expert Witness Discovery Cutoff: November 15, 2019.

26 **h. Proposed Cut-Off Date for All Motions**

27 As discussed, *supra*, the parties agree that discovery and scheduling should be continued
28 for a period of thirty days. Provisionally, in the event this Court deems a continuance of the

1 Scheduling Conference to be unwarranted, the parties would submit a deadline for filing
2 dispositive motions by January 10, 2020.

3 **i. Proposed Modification of Standard Pretrial Proceedings**

4 The parties do not anticipate proposing any modifications to the standard pretrial
5 proceedings due to any special nature of this action.

6 **j. Estimated Length of Trial**

7 The parties estimate a bench trial of up to seven (7) days.

8 **k. Statement of Related Cases**

9 There are no related cases pending in the Eastern District of California.

10 This case is similar to *Duncan v. Becerra*, No. 17-cv-01017-BEN-JLB, which is pending
11 before the Honorable Roger T. Benitez in the United States District Court for the Southern
12 District of California.

13 **l. Other Matters Discussed in Local Rule 240**

14 See the parties' statement requesting a continuance of the matter for thirty days, to evaluate
15 how to proceed in light of the ruling in *Duncan*.

16 There are no other matters discussed in Local Rule 240 that may add to the just and
17 expeditious disposition of this matter.

18 **m. Nongovernmental Corporate Disclosure Statement**

19 On June 5, 2017, Plaintiffs filed a Corporate Disclosure Statement pursuant to Federal Rule
20 of Civil Procedure 7.1. (Docket No. 8.) There have been no changes to the information
21 contained in the Corporate Disclosure Statement. In accordance with the April 28 Order, and for
22 the convenience of the Court, Plaintiffs provide the following information contained in their
23 Corporate Disclosure Statement:

- 24
- 25 • Plaintiff The Calguns Foundation, Inc. is a non-profit membership organization,
26 incorporated under the laws of California. This plaintiff does not have a parent
27 corporation, and no publicly held corporation owns 10% or more of its stock or
28 membership interest.

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- Plaintiff Firearms Policy Coalition, Inc. is a non-profit membership organization, incorporated under the laws of Delaware. This plaintiff does not have a parent corporation, and no publicly held corporation owns 10% or more of its stock or membership interest.
- Plaintiff Firearms Policy Foundation, Inc. is a non-profit membership organization, incorporated under the laws of Delaware. This plaintiff does not have a parent corporation, and no publicly held corporation owns 10% or more of its stock or membership interest.
- Plaintiff Second Amendment Foundation, Inc. is a non-profit membership organization, incorporated under the laws of Delaware. This plaintiff does not have a parent corporation, and no publicly held corporation owns 10% or more of its stock or membership interest.

■ ■ ■

Unless ordered otherwise, the parties will still be prepared to appear at the Scheduling Conference on April 15, 2019 to further discuss all relevant developments with this Court.

1 Dated: April 1, 2019

XAVIER BECERRA
Attorney General of California
MARK R. BECKINGTON
Supervising Deputy Attorney General

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/s/ John D. Echeverria
(as authorized on April 1, 2019)

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JOHN D. ECHEVERRIA
Deputy Attorney General
Attorneys for Defendants

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9 Dated: April 1, 2019

SEILER EPSTEIN ZIEGLER &
APPLEGATE LLP

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/s/ George M. Lee

George M. Lee
Attorneys for Plaintiffs

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