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13

14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

16 B&L PRODUCTIONS, INC., d/b/a
17 CROSSROADS OF THE WEST; et al.,

18 Plaintiffs,

19 v.

20 GAVIN NEWSOM, in his official
capacity as Governor of the State of
21 California and in his personal capacity; et
al.,

22 Defendants.

CASE NO.: 21-cv-01718-AJB-KSC

**NOTICE OF ERRATA RE: FIRST
AMENDED COMPLAINT**

1 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that Plaintiffs B&L Productions, Inc., Barry
3 Bardack, Ronald J. Diaz, Sr., John Dupree, Christopher Irick, Robert Solis,
4 Lawrence Michael Walsh, Captain Jon’s Lockers, LLC, L.A.X. Firing Range, Inc.,
5 California Rifle & Pistol Association, Incorporated, South Bay Rod and Gun Club,
6 Inc., and Second Amendment Foundation inadvertently omitted a redlined version of
7 the amended complaint showing how the pleading differed from the previously
8 dismissed pleading when filing their First Amended Complaint on August 31, 2022,
9 as should have been included pursuant to Civil Rule 15.1 c.

10 The redlined version of the amended complaint is attached as **Exhibit A**.

11 Dated: September 8, 2022 s/ Anna M. Barvir
12 Anna M. Barvir
13 MICHEL & ASSOCIATES, P.C.
14 Email: abarvir@michellawyers.com

15 Dated: September 8, 2022 s/ Donald Kilmer
16 Donald Kilmer
17 LAW OFFICES OF DONALD KILMER, APC
18 Email: don@dclawoffice.com

19
20 **ATTESTATION OF E-FILED SIGNATURES**

21 I, Anna M. Barvir, am the ECF User whose ID and password are being used
22 to file this **NOTICE OF ERRATA RE: FIRST AMENDED COMPLAINT**. In
23 compliance with Southern District of California Electronic Case Filing
24 Administrative Policies and Procedures Section 2(f)(4), I attest that Plaintiff Second
25 Amendment Foundation’s counsel, Donald Kilmer, has concurred in this filing.

26
27 Dated: September 8, 2022 s/ Anna M. Barvir
28 Anna M. Barvir

EXHIBIT A

1 C.D. Michel-SBN 144258
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12 Attorney for Plaintiff Second Amendment Foundation

13
14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

15 B&L PRODUCTIONS, INC., d/b/a
16 CROSSROADS OF THE WEST;
17 BARRY BARDACK; RONALD J.
18 DIAZ, SR.; JOHN DUPREE;
19 CHRISTOPHER IRICK; ROBERT
20 SOLIS; LAWRENCE MICHAEL
21 WALSH; CAPTAIN JON’S
22 LOCKERS, LLC; L.A.X. FIRING
23 RANGE, INC., d/b/a LAX AMMO;
24 CALIFORNIA RIFLE & PISTOL
25 ASSOCIATION, INCORPORATED;
26 SOUTH BAY ROD AND GUN
27 CLUB, INC.; and SECOND
28 AMENDMENT FOUNDATION,

Plaintiffs,

v.

25 GAVIN NEWSOM, in his official
26 capacity as Governor of the State of
27 California and in his personal capacity;
28 ~~ROBERT~~ **ROBERT** BONTA, in his official
capacity as Attorney General of the
State of California and in his personal
capacity; KAREN ROSS, in her

~~CASE NO:~~ Case No.: 21-cv-01718-AJB-KSC

**FIRST AMENDED COMPLAINT FOR
MONETARY, DECLARATORY &
INJUNCTIVE RELIEF; DEMAND
FOR JURY TRIAL**

**(1) VIOLATION OF 42 U.S.C. § 1983
[FREE SPEECH - POLITICAL];**

**(2) VIOLATION OF 42 U.S.C. § 1983
[FREE SPEECH-MIXED POLITICAL/
COMMERCIAL];**

**(3) VIOLATION OF 42 U.S.C. § 1983
[FREE SPEECH-COMMERCIAL];**

**(4) VIOLATION OF 42 U.S.C. § 1983
[PRIOR RESTRAINT ON SPEECH];**

**(5) VIOLATION OF 42 U.S.C. § 1983
[RIGHT TO ASSEMBLY];**

**(6) VIOLATION OF 42 U.S.C. § 1983
[RIGHT TO KEEP & BEAR ARMS];**

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official capacity as Secretary of California Department of Food & Agriculture and in his personal capacity; ~~SUMMER~~ STEPHAN ~~SUMMER~~, in his official capacity as District Attorney ~~of San Diego County~~; ~~THOMAS MONTGOMERY~~, in his official capacity as ~~County Counsel~~ of San Diego County; 22nd DISTRICT AGRICULTURAL ASSOCIATION; DOES 1-50;

Defendants.

(7) VIOLATION OF 42 U.S.C. § 1983 [EQUAL PROTECTION];

(78) INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE;

(89) NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE;

(910) INTENTIONAL INTERFERENCE WITH CONTRACT.

DEMAND FOR JURY TRIAL

NOTICE OF UNCONSTITUTIONALITY OF STATE STATUTE

NOTICE OF RELATED CASE

INTRODUCTION

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1. Plaintiff B & L PRODUCTIONS, INC., d/b/a CROSSROADS OF THE WEST has operated popular, safe, heavily regulated, legal, and family-friendly gun shows as a business in California for over 30 years, including at the Del Mar Fairgrounds.

2. Crossroads produces gun shows at the Fairgrounds where like-minded individuals gather to engage in commerce related to, and necessary for, the lawful and regulated exercise of Second Amendment rights for themselves, their exhibitors, their patrons, their customers, and the ~~general~~ public. This safe and regulated marketplace promotes public safety, even for people who do not attend gun shows because it will tend to reduce the unregulated transfer of firearms within San Diego County. Furthermore, by providing a convenient forum for Californians to exercise their right to acquire firearms locally, gun shows at the Fairgrounds will have the tendency to discourage the sale and importation of firearms from other states with less strict gun laws than California.

3. Plaintiffs Barry Bardack, Ronald J. Diaz, Sr., John Dupree, Christopher Irick, Robert Solis, Lawrence Michael Walsh, Captain Jon’s Lockers, LLC, L.A.X Firing Range, d/b/a LAX Ammo, California Rifle & Pistol Association, Incorporated, South Bay Rod and Gun Club, Inc., and Second Amendment Foundation, Inc., attend and participate in the Crossroads gun show to engage in First Amendment activities that are both necessary and essential to the open, robust, and lawful exercise of their Second Amendment rights.

4. At the gun show, Plaintiffs associate with like-minded people, participate in public discussions, attend informational forums, distribute and collect information, make offers for sale, make offers to buy, and engage in legal and political discussions related to the Second Amendment, which are all forms of speech protected by the First Amendment. Discussions include, but are not limited to, firearms and ammunition, firearm technology, firearm safety, and firearm law

1 and politics. Participants also exchange information about where to hunt and where
2 to practice shooting, where and from whom to receive training, gunsmithing, gun
3 repair, gun art, and many other topics that arise from the right to acquire, own,
4 possess, enjoy, and celebrate arms as a quintessentially American artifact with
5 constitutional significance.

6 5. Defendants are government actors who, through the adoption and
7 enforcement of Assembly Bill 893, codified at California Food & Agricultural Code
8 section 4158,¹ which prohibits the sale of firearms and ammunition at the
9 Fairgrounds with the intention and effect of shuttering gun show events altogether,
10 have engaged in and will continue to engage in action that violates Plaintiffs'
11 constitutional rights to free speech, assembly, and equal protection. Their actions
12 also constitute prior restraint.

13 6. What's more, the conduct of Defendants Newsom, Bonta, Ross, and the
14 22nd District Agricultural Association also constitutes intentional and/or negligent
15 interference with the prospective economic advantage of Plaintiffs Crossroads,
16 Walsh, LAX Ammo, CRPA, and SAF, as well as intentional interference with
17 Plaintiff Crossroads' contracts.

18 7. This action seeks declaratory and injunctive relief against Defendants
19 for violating the United States Constitution. It also seeks damages for lost profits,
20 lost opportunities, and diminished marketing value, and reimbursement for
21 reasonable attorney's fees, costs, and other expenses in bringing this action.

22 JURISDICTION AND VENUE

23 8. The Court has original jurisdiction of this civil action under 28 U.S.C. §
24 1331 because the action arises under the Constitution and laws of the United States,
25 thus raising federal questions. The Court also has jurisdiction under 28 U.S.C. §
26 1343(a)(3) and 42 U.S.C. § 1983 since this action seeks to redress the deprivation,

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28 ¹ Plaintiffs refer to the challenged law, California Food & Agricultural Code
section 4158, as AB 893 throughout this complaint.

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under color of the laws, statutes, ordinances, regulations, customs, and usages of the State of California and political subdivisions thereof, of rights, privileges, or immunities secured by the United States Constitution and by Acts of Congress.

9. Plaintiffs’ claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202, respectively, and their claim for attorneys’ fees is authorized by 42 U.S.C. § 1988.

10. This Court has supplemental jurisdiction over Plaintiffs’ state law claims pursuant to 28 U.S.C. § 1367 because those claims share common operative facts with Plaintiffs’ federal law claims over which this Court has original jurisdiction. Adjudication of Plaintiffs’ state law claims together with Plaintiffs’ federal law claims furthers the interest of judicial economy.

~~10.11.~~ Venue is proper in this Court under 28 U.S.C. § 1391(b)(2) because the 22nd District Agricultural Association is ~~located~~ in San Diego County and a substantial part of the events or omissions giving rise to Plaintiffs’ claims occurred in this district. Further, the state of California maintains an office for service of process in San Diego County at 600 West Broadway, Suite 1800, San Diego, California 92101.

PARTIES

[Plaintiffs]

~~11.12.~~ Plaintiff B & L PRODUCTIONS, INC., d/b/a CROSSROADS OF THE WEST, is a for-profit event promoter operating in several western states. Crossroads ~~is in the business of promoting~~ promotes and ~~organizing~~ organizes trade shows throughout the state of California and other western states, including their long-running gun show events held at the Del Mar Fairgrounds (“the Fairgrounds”) operated under the d/b/a Crossroads of the West (“Crossroads”). Crossroads currently is the largest vendor of gun show events in California and at the Del Mar Fairgrounds. The gun shows occupy thousands of square feet of the Fairgrounds. Typically, thousands of people attend the gun show on each of the weekends they are held. They have successfully

1 produced and operated multiple safe, legal, and family-friendly gun show events in
2 California and at the Fairgrounds every year for over 30 years.

3 12.13. Plaintiff BARRY BARDACK is a resident of El Cajon, California, and
4 he is a part-time flight instructor. He regularly attends the gun shows at the
5 Fairgrounds where he purchases ammunition for his target shooting hobby and
6 volunteers at the CRPA booth to talk to others about their rights, the importance of
7 membership in the CRPA, and the Second Amendment. -The ban on sales of
8 firearms and ammunition at the Fairgrounds burdens his right to engage in otherwise
9 lawful commercial speech in a public forum and restricts his ability to purchase
10 ammunition for lawful purposes—this is especially true for Plaintiff Bardack
11 because the nearest vendor that could serve his particular ammunition needs is some
12 two hours from his home. And because the ban is intended to make gun shows less
13 profitable and effectively shutter them, it also restricts his right to engage in the
14 unique types of political, educational, and commercial speech that takes place at the
15 gun show.

16 13.14. Plaintiff RONALD J. DIAZ, SR., is a resident of Alpine, California,
17 and he is a retired federal contractor. He regularly attends gun shows at the
18 Fairgrounds to purchase ammunition reloading supplies. Plaintiff Diaz also attends
19 the Crossroads gun show events at the Del Mar Fairgrounds to engage in expressive
20 activities with like-minded people, including discussions related to firearms,
21 ammunition, and firearm accessories, the shooting sports, politics, and the Second
22 Amendment. The ban on sales of firearms and ammunition at the Fairgrounds,
23 which is intended to make gun shows less profitable and effectively shutter them,
24 burdens his right to engage in otherwise lawful commercial and educational speech
25 in a public forum with vendors that offer him the expertise and variety of reloading
26 supplies available at Crossroads gun shows. It also restricts his right to engage in the
27 unique types of political, educational, and commercial speech that takes place at the
28 gun show.

1 14.15. Plaintiff JOHN DUPREE is a resident of Alpine, California, and he
2 works for the federal government. He regularly attends the Crossroads gun shows at
3 the Fairgrounds. He is a competitive shooter and has the need to purchase bulk
4 ammunition in order to compete. Plaintiff Dupree also attends the Crossroads gun
5 show events at the Del Mar Fairgrounds to engage in expressive activities with like-
6 minded people, including discussions related to firearms, ammunition, and firearm
7 accessories, the shooting sports, politics, and the Second Amendment. The ban on
8 sales of firearms and ammunition at the Fairgrounds burdens his right to engage in
9 otherwise lawful commercial speech in a public forum and restricts his ability to
10 purchase ammunition for lawful purposes—this is especially true for Plaintiff
11 Dupree because the nearest vendor that could serve his particular ammunition needs
12 is several hours from his home. And because the ban is intended to make gun shows
13 less profitable and effectively shutter them, it also restricts his right to engage in the
14 unique types of political, educational, and commercial speech that takes place at the
15 gun show.

16 15.16. Plaintiff CHRISTOPHER PAUL IRICK is a resident of Carlsbad,
17 California, and he regularly attends the Crossroads guns shows at the Fairgrounds.
18 He is self-employed and enjoys going to the shows for good prices on firearms and
19 accessories, as well as the ~~variety of varied~~ merchandise available at the events.
20 Plaintiff Irick also attends the Crossroads gun show events at the Fairgrounds to
21 engage in expressive activities with like-minded people who hunt and support the
22 Second Amendment, while learning about new and innovative products available to
23 firearms owners and sportsmen. The ban on sales of firearms and ammunition at the
24 Fairgrounds burdens his right to engage in otherwise lawful commercial speech in a
25 public forum and restricts his ability to purchase firearms and ammunition for lawful
26 purposes. And because the ban is intended to make gun shows less profitable and
27 effectively shutter them, it also restricts his right to engage in the unique types of
28 political, educational, and commercial speech that takes place at the gun show.

1 16.17. Plaintiff ROBERT SOLIS is a resident of Oxnard, California, and he is
2 a regular vendor at the Crossroads gun shows at the Fairgrounds. At the Crossroads
3 gun show, he sells firearms-related accessories and, though not in the business of
4 selling firearms, he ~~occasionally~~sometimes engages in the lawful private sale of
5 firearms and ammunition at the show. Plaintiff Solis also attends gun show events at
6 the Del Mar Fairgrounds to engage in expressive activities with like-minded people,
7 including discussions related to firearms, ammunition, and firearm accessories, the
8 shooting sports, politics, and the Second Amendment. The ban on sales of firearms
9 and ammunition at the Fairgrounds directly burdens Plaintiff Solis' right to engage
10 in otherwise lawful commercial speech in a public forum and to access firearms and
11 ammunition for lawful purposes. And because the ban on sales of firearms and
12 ammunition at the Fairgrounds is intended to make gun shows less profitable and
13 effectively shutter them, it restricts his right to engage in otherwise lawful
14 commercial speech related to the sales of firearms accessories and his ability to
15 engage in the unique types of political, educational, and commercial speech that
16 takes place at the gun show.

17 17.18. Plaintiff LAWRENCE MICHAEL WALSH is a resident of Grass
18 Valley, California, and is the owner of Miwall Corporation, d/b/a Wholesale
19 Ammunition. Miwall is one of the major gun ammunition distributors on the west
20 coast and has been in business for decades. He is a regular vendor at the Crossroads
21 gun shows at the Fairgrounds. Plaintiff Walsh's business currently does not have a
22 physical store, and it only sells its product at gun shows across the state and online.
23 Wholesale Ammunition also supplies ammunition to many of the law enforcement
24 agencies and officers in the state, some of which purchase their ammunition from
25 him at the gun shows because of the amount available, the cost, and the variety they
26 can find. Plaintiff Walsh enjoys ~~being able to talk~~talking with other Second Amendment
27 supporters with like interests and views. If the gun shows at the Fairgrounds, or any
28 of the other state venues, were to be shut down, it would be devastating to Plaintiff

1 Walsh's business. The ban on sales of firearms and ammunition at the Fairgrounds
2 directly burdens Plaintiff Walsh's right to engage in otherwise lawful commercial
3 speech in a public forum and to access firearms and ammunition for lawful
4 purposes. And because the ban on sales of firearms and ammunition at the
5 Fairgrounds is intended to make gun shows less profitable and effectively shutter
6 them, it restricts his right to engage in the unique types of political, educational, and
7 commercial speech that takes place at the gun show.

8 18.19. Plaintiff CAPTAIN JON'S GREEN CAN LOCKERS, LLC, is a
9 limited liability corporation incorporated under the laws of California, with
10 headquarters in Alpine, California. It is wholly owned and operated by Jon J.
11 Winslow, a Retired Fire Captain, who invented and, through the Captain Jon's
12 business, sells a device that safely and effectively locks the widely popular green
13 metal surplus ammunition cans to prevent unauthorized access to their contents.
14 Captain Jon's has no physical store but has been a regular vendor at the Crossroads
15 gun shows at the Fairgrounds since 2015. The Fairgrounds is only 45 minutes from
16 Captain Jon's headquarters, and the next nearest gun show event is at least two
17 hours away. Captain Jon's thus depends on the Del Mar gun show for a significant
18 portion of its annual revenues. Indeed, Captain Jon's has built a loyal following of
19 repeat buyers at the Del Mar show, which make up approximately about 50% of the
20 business' sales at the gun show. What's more, Mr. Winslow, Captain Jon's only
21 employee, also attends gun show events at the Fairgrounds to engage in expressive
22 activities with like-minded people, including discussions related to firearms,
23 ammunition, and firearm accessories, the shooting sports, politics, and the Second
24 Amendment. Because the ban on sales of firearms and ammunition at the
25 Fairgrounds is intended to make gun shows less profitable and effectively shutter
26 them, it restricts the lawful commercial speech that Captain Jon's and its sole owner,
27 operator, and employee, Mr. Winslow, engage in at the gun show. It also restricts
28 Mr. Winslow's ability to engage in the unique types of political, educational, and

1 commercial speech that takes place at the gun show.

2 19:20. Plaintiff L.A.X. FIRING RANGE, INC., d/b/a LAX AMMO LLC, is a
3 limited liability corporation incorporated under the laws of California, with
4 headquarters in Inglewood, California. LAX Ammo is a regular vendor at the
5 Crossroads gun shows at the Fairgrounds. At the Crossroads gun show, LAX Ammo
6 sells “high quality reloads and factory new ammunition in various calibers for rifles,
7 handguns, and shotguns at affordable prices.” The ban on sales of firearms and
8 ammunition at the Fairgrounds directly burdens the right of LAX Ammo, its owners,
9 and employees, to engage in otherwise lawful commercial speech in a public forum
10 and to access firearms and ammunition for lawful purposes. And because the ban on
11 sales of firearms and ammunition at the Fairgrounds is intended to make gun shows
12 less profitable and effectively shutter them, it restricts the right of LAX Ammo, its
13 owners, and employees, to engage in the unique types of political, educational, and
14 commercial speech that takes place at the gun show.

15 20:21. Plaintiff CALIFORNIA RIFLE & PISTOL ASSOCIATION,
16 INCORPORATED (“CRPA”) is a nonprofit membership organization incorporated
17 under the laws of California, with headquarters in Fullerton, California. Among its
18 other activities, CRPA works to preserve and expand constitutional and statutory
19 rights of gun ownership, including the right to self-defense and the right to keep and
20 bear arms. CRPA accomplishes this through its educational offerings, publications,
21 member engagement events, and legislative advocacy and initiatives. CRPA is also a
22 regular vendor at the Crossroads gun shows at the Fairgrounds, where it engages the
23 public in discussions about the organization and its purposes, the shooting sports,
24 firearms, and firearm safety, and the Second Amendment and other political issues.
25 It also attends gun shows at the Fairgrounds to sell organization memberships,
26 advertise its events, distribute its publications, and sell its merchandise, some of
27 which includes expressly pro-gun messaging. CRPA has also hosted political rallies,
28 educational seminars, and range safety officer training at gun shows throughout the

1 state, including those at the Fairgrounds. What’s more, CRPA has tens of thousands
2 of members and supporters, many of whom (including Plaintiffs Bardack, Diaz,
3 Dupree, Irick, Solis, and Winslow) attend the Crossroads gun shows at the
4 Fairgrounds to engage in expressive activities with like-minded people, including
5 discussions related to firearms, ammunition, and firearm accessories, the shooting
6 sports, politics, and the Second Amendment. Because the ban on sales of firearms
7 and ammunition at the Fairgrounds is intended to make gun shows less profitable
8 and effectively shutter them, it restricts the rights of CRPA, its employees,
9 volunteers, members, and supporters, to engage in the unique types of political,
10 educational, and commercial speech that takes place at the gun show. Through this
11 lawsuit, CRPA represents not only its own interests as a gun show vendor, but also
12 the interests of its members as gun show attendees and supporters of the right to
13 keep and bear arms for lawful purposes.

14 21.22. Plaintiff SOUTH BAY ROD AND GUN CLUB, INC. (“South Bay”) is
15 a private nonprofit corporation incorporated under the laws of California, with
16 headquarters in San Diego County, California. It was formed in 1955 with a mission
17 to operate a properly managed nonprofit shooting club that is efficiently designed,
18 contracted, and safely operated with diligently maintained shooting ranges, support
19 structures, and facilities so that all authorized members and guests may use the
20 facility with pride, confidence, and satisfaction. South Bay endeavorsseeks to
21 promote and encourage the safe handling and use of firearms. South Bay is a regular
22 vendor at the Crossroads gun shows at the Fairgrounds, where it engages the public
23 in discussions about the organization and its purposes, the shooting sports, and
24 firearms and firearm safety. What’s more, South Bay has some 4,000 members,
25 many of whom reside in San Diego County and attend the Crossroads gun shows at
26 the Fairgrounds to engage in expressive activities with like-minded people,
27 including discussions related to firearms, ammunition, and firearm accessories, the
28 shooting sports, politics, and the Second Amendment. Because the ban on sales of

1 firearms and ammunition at the Fairgrounds is intended to make gun shows less
2 profitable and effectively shutter them, it restricts the rights of South Bay, its
3 employees, volunteers, and members, to engage in the unique types of political,
4 educational, and commercial speech that takes place at the gun show. Through this
5 lawsuit, South Bay represents not only its own interests as a gun show vendor, but
6 also the interests of its members as gun show attendees and supporters of the right to
7 keep and bear arms for lawful purposes.

8 22-23. Plaintiff SECOND AMENDMENT FOUNDATION, INC. (“SAF”) is a
9 ~~non-profit~~nonprofit membership organization. It is incorporated under the laws of
10 the state of Washington and was founded in 1974. SAF has over 650,000 members
11 and supporters nationwide, include thousands of members in California. -The
12 purposes of SAF include education, research, publishing, and litigation. It is critical
13 to the success of SAF that its promotional material, publications, and messages
14 about the “right to keep and bear arms” reach demographic groups ~~that are~~ saturated
15 with gun owners, gun buyers, and people of the “gun culture.”- Gun Shows like the
16 one threatened by the Defendants’ actions interfere with this effort. SAF is dedicated
17 to promoting a better understanding about our constitutional heritage to privately
18 own and possess firearms through educational and legal action programs designed to
19 better inform the public about gun control issues. SAF has been a pioneer in
20 innovative defense of the right to keep and bear arms, through its publications and
21 public education programs like the Gun Rights Policy Conference. Those
22 publications and other SAF materials and information are offered at gun show
23 events. Second Amendment Foundation also expends significant sums of money
24 sponsoring public interest litigation to defend its own interests to disseminate
25 information to like-minded individuals, in and individualized setting, but SAF also
26 seeks to defend the interests of its member in lawsuits like this present effort.

27 **[Defendants]**

28 23-24. Defendant GAVIN NEWSOM is the Governor of the ~~State~~State of

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California. As Governor, he is the chief executive officer or the state of California, vested with “the supreme executive power” of the state and ~~“shall obligated to~~ “see that the law is faithfully executed.” Cal. Const. art. 5, § 1. ~~The injunctive and declaratory relief portions of this suit are brought against Defendant~~ As for California’s District Agricultural Associations, Governor Newsom oversees the operation and management of each district, and he wields the statutory power to appoint and remove district board members. Cal. in his official capacity. Claims Food & Agric. Code §§ 3959-3960. Governor Newsom has exerted that significant authority to direct district decision-making about the operation of gun shows at the Fairgrounds, as well as other state-owned fairgrounds. State-law claims for damages are brought against Defendant Newsom in his personal capacity. Cf. Hafer v. Melo, 502 U.S. 21, 31 (1991) (holding that state officers are not “immune from personal liability under § 1983 solely by virtue of the ‘official’ nature of their acts”).

24-25. Defendant ~~ROBERT~~ROB BONTA is the Attorney General of the ~~State~~state of California. He is the “chief law officer” of the state and has the duty to ‘see that the laws of the State are uniformly and adequately enforced.’ Cal. Const. art. 5, § 1. Additionally, Defendant Bonta has “direct supervision over every district attorney” within the State. *Id.* If, at any point a district attorney of the ~~State~~state fails to enforce adequately “any law of the State,” Defendant Bonta must “prosecute any violations of the law.” *Id.* Finally, Defendant Bonta, as Attorney General of the ~~State~~state of California, “shall assist any district attorney in the discharge” of duties when “required by the public interest or directed by the Governor. . . .” *Id.* The injunctive and declaratory relief portions of this suit are brought against Defendant Bonta in his official capacity. ~~Claims~~State-law claims for damages are brought against Defendant Bonta in his personal capacity. Cf. Hafer, 502 U.S. at 31 (holding that state officers are not “immune from personal liability under § 1983 solely by virtue of the ‘official’ nature of their acts”).

25-26. Defendant ~~SUMMER~~SUMMER STEPHAN ~~SUMMER~~ is the District

FIRST AMENDED COMPLAINT
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1 Attorney responsible for enforcing the law within the county of San Diego. Under
2 the California Government Code, the district attorney must prosecute “all actions for
3 the recovery” of fines and penalties. Cal. Gov’t Code § 26521. More specifically,
4 District Attorney Stephan is charged with prosecuting any violation of the California
5 Food & Agricultural Code, including section 4158 (i.e., AB 893) within the county
6 of San Diego. Cal. Food & Agric. § 8. The injunctive and declaratory relief portions
7 of this suit are brought against District Attorney ~~Summer~~Stephan in hisher official
8 capacity.

9 ~~26.—Defendant THOMAS MONTGOMERY is the County Counsel~~
10 ~~responsible for enforcing the law within the County of San Diego. In that capacity,~~
11 ~~he must “discharge all the duties vested in the district attorney.” Cal. Gov’t Code §~~
12 ~~26529. The injunctive and declaratory relief portions of this suit are brought against~~
13 ~~County Counsel Montgomery in his official capacity.~~

14 27. Defendant 22nd DISTRICT AGRICULTURAL ASSOCIATION
15 (“District”) is a Governor-appointed Board of Directors that manages the state-
16 owned Del Mar Fairgrounds public venue. The District is governed by a nine-
17 member board, each member serving a four-year term. The District Board of
18 Directors appoints a CEO charged with the daily operations of the facilities but
19 ~~maintains control over~~controls activities not delegated to the CEO, including
20 contracting with those seeking to host events, including gun shows, at the
21 Fairgrounds. ~~It is responsible for ensuring~~It ensures that all state laws governing gun
22 shows at the Fairgrounds, including AB 893, are faithfully enforced. ~~In 2018,~~
23 ~~Defendant District adopted a moratorium on contracting with third parties to host~~
24 ~~gun show events at the Fairgrounds. That moratorium was enjoined by order of the~~
25 ~~court and later permanently repealed through settlement of a related lawsuit, B&L~~
26 ~~Productions, Inc., et al. v. 22nd District Agricultural Association, Case No. 3:19-cv-~~
27 ~~134-CAB.~~

28 28. Defendant KAREN ROSS is the Secretary of the California Department

1 of Food & Agriculture—the entity responsible for the policy oversight of the
2 network of California fair venues, which includes the Del Mar Fairgrounds. Through
3 the Department, ~~Defendant~~ Secretary Ross issues guidance for governance and
4 contracting to all agricultural districts throughout California, including Defendant
5 District), and requires reporting from the districts on operational issues. The
6 Department maintains an office of legal counsel ~~for any actions brought against~~
7 ~~Agricultural Association Districts in the state. The injunctive and declaratory relief~~
8 ~~portions of this suit are brought against Defendant Ross in her official capacity.~~
9 ~~Claims for damages are brought against Defendant Ross in her personal~~
10 ~~capacity that issues policy recommendations for district boards, including~~
11 ~~recommendations about bans on gun show events at state-owned fairgrounds. The~~
12 ~~Department of Food & Agriculture also develops positions on legislative activity~~
13 ~~affecting the 54 districts, reserving to itself the sole authority to dictate legislative~~
14 ~~policy positions affecting the operations of the districts. Through the Department,~~
15 ~~Secretary Ross has exerted that significant authority to silence any opposition the~~
16 ~~districts might have to attempts to ban gun shows from the properties they manage.~~
17 ~~State-law claims for damages are brought against Defendant Ross in her personal~~
18 ~~capacity. Cf. Hafer, 502 U.S. at 31 (holding that state officers are not “immune from~~
19 ~~personal liability under § 1983 solely by virtue of the ‘official’ nature of their acts”).~~

20 29. The true names and capacities of Defendants named as DOES 1
21 through 50, inclusive, are individual, corporate, associate or otherwise, and are
22 unknown to Plaintiffs. They are, however, believed to be responsible in some way
23 for Plaintiffs’ loss and damages. Each Doe Defendant is, and at all times mentioned
24 here was, a partner, agent, principal, co-conspirator, or are otherwise vicariously or
25 directly responsible for the acts or omissions of the other defendants or themselves.
26 They are each sued individually and are joined as party defendants. Plaintiffs thus
27 sue each Doe Defendant under rules 15 and 21 of the Federal Rules of Civil
28 Procedure. Plaintiffs are informed and believed that the Doe Defendants are all

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California residents. Plaintiffs will amend this complaint to show such true names and capacities of Doe Defendants when they have been ~~ascertained~~determined.

FACTUAL ALLEGATIONS

[The First Amendment Rights to Free Speech, Association & Assembly]

30. The First Amendment provides, in part, that “Congress shall make no law . . . abridging the freedom of speech,” U.S. Const. amend. I. It is incorporated and made applicable to the states by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. § 1983.

31. Political and ideological speech—including speech about “politics, nationalism, religion, or other matters of opinion”—has long been considered the core of the First Amendment. *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943).

32. Public property made available for lease by community groups to engage in expressive activity must thus be available without regard to the viewpoint sought to be expressed *Cinevision Corp. v. City of Burbank*, 745 F.2d 560 (9th Cir. 1984). Such venues cannot be opened to some and closed to others, suppressing protected expression, absent a compelling government interest. *Id.* at 571.

33. The First Amendment does not tolerate the suppression of speech based on what some may label an unpopular viewpoint of the speaker. *John J. Hurley and S. Boston Allied War Vets. Council v. Irish-Am. Gay, Lesbian & Bisexual Group of Boston*, 515 U.S. 557 (1995). Indeed, “above all else, the First Amendment means that the government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.” *Mosley*, 408 U.S. at 95 (emphasis added); see also *Ashcroft*, 535 U.S. at 573.

34. A content-based restriction that implicates political or ideological speech must generally survive “strict scrutiny,” where the government must show that the law is narrowly tailored to achieve a compelling government interest. See *Reed v. Town of Gilbert*, 576 U.S. 155 (2015).

1 35. Even purely commercial speech—speech that “does no more than
2 propose a commercial transaction” or relates solely to the economic interests of the
3 speaker and audience—receives First Amendment protection if it is not misleading
4 and concerns a lawful activity. *Cent. Hudson Gas & Elec. Corp. v. Public Serv.*
5 *Comm’n*, 447 U.S. 557 (1980). “An offer to sell firearms or ammunition is speech
6 that ‘does no more than propose a commercial transaction.’ Such an offer is,
7 therefore, commercial speech within the meaning of the First Amendment.” *Nordyke*
8 *v. Santa Clara*, 110 F.3d 707, 710 (9th Cir. 1997).

9 36. Government restrictions on commercial speech are constitutional *only*
10 if they directly advance a substantial government interest and are not broader than
11 necessary to serve that interest. *Cent. Hudson*, 447 U.S. 557; *see also Lorillard*
12 *Tobacco Co. v. Reilly*, 533 U.S. 525 (2001) (holding that tobacco marketing
13 restrictions must be the narrowest means of achieving an asserted state interest);
14 *Tracy Rifle & Pistol LLC v. Harris*, 339 F. Supp. 3d 1007, 1018 (E.D. Cal. 2018)
15 (holding that a California law prohibiting the display of a handgun or a placard
16 advertising the sale of a handgun in a manner that is visible from the outside of a
17 gun dealer’s premises is unconstitutional).²

18 37. The First Amendment protects not only the right of free speech, but
19 also “the right of the people peaceably to assemble.” U.S. Const., amend. I. The
20 right to assemble often merges with the right to free expression. For “[e]ffective
21 advocacy of both public and private points of view, particularly controversial ones,
22 is undeniably enhanced by group association.” *NAACP v. Patterson*, 357 U.S. 449,
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24 ² Though this is currently the controlling test for so-called “commercial speech,”
25 modern case law is trending toward extending *full* First Amendment protection to all
26 speech, including “commercial speech.” *See Sorrell v. IMS Health, Inc.*, 564 U.S.
27 552 (moving toward providing commercial speech the same level of heightened
28 protection long accorded to political speech); *see also 44 Liquormart, Inc. v. Rhode*
Island, 517 U.S. 484, 523 (1996) (Thomas, J., concurring in part and concurring in
judgment) (“I do not see a philosophical or historical basis for asserting that
‘commercial’ speech is of ‘lower value’ than ‘noncommercial’ speech. Indeed, some
historical materials suggest to the contrary.”).

1 462 (1958). “Governmental action which may have the effect of curtailing the
2 freedom to associate is subject to the *closest* scrutiny.” *Id.* at 461-62.

3 **[The Second Amendment Right to Keep & Bear Arms]**

4 38. The Second Amendment to the United States Constitution declares that
5 “the right of the people to keep and bear arms shall not be infringed.” U.S. Const
6 amend. II.

7 39. The Second Amendment protects a fundamental, individual right that
8 applies against both the federal government and the states. *District of Columbia v.*
9 *Heller*, 554 U.S. 570, 592 (2008); *McDonald v. City of Chicago*, 561 U.S. 742, 750
10 (2010).

11 40. The Supreme Court recently confirmed that Second Amendment
12 questions are to be analyzed in light of “text, history, and tradition.” “When the
13 Second Amendment’s plain text covers an individual’s conduct, the Constitution
14 presumptively protects that conduct. The government must then justify its regulation
15 by demonstrating that it is consistent with the Nation’s historical tradition of firearm
16 regulation.” *N.Y. State Rifle & Pistol Ass’n v. Bruen*, -- U.S. --, 142 S. Ct. 2111,
17 2126 (2022) (citing *Heller*, 554 U.S. at 634).

18 41. The Second Amendment protects the right to possess and use arms that
19 are “typically possessed by law-abiding citizens for lawful purposes.” *See, e.g.,*
20 *Heller*, 554 U.S. at 624-25; *see also Caetano v. Massachusetts*, 577 U.S. 411, 136 S.
21 Ct. 1027, 1027-28 (2016). That protection “extends, prima facie, to all instruments
22 that constitute bearable arms, even those that were not in existence at the time of the
23 founding.” *Heller*, 544 U.S. at 582. It also includes the ammunition necessary to use
24 firearms for their core lawful purposes. *See Jackson v. City & Cnty. of San*
25 *Francisco*, 746 F.3d at 967-68 (recognizing that “without bullets, the right to bear
26 arms would be meaningless”).

27 42. Finally, the Second Amendment protects the corresponding right to
28 obtain protected firearms and ammunition. *See id.* at 967 (“[T]he right to possess

1 firearms for protection implies a corresponding right’ to obtain the bullets necessary
2 to use them.”); see also *Ezell v. City of Chicago*, 651 F.3d 684, 704 (7th Cir. 2011)
3 (holding that the right to possess firearms implies a corresponding right to access to
4 firing ranges to train to be proficient with such firearms)

5 **[The Fourteenth Amendment Right to Equal Protection Under the Law]**

6 43. The Fourteenth Amendment to the United States Constitution,
7 enforceable under 42 U.S.C. § 1983, provides that no state shall deny to any person
8 within its jurisdiction the equal protection of the laws.

9 44. Singling out speakers because of the content of their speech also
10 violates their fundamental rights under the Equal Protection Clause. U.S. Const.
11 amend. XIV.

12 45. If unequal treatment occurs in the context of exercising a fundamental
13 right, or the government is motivated by animus toward a disfavored group, courts
14 apply heightened scrutiny. See *Loving v. Virginia*, 388 U.S. 1, 11 (1967); see also
15 *Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432 (1985); *Romer v. Evans*, 517
16 U.S. 620 (1996). Indeed, “[b]ecause the right to engage in political expression is
17 fundamental to our constitutional system, statutory classifications impinging upon
18 that right must be narrowly tailored to serve a compelling governmental interest.”
19 *Austin v. Mich. Chamber of Com.*, 494 U.S. 652, 666 (1990), *rev’d on other*
20 *grounds, *Citizens United v. Fed. Elec. Comm’n*, 558 U.S. 310, 130 S. Ct. 876 (2010).*

21 46. The Fourteenth Amendment case law extending equal protection
22 beyond the immutable characteristics of race, color, religion, and national origin, has
23 also subsumed exercising fundamental rights, including, but not limited to, the First
24 Amendment. The Fourteenth Amendment’s Equal Protection umbrella thus
25 necessarily includes exercising rights to buy and sell Second Amendment artifacts
26 (in accordance with state and local laws regulating such sales) at any public facility
27 owned, operated, or managed by or on behalf of any state or subdivision thereof.

28 **[Regulation of Gun Show Events in California]**

1 30.47. The state of California has the most rigorous regulatory regime for
2 commerce in firearms and ammunition in the United States. That regulatory regime
3 applies to the operation of gun show events throughout California. The laws related
4 to the acquisition and sale of firearms is ~~arguably~~perhaps stricter at a gun show, than
5 at brick-and-mortar stores or internet sales.

6 31.48. Only state approved, licensed gun show “producers” may operate gun
7 shows in California. All gun show producers, including Plaintiff Crossroads, must
8 have an individual (the “promoter”) who holds a valid “Certificate of Eligibility”
9 issued by the California Department of Justice.

10 32.49. Gun show producers must also, among other things:

- 11 a. Certify that they are familiar with all California laws
12 ~~regarding~~about gun shows, Cal. Penal Code § 27200;
- 13 b. Possess a minimum of \$1,000,000 liability insurance, *id.*;
- 14 c. Provide an annual list of shows or events to be held to the
15 California Department of Justice, *id.*; and
- 16 d. Notify the California Department of Justice no later than 30 days
17 ~~prior to~~before the gun show or event of any changes to the above,
18 *id.*
- 19 e. Make available to law enforcement a complete and accurate list
20 of all vendors that will participate in the show to sell, lease, or
21 transfer firearms. Cal. Penal Code § 27205.

22 33.50. Gun show promoters must submit an annual event and security plan and
23 schedule to the California Department of Justice and any local law enforcement
24 agency. The plan must include:

- 25 a. Type of show or event;
- 26 b. Estimated number of vendors offering for sale or display
27 firearms;
- 28 c. Estimated number of attendees;

- 1 d. Number of entrances and exits at the event;
- 2 e. Location, dates, and times of the event;
- 3 f. Contact person and telephone number for both promoter and
- 4 facility;
- 5 g. Number of sworn peace officers employed by the producer or
- 6 facility who will be present at the event;
- 7 h. Number of non-sworn security personnel employed by the
- 8 producer or the facility who will be present at the event; and
- 9 i. Promoters must inform all prospective vendors of all California
- 10 laws ~~regarding~~about gun shows.

11 Cal. Penal Code §§ 27210, 27215.

12 ~~34.51.~~ Promoters must also provide a list of all prospective vendors and
13 designated firearm transfer agents who are licensed firearm dealers to the California
14 Department of Justice no later than seven days ~~prior to~~before the event ~~for the~~
15 ~~purpose of determining to~~ determine whether the vendor possess a valid license and
16 are thus eligible to participate in the event. Cal. Penal Code § 27220.

17 ~~35.52.~~ If a vendor is not approved by the California Department of Justice or
18 fails to comply with all applicable California laws, they cannot participate. Cal.
19 Penal Code § 27220.

20 ~~36.53.~~ If a promoter fails to inform all prospective vendors of California's
21 state laws or fails to submit a list of all prospective vendors to the California
22 Department of Justice, the event cannot ~~commence~~begin. Cal. Penal Code § 27230.

23 ~~37.54.~~ A promoter must have written contracts with each vendor selling
24 firearms at the event. Cal. Penal Code § 27235.

25 ~~38.55.~~ Promoters must post signs in a readily visible location at each public
26 entrance to the event that includes all of ~~the following~~these notices:

- 27 ~~•~~ ■ "This gun show follows all federal, state, and local firearms and
- 28 weapons laws, without exception."

- 1 •■ 39.56 “Any firearm carried onto the premises by any member of the public
- 2 will be checked, cleared of any ammunition, and secured in a manner
- 3 that prevents it from being operated, and an identification tag or sticker
- 4 will be attached to the firearm before the person is allowed admittance
- 5 to the show.”
- 6 •■ 39.57 “No member of the public under the age of 18 years shall be admitted
- 7 to the show unless accompanied by a parent, grandparent, or legal
- 8 guardian.”
- 9 •■ 39.58 “All firearm transfers between private parties at the show shall be
- 10 conducted through a licensed dealer in accordance with applicable state
- 11 and federal laws.”
- 12 •■ 39.59 “Persons possessing firearms in this facility must have in their
- 13 immediate possession government-issued photo identification and
- 14 display it upon the request to any security officer or any peace officer,
- 15 as defined in Section 830.”

16 Cal. Penal Code § 27240(a).

17 39.56. Producers must also post signs in a readily visible location at each

18 entrance to the parking lot stating: “The transfer of firearms on the parking lot of

19 this facility is a crime.” Cal. Penal Code § 27240(b).

20 40.57. A willful failure of a producer to comply with any of California’s

21 applicable laws is a misdemeanor punishable with a fine of up to \$2,000 dollars and

22 would render the producer ineligible for a gun show producer license for up to one

23 year, which could cost a producer hundreds of thousands of dollars in lost revenue

24 for a willful infraction. Cal. Penal Code § 272459(c).

25 41.58. Except in ~~very limited~~ narrow exceptions applicable only to law

26 enforcement, actual firearm transfers are already prohibited from taking place at any

27

28

1 gun show in California.³ The firearm sale can be started through an on-site licensed
2 “transfer dealer,” but it cannot be completed on site. Instead, purchasers must pick
3 up their purchase at a licensed firearm retailer at a different licensed location--but
4 only after a 10-day waiting period and background check. There is no “Gun Show
5 Loophole” at gun shows operated in accordance with California Law.

6 42.59. The Gun Show Act of 2000, California Penal Code sections 27200-
7 27245, places even more restrictions on the operation of a gun show in California by
8 requiring that:

- 9 a. Vendors not display, possess, or offer for sale any firearms,
10 knives, or weapons for which possession or sale is prohibited;
- 11 b. Vendors acknowledge that they ~~are responsible for knowing and~~
12 ~~complying must know and comply~~ with all applicable federal,
13 state, and local laws dealing with the possession and transfer of
14 firearms;
- 15 c. Vendors will not engage in activities that incite or encourage hate
16 crimes;
- 17 d. Vendors will process all transfers of firearms through licensed
18 firearms dealers as required by state law;
- 19 e. Vendors will verify that all firearms in their possession will be
20 unloaded and that the firearms will be secured in a manner that
21 prevents them from being operated except for brief periods, when
22 the mechanical condition of the firearm is being demonstrated to
23

24 ³ Cal. Penal Code § 27310 (requiring all firearm transfers at gun shows to
25 comply with state and federal law); *id.* § 26805 (prohibiting the sale and transfer of a
26 firearm by a licensed dealer at any location other than the dealer’s premises as listed
27 on their license but allowing dealer to prepare documents at a gun show in
28 preparation for completion of the sale at the dealer’s premises); *id.* § 27545
(requiring all firearm transactions to be processed through a licensed dealer when
neither party is a licensed firearm dealer).

- 1 prospective buyer;
- 2 f. Vendors provide all required information under Penal Code §
- 3 27320;
- 4 g. Vendors will not display or possess black powder or offer it for
- 5 sale;
- 6 h. Ammunition ~~only~~ be displayed only in closed original factory
- 7 boxes or other closed containers, with the only exception for
- 8 showing the ammunition to a prospective buyer. ~~On July 1, 2019,~~
- 9 ~~additional state law restrictions on the sale of ammunition will~~
- 10 ~~become effective and gun shows must comply;~~
- 11 i. No member of the public under 18 years old may enter a gun
- 12 show unless accompanied by a parent or legal guardian;
- 13 j. No person other than security personnel or law enforcement
- 14 possess both a firearm and ammunition for that firearm at the
- 15 same time, ~~with the exception of~~ except for vendors who are
- 16 selling both.

17 43.60. Plaintiff Crossroads diligently operates all of its gun shows in
18 accordance with state law, and it takes immediate remedial measures if irregularities
19 are discovered.

20 44.61. Vendors at Crossroads gun shows, like Plaintiffs Walsh and LAX
21 Ammo, are some of the same licensed vendors that have brick and mortar stores in
22 the community or operate legally over the internet and are registered with the state
23 as lawful businesses.

24 45.62. Vendors at Crossroads gun shows sell legal products and enjoy ~~being~~
25 ~~able to attend~~ attending gun shows so they can better interact with customers in a
26 more meaningful and intimate way.

27 46.63. Even with all of the state and federal regulations that promoters and
28 vendors must abide, through the adoption and enforcement of AB 893, Defendants

1 now seek to ~~wholly~~ prohibit constitutionally protected, highly regulated, and
2 otherwise perfectly legal activity.

3 **[The Gun Show Cultural Experience]**

4 [47.64](#). Gun shows are a modern bazaar—a convention of like-minded
5 individuals who meet in this unique public forum that has been set aside by state and
6 local governments for all manner of commerce. This convention-like setting is of
7 incalculable benefit to the gun-buying consumer and promotes public safety.

8 [48.65](#). Gun shows, in general, and the Del Mar show, in particular, are a
9 celebration of America’s “gun culture” that is a natural and essential outgrowth of
10 the constitutional rights that flow from the Second Amendment to the United States
11 Constitution.

12 [49.66](#). Gun shows, in general, and the Del Mar show, in particular, are a First
13 Amendment forum where literature and information are shared, speakers provide
14 valuable lectures, classes are conducted, political forums are held where gun rights
15 discussions take place, and candidates for political office can meet to discuss
16 political issues, the government, and the constitution with constituents who are part
17 of the California gun culture.

18 [50.67](#). Gun shows just happen to include the exchange of products and ideas,
19 knowledge, services, education, entertainment, and recreation related to the lawful
20 uses of firearms. Those lawful uses include (but are not limited to):

- 21 a. Firearm safety training
- 22 b. Self-defense
- 23 c. Defense of others
- 24 d. Defense of community
- 25 e. Defense of state
- 26 f. Defense of nation
- 27 g. Hunting
- 28 h. Target shooting

- i. Gunsmithing
- j. Admiration of guns as art
- k. Appreciation of guns as technological artifacts
- l. Study of guns as historical objects.

~~51.68.~~ Gun shows, in general, and the Del Mar show, in particular, are cultural marketplaces for those members of the “gun culture” who attend to celebrate their constitutional rights and to pass their beliefs in patriotism and the rights of the individual on to the next generation. It is a place where parents take their children and grandparents take their grandchildren to share with them, among other things, a love of ~~historie~~historical firearms, stories of American war heroes, and their love of hunting.

~~52.69.~~ Gun shows, in general, and the Del Mar show, in particular, are places where parents can learn to protect their families and their homes, and how to stay in compliance with California’s ever-changing gun laws.

~~53.70.~~ Gun shows, in general, and the Del Mar show, in particular, are places where people can discuss the positions of political candidates and whether those values line up with their own beliefs in protecting the Second Amendment.

~~54.71.~~ Gun shows, in general, and the Del Mar show, in particular, are held and promoted, and considerable investment is made, precisely to promote and “normalize” the “gun culture” and the constitutional principles that gun show participants hold dear.

~~55.72.~~ This forum is ~~vitaly important~~vital especially in California where government actors at all levels of government (federal, state, and local) are openly hostile to the cultural values of the Second Amendment and where supporters of those cultural values are not considered “mainstream.”

~~56.73.~~ Participating in “gun culture” is an important reason people attend Crossroads gun shows as vendors, exhibitors, customers, and guests (even if particular vendors or attendees are not in the firearm business or in the market to

1 buy a gun at a particular event).

2 57.74. While less than 40% of vendors at Crossroads’ events offer firearms or
3 ammunition for sale (the remaining vendors offer accessories, collectibles, home
4 goods, lifestyle products, food, and other refreshments), the principle draw of gun
5 shows is the availability of firearms and ammunition for sale.

6 58.75. Indeed, many people attend gun shows to learn about the technology
7 and use of various firearms and ammunition when they are considering whether to
8 buy or sell a firearm (or ammunition) and to exchange knowledge with experienced
9 dealers and firearm enthusiasts that they cannot get anywhere else. *Teixeira v.*
10 *County of Alameda*, No. 13-17132 (9th Cir. 2017).⁴

11 59.76. Without the ability to buy and sell firearms and ammunition at gun
12 shows at the Fairgrounds, the events will no longer be able to draw many of its
13 vendors and attendees, making the events unprofitable and economically infeasible.

14 60.77. Defendants wish to end this celebration of “gun culture” and Second
15 Amendment rights because they do not understand the culture or the people. To that
16 end, Defendants have attempted, first through an unconstitutional moratorium on
17 gun show events, *see B&L Prods. v. 22nd Dist. Agric. Ass’n*, 394 F. Supp. 3d 1226
18 (S.D. Cal. 2019), and then through AB 893’s ban on sales of firearms and
19 ammunition at the Fairgrounds, to permanently deprive Plaintiffs of their right to
20 engage in constitutionally protected conduct at the Fairgrounds.

21 **[The Del Mar Fairgrounds Venue]**

22 61.78. The Fairgrounds is owned by the state of California and managed by
23 the Board of Directors of Defendant District, which must regularly report its
24 activities to the California Department of Food & Agriculture. *See* Table of
25

26 ⁴~~The *Teixeira* court did not answer whether the Second Amendment includes~~
27 ~~a right to purchase a firearm. Plaintiffs allege, in good faith, that the right to keep~~
28 ~~and bear arms necessarily includes the rights to purchase and sell them. Indeed,~~
~~those rights are paramount to the exercise of the Second Amendment.~~

1 Fairground Information (Dec. 31, 2010) (attached as Exhibit 1-).

2 ~~62.79.~~ Among other things, Defendant District is charged with maintaining the
3 Fairgrounds and ensuring that is used for public purposes.

4 ~~63.80.~~ Defendant Ross, as the Secretary of the California Department of Food
5 & Agriculture, oversees the operation of the various agricultural districts in the state,
6 including Defendant District.

7 ~~64.81.~~ The California Department of Food & Agriculture, under Secretary
8 Ross, provides policies and guidance for ~~the operation of~~ operating all agricultural
9 districts in the state, including the use of facilities as directed by Department policy.

10 ~~65.82.~~ The California Department of Food & Agriculture maintains a *C DFA*
11 *Contracts Manual for Agricultural Districts* (“Manual”). Section 6.25 of the Manual
12 states that “[w]hether or not a fair rents out their facilities for gun shows is a policy
13 decision to be made by the fair board and their community.”

14 ~~66.83.~~ ~~Due to~~ Because of its large size and unique urban location, the
15 Fairgrounds is a unique, publicly owned venue. There is no other public or private
16 venue of similar size in the area. Effectively, the government has a monopoly on
17 venues of this size and type in the area.

18 ~~67.84.~~ The Fairgrounds is a state-owned property maintained and opened for
19 use by the public. By virtue of being opened by the state for use by the public, it is a
20 “public forum,” from which the government may not generally exclude expressive
21 activity. *Cinevision Corp. v. City of Burbank*, 745 F.2d 560, 569 (9th Cir. 1984)
22 (quoting *Perry Educ. Ass’n v. Perry* ~~Loeal~~ Loc. *Educators’ Assn*, 460 U.S. 37, 45-46
23 (1983)).

24 ~~68.85.~~ The Fairgrounds is used by many different public groups and is a major
25 event venue for large gatherings of people to engage in expressive activities,
26 including concerts, festivals, and industry shows.

27 ~~69.86.~~ The Fairgrounds actively promotes the use of the property by the public
28 through contracting for available space at the Fairgrounds.

1 70.87. Indeed, the Fairgrounds plays host not only to events, like the San
2 Diego County Fair, produced by Defendant District, but to “events and activities
3 produced by third-party promoters, which range from concerts and festivals, trade
4 shows and consumer expos, equestrian competitions and animal shows, sporting
5 events, fundraisers and personal celebrations.” Del Mar Fairgrounds, About Us,
6 <https://delmarfairgrounds.com/about-us/> (last visited Sept. 29, 2021).

7 71.88. The Fairgrounds’ 2008 Master Plan, which is still in use, states that
8 Defendant District’s mission is “[t]o manage and promote a world-class, multi-use,
9 public assembly facility with an emphasis on agriculture, education, entertainment,
10 and recreation in a fiscally sound and environmentally conscientious manner *for the*
11 *benefit of all.*” 22nd District Agricultural District, *2008 Master Plan: Del Mar*
12 *Fairgrounds and Horsepark* 13 (April 2011), available at
13 https://delmarfairgrounds.com/pdf/11EIR_000_2008_master_plan.pdf (last visited
14 Sept. 29, 2021) (emphasis added).

15 72.89. The Fairgrounds has held non-gun-show events in which criminal
16 activity has taken place—including theft and a shooting. These criminal incidents
17 are no more likely to happen at a gun show than at other types of events, but the
18 Defendants have not banned these promoters or their events.

19 **[Contracting for Use of the Fairgrounds]**

20 73.90. Defendant District has a process for securing returning contractors who
21 would like to secure specific dates into future years before the contracts can be
22 drafted and executed.

23 74.91. Each year, returning and regular contractors, including Plaintiff
24 Crossroads, submit preferred dates for the next calendar year, so Defendant District
25 can confirm availability and so that Plaintiff Crossroads can begin to reserve
26 vendors and materials for the show weekends.

27 75.92. ~~Due to~~ **Because of** the size and extensive planning that goes into
28 producing gun show events, Defendant District has—for decades—provided and

1 held preferred dates for Plaintiff Crossroads, a long-time contractor, until the
2 contracts can fully be executed.

3 76.93. Defendant District’s “hold” system essentially operates as a right of
4 first refusal to the benefit of returning contractors. For example, if another contractor
5 wanted the same preferred dates as Plaintiff Crossroads, Defendant District would
6 not allow another vendor to come in and take those dates from Plaintiff Crossroads
7 even though there is no official contract in place yet.

8 77.94. The “hold” system also provides Defendant District with the security of
9 knowing its venue is booked with experienced and knowledgeable repeat contractors
10 that have a demonstrated record of running safe and profitable events at the
11 Fairgrounds.

12 78.95. The “hold” system also permits the promoter to spend advertising
13 dollars to promote its events, but when governments announce plans to ban gun
14 shows at particular venues, vendors, and patrons rationally make plans to attend gun
15 show events at other venues or seek other states to conduct their commerce.

16 79.96. Defendant District also considers the “hold” dates and shows during
17 budget discussions which are typically held in the year before the contracts are
18 commenced.

19 80.97. Upon information and belief, Plaintiffs allege that the “hold” system is
20 widely used by similar state fair board venues and is standard industry practice.

21 81.98. Plaintiff Crossroads, after doing business in this customary manner for
22 more than 30 years, had no reason to doubt that Defendant District would continue
23 to honor such relationship with Plaintiff Crossroads.

24 **[Previous Ban on Gun Shows at the Fairgrounds & Resulting Litigation]**

25 82.99. Despite the long history that Plaintiff Crossroads has had with the
26 Fairgrounds in operating safe and legal events, the political environment has become
27 hostile toward gun show events and (more generally) toward the “gun culture” in
28 recent years.

1 83.100. Indeed, gun-show-banning activists are at work throughout the
2 state and the country to ban *all* gun shows *everywhere*, not because they are
3 “dangerous for the community,” but because they do not subscribe to the same
4 values as gun show promoters, vendors, and participants.

5 84.101. These activists rely on unfounded fears about the security of gun
6 show events, false claims that gun shows are inherently dangerous because they
7 normalize the “gun culture,” and stereotypes about the people that attend gun shows.
8 *See City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432 (1985) (striking an
9 ordinance requiring a special permit for a group home for the intellectually disabled
10 and citing direct evidence of negative attitudes toward persons with disabilities
11 expressed by community members and recorded in the legislative history).

12 85.102. In 2017, gun-show-banning activists using the same tactics
13 described above began pressuring Defendant District to prohibit gun show events at
14 the Fairgrounds.

15 86.103. In response, Defendant District began a series of meetings and
16 public comment periods to determine whether it would continue to contract with
17 Plaintiff Crossroads or other promoters for the use of the Fairgrounds for gun show
18 events.

19 87.104. Defendant District also engaged in communications with other
20 government agencies and with Crossroads to determine whether gun shows at the
21 Fairgrounds were operated in full compliance with state and federal law, and if the
22 events pose any real danger to the community.

23 88.105. Defendant District also appointed a non-public, ad hoc
24 committee of two members of the District to investigate the gun show operation at
25 the Fairgrounds and report ~~back~~ to the District with recommendations for the
26 continued use of the Fairgrounds for gun show events.

27 89.106. On April 23, 2018, Defendant Newsom sent a letter to the
28 District urging the District to ban gun shows at the Fairgrounds, citing his concerns

1 that “[p]ermitting the sale of firearms and ammunition on state-owned property only
2 perpetuates America’s gun culture.” Letter from Governor Gavin Newsom to Board
3 Members of 22nd District Agricultural Association (April 23, 2018) (attached as
4 Exhibit 2-).

5 ~~90.107.~~ On September 10, 2018, Assembly member Todd Gloria (D) sent
6 a letter to the District, stating his “firm belief that the State of California should in
7 no way help to facilitate the sale of firearms.” He also ~~expressed his support~~
8 ~~for~~praised the District’s “willingness to consider options for limiting or eliminating
9 these gun shows” and vowed to “act by way of legislation should the 22nd DAA
10 Board be unable to take meaningful action.” Letter from Assembly Member Todd
11 Gloria to Board Members of 22nd District Agricultural Association (Sept. 10, 2018)
12 (attached as Exhibit 3-).

13 ~~91.108.~~ At a public hearing ~~on September 11, 2018~~, the ad hoc
14 “Contracts Committee” recommended that the District “not consider any contracts
15 with the producers of gun shows beyond December 31st 2018 until ~~such time as~~ the
16 District has put into place a more thorough policy ~~regarding~~related to the conduct of
17 gun shows ~~that:~~.

- 18 a. ~~Considers the feasibility of conducting gun shows for only~~
19 ~~educational and safety training purposes and bans the possession~~
20 ~~of guns and ammunition on state property~~
- 21 b. ~~Aligns gun show contract language with recent changes to state~~
22 ~~and federal law~~
- 23 c. ~~Details an enhanced security plan for the conduct of future shows~~
- 24 d. ~~Proposes a safety plan~~
- 25 e. ~~Considers the age appropriateness of the event~~
- 26 f. ~~Grants rights for the DAA to perform an audit to ensure full~~
27 ~~compliance with California Penal Code Sections 171b and~~
28 ~~12071.1 and 1207.4.”~~

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92.109. In testimony before the District at the September 11, 2018, hearing, Patrick Kerins, who was then the Public Safety Director for the District, reported on the laws that apply to gun shows in California, as well as Plaintiff Crossroads history of events at the Fairgrounds.

93.110. During his comments at the September 11, 2018, hearing, Mr. Kerins referenced a memorandum that he prepared for the District’s Board of Directors in. In that memorandum, he reported that:

As Chief of Security for the 22nd DAA, I routinely inspect the gun show and on a regular basis communicate with the San Diego Sheriff’s Department re: compliance with all the applicable laws and regulations and the Security Plan required by the California Department of Justice Firearms Division. I recently spoke to Detective Jaime Rodriguez of the Sheriff’s North Coastal Station who supervises the four Deputies assigned to the gun show security detail and Detective Stacey Smith who is assigned to the Sheriff’s Licensing Division. Both Detectives said the Crossroads of the West Gun Show is in complete compliance with all the local, State and Federal laws that govern gun shows and that there have not been any violations of law. Both Detectives had high praise for the show promoters and the 22 DAA staff.

Memorandum of Patrick Kerins, Public Safety Director, 22nd District Agricultural Association, to Board of Directors, 22nd District Agricultural Association, at 17 (2016), (attached as Exhibit 14).

94.111. Mr. Kerins’ 2016 memorandum continued:

In my considered opinion, as Chief of Security for the 22 DAA for the last 17 years, the CROSSROADS OF THE WEST GUN SHOWS (5 per year) are in compliance with all the local, state and federal regulatory statutes and have operated without any violations of those laws Under the laws of the State of California you must comply with all the laws of purchasing, selling and/or transferring of firearms at a gun show as you would at licensed gun dealer’s store Due to the strict California gun show regulations there are no so called loop holes that you so often hear about in the media.

Ex. 14 at 17.

95.112. Ultimately, the lengthy process of meetings, public comment, and communications with stakeholders resulted in no finding that

1 allowing the (already heavily regulated) gun show events to continue at the
2 Fairgrounds posed a definite or unique risk to public safety.

3 96.113. Indeed, Defendant District presented *no* evidence of any safety
4 concerns within the community that could be linked to the over-30-year-old gun
5 show at the Fairgrounds.

6 97.114. To the contrary, banning highly regulated gun shows in
7 California communities, like Del Mar, serves to distort the gun market, potentially
8 pushing California gun buyers into less restrictive gun-buying environments.⁵

9 98.115. ~~Nonetheless~~ Even so, relying on contrived possibilities of
10 unknown dangers and unfounded claims that prohibiting gun shows might prevent
11 suicide and violent crime because the “gun culture” would be censored,⁶ Defendant
12 District voted to impose a one-year moratorium (for the year 2019) on gun show
13 events at the Fairgrounds while they study potential safety concerns.

14 99.116. Plaintiffs Crossroads, Bardack, Diaz, Dupree, Irick, Walsh,
15 CRPA, South Bay, SAF, and others sued Defendants District, Ross, and others in

17 ⁵ Joyce Lupiani, *Nevada Gun Shows Tied to California Gun Violence*, KTNV
18 (2017), [https://www.ktnv.com/news/crime/study-nevada-gun-shows-tied-to-](https://www.ktnv.com/news/crime/study-nevada-gun-shows-tied-to-california-gun-violence)
19 [california-gun-violence](https://www.ktnv.com/news/crime/study-nevada-gun-shows-tied-to-california-gun-violence) (last visited Jan. 21, 2019); Brett Israel, *Study: Gun Deaths,*
20 *Injuries in California Spike Following Nevada Gun Shows*, Berkeley News (2017),
21 [https://news.berkeley.edu/2017/10/23/embargoed-until-1023-2pm-pdt-study-gun-](https://news.berkeley.edu/2017/10/23/embargoed-until-1023-2pm-pdt-study-gun-deaths-injuries-in-california-spike-following-nevada-gun-shows/)
22 [deaths-injuries-in-california-spike-following-nevada-gun-shows/](https://news.berkeley.edu/2017/10/23/embargoed-until-1023-2pm-pdt-study-gun-deaths-injuries-in-california-spike-following-nevada-gun-shows/) (last visited Jan.
23 21, 2019). *But see* Mariel Alper, Ph.D., & Lauren Glaze, Bureau of Justice Statistics,
24 *Source and Use of Firearms Involved in Crimes: Survey of Prison Inmates, 2016*
25 (2019), available at <https://www.bjs.gov/content/pub/pdf/suficspi16.pdf> (last visited
26 Jan. 21, 2019); Garen J. Wintemute, et al., *Gun Shows and Gun Violence: Fatally*
27 *Flawed Study Yields Misleading Results*, 100 Am. J. Pub. Health 1856-60 (2010),
28 available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2936974/> (last visited
Jan. 21, 2019).

⁶ *But see* Alvaro Castillo-Caniglia, Ph.D., et al., *California’s Comprehensive
Background Check and Misdemeanor Violence Prohibition Policies and Firearm
Mortality*, *Annals of Epidemiology* (Oct. 11, 2018) (noting that, in California
communities with the most stringent gun restrictions, there has been a marked
increase in both property and violent crime).

1 federal court under to prevent enforcement of the moratorium, alleging violations of
 2 various constitutional rights, including the rights to free speech, assembly, and equal
 3 protection. *See B&L Prods. v. 22nd Dist. Agric. Ass’n*, 394 F. Supp. 3d 1226 (S.D.
 4 Cal. 2019) (“*B&L I*”) (attached as Exhibit 4-).

5 ~~100.117.~~ 100.117. Denying Defendant District’s motion to dismiss and granting
 6 plaintiffs a preliminary injunction—*sua sponte*—on the ground that plaintiffs were
 7 exceedingly likely to succeed on the merits of their constitutional claims, the court
 8 in *B&L I* temporarily enjoined the enforcement of the District’s gun show
 9 moratorium and ordered the District to contract with Crossroads as it would any
 10 other similar event promoter at the Fairgrounds. Ex. 4.

11 ~~101.118.~~ 101.118. ~~Shortly thereafter~~ Soon after, the *B&L I* plaintiffs negotiated a
 12 settlement with the District, represented by attorneys for the California Department
 13 of Justice, permanently terminating the 2019 gun show moratorium, reinstating
 14 Crossroads’ right to promote gun show events at the Fairgrounds, and permanently
 15 barring the District from unilaterally halting B&L’s gun show events at the
 16 Fairgrounds. *See Parties’ Joint Notice of Settlement and Motion for Dismissal, B&L*
 17 *Prods. v. 22nd Dist. Agric. Ass’n*, 394 F. Supp. 3d 1226 (S.D. Cal. 2020) (attached
 18 as Exhibit 5-).

19 [California’s Assembly Bill 893 (Gloria)]

20 ~~102.119.~~ 102.119. Making good on his threat, and fully aware of the court’s
 21 decision in *B&L I*, Assembly member Gloria introduced Assembly Bill 893 (“AB
 22 893”) on or about February 20, 2019. Assem. Bill 893, 2019-2020 Reg. Sess. (Cal.
 23 2019) (attached as Exhibit 6-).

24 ~~103.120.~~ 103.120. AB 893, which added ~~Section~~ Section 4158 to the California Food
 25 & Agricultural Code, bars any “officer, employee, operator, lessee, or licensee of the
 26 [District]” from “contract[ing] for, authoriz[ing], or allow[ing] the sale of any
 27 firearm or ammunition on the property or in the buildings that comprise the Del Mar
 28 Fairgrounds....” Violation of the law is a misdemeanor. ~~Ex. 6-Id.~~; see also Cal. Food

1 & Agric. § 9.

2 ~~104.121.~~ AB 893 does not bar the possession of firearms or ammunition
3 on the property or in the buildings that comprise the Del Mar Fairgrounds. Ex. 6.

4 ~~105.122.~~ The text of AB 893 expressly identifies the ongoing presence at
5 the Fairgrounds of “marketplaces popularly known as ‘gun shows,’ at which
6 firearms and ammunition and other items are sold to the public approximately five
7 times a year.” ~~Ex. 6~~*Id.*

8 ~~106.123.~~ AB 893 also clearly recognizes that “[p]romoters maintain
9 relationships with a core group of vendors, some selling guns and some selling other
10 merchandise, who travel as the schedule dictates from city to city and state to state
11 and in the West, for example, many of the same vendors can be seen at Crossroads
12 of the West Gun Shows from San Francisco, California, to Tucson, Arizona.” ~~Ex. 6~~*Id.*

13 ~~107.124.~~ AB 893 failed to identify, however, any real public safety or
14 security concern specifically related to the existence of gun show events at the
15 Fairgrounds.

16 ~~108.125.~~ To be sure, AB 893 claims, without support, that “[g]un shows
17 bring grave danger to a community” and that “dangerous incidents” have taken place
18 at guns shows at the Fairgrounds, including “an official vendor accused of
19 trafficking illegal firearms, sales of firearms to individuals registered in the
20 Department of Justice Bureau of Firearms Armed Prohibited Persons System, and
21 illegal importation of large-capacity magazines.” *Id.* But AB 893 makes no effort to
22 show that these incidents are any more likely to occur at gun shows in California,
23 which are regulated at least as heavily as retailers operating out of brick-and-mortar
24 stores.

25 ~~109.126.~~ AB 893 also claims that “between the years 2013 and 2017, the
26 San Diego County Sheriff recorded 14 crimes” at gun shows at the Fairgrounds. ~~Ex.~~
27 *Id.* But even if the Legislature had proof of these crimes, AB 893 makes no attempt
28 to compare this to the number of crimes recorded at other similarly sized events at

1 the Fairgrounds during that period. Nor does it distinguish between the type of
 2 crimes this bill purports to target (e.g., illegal firearm transfers, straw purchases,
 3 sales of illegal firearms or accessories) and run-of-the-mill crimes ~~that are~~ likely to
 4 occur whenever thousands of people descend on one venue for a trade show or fair
 5 (e.g., petty thefts, parking or traffic violations, public drunkenness, and simple
 6 assault).

7 ~~110.127.~~ 127. Instead, AB 893’s legislative history reveals only general
 8 concerns about gun violence occurring all over the country and legislators’ beliefs
 9 that the state should not profit from sales of firearms and ammunition. *See* Matthew
 10 Fleming, Assem. Comm. Pub. Safety, Bill Analysis Re: AB 819 (Gloria), 2019-2020
 11 Reg. Sess., at 3 (Cal. 2019) (attached as Exhibit 7).

12 ~~111.128.~~ 128. Indeed, AB 893 opens with a list of tragedies, including the
 13 horrific mass murders that took place at Columbine High School, Sandy Hook
 14 Elementary School, and Marjory Stoneman Douglas High School—none of which
 15 were carried out with firearms traced to gun show events at the Fairgrounds. Ex. 6.

16 ~~112.129.~~ 129. What’s more, a March 26, 2019, analysis of AB 893 presented to
 17 the Assembly Committee on Public Safety quoted claims by Assembly member
 18 Gloria, the bill’s sponsor, that “[t]here is an ever apparent link between the gun
 19 violence we see virtually every week and the number of guns in our communities.”
 20 These statements, however, made no attempt to link gun violence to gun shows,
 21 generally, or to gun shows at the Fairgrounds, specifically. Ex. 7 at 2.

22 ~~113.130.~~ 130. The Public Safety Committee’s March 26, 2019, analysis also
 23 quoted Gloria as lamenting that “the State of California should not be profiting or
 24 benefitting from the sale of firearms.” He continued, “[f]undamentally, I believe it is
 25 wrong for the state of California to profit or to benefit from the sale of firearms and
 26 ammunition.” Ex. 7 at 2.

27 ~~114.131.~~ 131. Assembly member Lorena Gonzalez, who co-sponsored AB 893,
 28 expressed a similar sentiment, ~~arguing that “[t]he:~~ “The State of California shouldn’t be in

1 the business of using our public land to join with the firearms industry to profit off
 2 the sale of guns and ammo.” Chris Jennewein, *Assembly Passes Todd Gloria’s Bill*
 3 *to Thwart Gun Shows at Del Mar Fairgrounds*, timesofsandiego.com (April 25,
 4 2019), [https://timesofsandiego.com/politics/2019/04/25/assembly-passes-todd-](https://timesofsandiego.com/politics/2019/04/25/assembly-passes-todd-glorias-bill-to-thwart-gun-shows-at-del-mar-fairgrounds/)
 5 [glorias-bill-to-thwart-gun-shows-at-del-mar-fairgrounds/](https://timesofsandiego.com/politics/2019/04/25/assembly-passes-todd-glorias-bill-to-thwart-gun-shows-at-del-mar-fairgrounds/) (last visited Sept. 29,
 6 2021).

7 132. The Public Safety Committee’s March 26, 2019, analysis also cited a
 8 decade-old report from the Violence Prevention Research Program at the UC Davis
 9 School of Medicine, identifying gun shows as a source of illegally trafficked
 10 firearms. Ex. 7 at 3.

11 ~~115.~~133. But neither the VPRP report nor AB 893’s legislative history
 12 links any illegally trafficked firearm or gun used in crime to gun shows at the
 13 Fairgrounds (or even to gun shows in California). See Garen Wintemute, MD, *Inside*
 14 *Gun Shows: What Goes on When Everybody Thinks Nobody’s Watching*, ch. 1
 15 (2009), ~~(attached as Exhibit 8.)~~ This is unsurprising because, as the study states,
 16 “[m]uch of the concern about gun shows as a source of crime guns focuses on
 17 private party gun sales, *since no background checks are conducted and no records*
 18 *are kept.*” ~~Ex. 8~~Id. at 32. But such concerns are simply irrelevant in California where
 19 private party transfers—even those ~~initiated~~started at gun shows—must be processed
 20 by a licensed firearm dealer and are subject to background checks and registration
 21 under state law.

22 ~~116.~~134. The VPRP report cited by the Public Safety Committee’s
 23 analysis of AB 893 also ~~attempts~~tries to implicate licensed firearm retailers operating
 24 at gun shows as sources of crime guns in America, claiming that “30% of dealers
 25 with gun show sales, but 22% of all dealers, had previously had a crime gun traced
 26 to them.” But it expressly recognizes that “in California, where both gun shows
 27 themselves and gun commerce generally are regulated, *sales at gun shows are not a*
 28 *risk factor among licensed retailers for disproportionate sales of crime guns.*” ~~Ex.~~

1 Id. at 33 (emphasis added).

2 135. The Public Safety Committee’s March 26, 2019, analysis also cited a
3 report from the Government Accountability Office, claiming that a GAO report
4 “regarding gun trafficking to Mexico confirmed that many traffickers buy guns at
5 gun shows.” Ex. 7 at 3.

6 ~~117.~~136. But again, neither the BATFE report nor AB 893’s legislative
7 history links any illegally trafficked firearm to gun shows at the Fairgrounds (or
8 even to gun shows in California). See U.S. Gov’t Accountability Off., GAO-16-223,
9 *Firearms Trafficking: U.S. Efforts to Combat Firearms Trafficking to Mexico Have*
10 *Improved, but Some Collaboration Challenges Remain* (2016) (attached as Exhibit
11 9). To be sure, the GAO report identifies U.S. Southwest border states, including
12 Texas (41%), California (19%), and Arizona (15%), as the largest sources of
13 firearms illegally trafficked into Mexico from the United States. ~~Ex. 9~~Id. at 14. But it
14 does not trace these illegally trafficked guns to licensed dealers, generally, or to
15 those operating at gun shows, specifically. Rather, it says only that “there were
16 about 10,134 licensed dealers and pawnbrokers in the four Southwest border states,
17 many of them along the border,” and that “these licensed dealers and pawnbrokers
18 can operate in locations such as gun shops, pawn shops, their own homes, or gun
19 shows.” *Id.*

20 ~~118.~~137. The Public Safety Committee’s March 26, 2019 analysis did
21 concede that “less than one percent of inmates incarcerated in state prisons for gun
22 crimes acquired their firearms at a gun show”—though it transparently tries to
23 diminish that fact by citing only a website of the National Rifle Association as the
24 source of the statistic, instead of the U.S. Department of Justice, Bureau of Justice
25 Statistics reports from which the NRA drew it. Ex. 7 at 2-3 (citing NRA-ILA,
26 *Background Checks|NICS*, [https://www.nraila.org/get-the-facts/background-checks-](https://www.nraila.org/get-the-facts/background-checks-nics)
27 [nics](https://www.nraila.org/get-the-facts/background-checks-nics) (last visited Sept. 29, 2021)); *but see* Caroline Wolf Harlow, Ph.D., Bureau of
28 Justice Statistics, *Firearm Use by Offenders* (Nov. 2001) (attached as Exhibit 10).

1 119.138. While the Public Safety Committee’s March 26, 2019, analysis
2 also concedes that “violent criminals do not appear to regularly purchase their guns
3 directly from gun shows,” the analysis immediately shifts to “criticism” (from the
4 partisan Center for American Progress) that gun shows are somehow “the critical
5 moment in the chain of custody for many guns, the point at which they move from
6 the somewhat-regulated legal market to the shadowy, no-questions-asked illegal
7 market.” Ex. 7 at 3 (citing Arkadi Gerney, Center for American Progress, *The Gun
8 Debate 1 Year After Newtown: Assessing Six Key Claims About Gun Background
9 Checks* (Dec. 2013), available at [https://www.americanprogress.org/issues/guns-
10 crime/reports/2013/12/13/80795/the-gun-debate-1-year-after-newtown/](https://www.americanprogress.org/issues/guns-crime/reports/2013/12/13/80795/the-gun-debate-1-year-after-newtown/) (last visited
11 Sept. 29, 2021)). Neither the Center for American Progress editorial nor AB 893’s
12 bill analysis show how, in California where sales at gun shows are regulated *at least*
13 as heavily as sales at brick-and-mortar retailers, guns originating at gun shows are
14 any more likely to enter the “shadowy, no-questions-asked illegal market” than
15 those sold at gun stores.

16 120.139. Councilman Dwight Worden from the city of Del Mar, which
17 was “at the helm of city-level efforts to oppose the shows,” spoke in strong support
18 of AB 893. He made clear that hostility toward the pro-gun speech ~~that occurs~~ at gun
19 shows has long driven the movement to put an end to the events: “Councilman
20 Dwight Worden said Del Mar’s City Council is ‘unanimously on the same page with
21 this [AB 893] and very much behind the effort to discontinue the sale of guns and
22 ammo’ at the Fairgrounds. ‘For decades in Del Mar, we felt that the *promotion and
23 glorification of guns at the gun show are not consistent with our community
24 values.*’ ” Lexy Brodt, *Boerner Horvath, Gloria Introduce Bill to Ban Gun Shows at
25 Fairgrounds*, Coast News Group (Feb. 28, 2019), [https://thecoastnews.com/boerner-
26 horvath-gloria-introduce-bill-to-ban-gun-shows-on-state-land-2/](https://thecoastnews.com/boerner-horvath-gloria-introduce-bill-to-ban-gun-shows-on-state-land-2/) (last visited Sept.
27 29, 2019) (emphasis added).

28 121.140. On October 11, 2019, Governor Newsom signed AB 893 into

1 law.

2 ~~122.141.~~ Defendant Newsom, who is ultimately responsible for enforcing
3 the ~~enforcement of the law~~ AB 893, has long harbored animus towards gun show
4 promotion.

5 ~~123.142.~~ Indeed, Defendant Newsom has supported the closure of gun
6 shows at other state venues and specifically wrote to Defendant District in 2018 in
7 support of its unconstitutional gun show moratorium. He wrote: “[p]ermitting the
8 sale of firearms and ammunition on state owned property only perpetuates
9 America’s gun culture at a time when 73 percent of Californians support gun reform
10 measures.”

11 ~~143. [The Impact of]~~ And just “weeks after he cast the lone no-vote on the
12 [District’s 2018] gun show [moratorium], Russ Penniman, a retired rear admiral, lost
13 his spot. [Governor] Newsom replaced Penniman but kept two other board members
14 alone.”

15 **[AB 893 ~~on the~~ Directly Bans Speech Necessary to Sales of Firearm &**
16 **Ammunition]**

17 144. By banning the “sale of any firearm or ammunition on the property or
18 in the buildings that comprise the Del Mar Fairgrounds,” AB 893 acts as a direct ban
19 on speech. While the mere “act of exchanging of money for” firearms or
20 ammunition may not itself constitute speech, see Nordyke, 110 F.3d at 710, any real-
21 world “sale” necessarily involves speech.

22 145. On information and belief, Plaintiffs allege that AB 893’s ban on
23 “sales” of firearm and ammunition at the Fairgrounds includes the speech or
24 expressive conduct necessary to initiate or engage in the sale of firearms or
25 ammunition, including offering such products for sale, even if the act of transferring
26 ownership and possession does not take place onsite. Recall, AB 893
27 notwithstanding, state law already bars actual firearm transfers from taking place at
28 any gun show in California. See supra ¶ 58 & n. 3.

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146. Speech that is necessary for any sale includes but is not limited to: communication of intent to sell or buy; offers to sell or buy; discussion of price, availability, and condition of the goods; discussion of any conditions on the sale; and acceptance of the terms of a sale.

147. Speech that generally accompanies any sale of firearms or ammunition includes, but is not limited to, conversations relating to the suitability of the firearm or ammunition for an intended use (e.g., suitability for self-defense or sport shooting, caliber, weight, size, fit).

148. State law also requires that certain speech take place during sales of firearms, including safety instruction, a safe loading and unloading demonstration, inquiries to ensure the sale is not a straw purchase, background check communications (e.g., age, criminal record status, and immigration status), and discussions related to possession of firearm safes or locking devices and locked-storage requirements.

149. At gun shows, specifically, firearm sales from the event attendee to a vendor require discussions about whether the firearm is stolen, whether the firearm is legal for sale in California, and establishing proof of ownership.

150. And for San Jose residents who may be legally purchasing a firearm at a gun show at the Fairgrounds, a firearm sale requires showing proof of insurance and payment of annual fee.

[AB 893 Indirectly (But Intentionally) Bans Gun ShowShows at the Fairgrounds]

~~124.151.~~ 151. The sale of firearms and ammunition is an essential function of gun shows, and it is one of the main reasons people attend these events; if gun shows are not economically viable because they have been stripped of an essential function, they will cease to exist.

~~125.152.~~ 152. AB 893 thus has the same practical effect as the District’s unconstitutional gun show moratorium—that is, by permanently banning the

1 commercial sale of firearms and ammunition at the Fairgrounds, it has the effect of
2 banning gun shows at the Fairgrounds and all the educational, ideological, and
3 commercial speech that takes place at such events.

4 126.153. The Legislature was well-aware when it passed AB 893 that a
5 “gunless” gun show ~~would not~~ without the sale of firearms and ammunition cannot survive
6 financially. Indeed, the intended purpose of AB 893 was to end gun shows at the
7 Fairgrounds.

8 127.154. Indeed, the March 26, 2019, Public Safety Committee’s ~~March 26,~~
9 ~~2019~~ analysis of AB 893 expressly admitted that:

10 This bill would add a section to the Food and Agricultural
11 Code that prohibits the sale of firearms and ammunitions at
12 the Del Mar Fairgrounds. By default, a violation of any
13 provision of the Food and Agricultural code is a
misdemeanor, unless otherwise specified. Therefore, this bill
would effectively terminate the possibility for future gun
shows at the Del Mar Fairgrounds.

14 Ex. 7 at 4.

15 128.155. Similarly, the April 1, 2019, Assembly Appropriations
16 Committee’s April 1, 2019, analysis of AB 893 acknowledged:

17 This bill would add a section to the Food and Agricultural Code
18 that prohibits the sale of firearms and ammunitions at the Del Mar
19 Fairgrounds. By default, a violation of any provision of the Food
20 and Agricultural code is a misdemeanor, unless otherwise
21 specified. Therefore, this bill would effectively terminate the
possibility for future gun shows at the Del Mar Fairgrounds. On
three prior occasions, former Governors Brown and
Schwarzenegger vetoed similar legislation to ban gun shows at the
Cow Palace in San Francisco.

22 See Kimberly Horiuchi, Assem. Comm. Approps., Bill Analysis Re: AB 819
23 (Gloria), 2019-2020 Reg. Sess., at 1-2 (Cal. 2019) (attached as Exhibit 11-).

24 129.156. Reporting that AB 893 “would effectively shut down gun shows
25 like Crossroads of the West at the fairgrounds,” the Times of San Diego quoted
26 Gloria as saying that “[t]he communities around the Del Mar Fairgrounds have been
27 clear: they do not want these gun shows taking place on this state-owned land.”

28 Chris Jennewein, *Assembly Passes Todd Gloria’s Bill to Thwart Gun Shows at Del*

1 *Mar Fairgrounds*, timesofsandiego.com (April 25, 2019),
2 [https://timesofsandiego.com/politics/2019/04/25/assembly-passes-todd-glorias-bill-](https://timesofsandiego.com/politics/2019/04/25/assembly-passes-todd-glorias-bill-to-thwart-gun-shows-at-del-mar-fairgrounds/)
3 [to-thwart-gun-shows-at-del-mar-fairgrounds/](https://timesofsandiego.com/politics/2019/04/25/assembly-passes-todd-glorias-bill-to-thwart-gun-shows-at-del-mar-fairgrounds/) (last visited Sept. 29, 2021).

4 ~~130.157.~~ And further evidencing the Legislature’s intended effect of AB
5 893, Senator Dave Min recently wrote to the Board of the 32nd District Agricultural
6 Association in Orange County, warning the Board Members not to ~~stand in the way~~
7 ~~of~~ **hinder** his bill that would ban sales of firearms, **ammunition, and** firearm precursor
8 parts, ~~and ammunition~~ at the Orange County Fairgrounds in Costa Mesa. In that letter, he
9 addressed members’ concerns that their venue was being unfairly and exclusively
10 targeted, responding that AB 893 was a similar action banning gun shows at a single
11 fairground:

12 Furthermore, the substantive merits of any such communication to
13 the Governor are dubious. While Item 6A expresses a concern that
14 SB 264 “exclusively targets the 32nd DAA,” such action to **ban**
15 **gun shows** at a single fairground site has recent precedent. In
16 2019, Gov. Newsom signed Assembly Bill 893 (Gloria) into law,
ending the sale of firearms and ammunition at the Del Mar
Fairgrounds, operated by the 22nd District Agricultural
Association.

17 Letter from Senator Dave Min to Board Members of 32nd District Agricultural
18 Association (on or about Sept. 13, 2021) (attached as Exhibit 12) (emphases added).

19 ~~131.158.~~ ~~Nonetheless~~ Even so, Plaintiff Crossroads has repeatedly reached out
20 to Defendant District to request dates for events at the Fairground in 2021.

21 ~~132.159.~~ Plaintiff Crossroads has been unable to secure dates and enter
22 into new contracts for events at the Fairgrounds in 2021 or 2022 due to the
23 Defendants’ intentional act of adopting and enforcing AB 893.

24 ~~133.160.~~ Indeed, in compliance with AB 893, Defendant District cannot
25 and will not enter into contracts for gun shows at the Fairgrounds if firearms and
26 ammunition will be sold.

27 ~~134.161.~~ Even though Plaintiff Crossroads has offered to attempt to hold
28 events without sales of firearms or ammunition to preserve its longstanding

1 relationship with the District, mitigate damages, and continue planning and
2 promoting its family-friendly events until its claims can be heard, Defendant District
3 ~~has~~ dragged its feet and ~~has not~~ never provided dates for events in 2021 or 2022.

4 ~~135.162.~~ 135.162. As a result of Defendant District's stalling, ~~most of~~ Plaintiff
5 Crossroads' requested dates in 2021 have ~~either~~ all passed ~~or have become unavailable.~~

6 ~~136.163.~~ 136.163. Because of the time and resources needed to plan and implement
7 its gun show events, Plaintiff Crossroads must plan its shows about one year in
8 advance, but Defendant District has not allowed Plaintiff Crossroads to secure dates
9 in 2022 either.

10 ~~137.164.~~ 137.164. What's more, Defendant District seems to have stripped Plaintiff
11 Crossroads of its effective right of first refusal under the District's "hold" system
12 described above. Indeed, it has not only failed to give Crossroads first choice of its
13 dates for the coming year, but it has also prohibited Crossroads from securing dates
14 for gun show events at the Fairgrounds since 2020.

15 ~~138.165.~~ 138.165. Because California prohibits the building of similar venues
16 within their districts as a way ~~of preventing to~~ prevent competition for available space,
17 there are no venues in the area that offer comparable space and parking needed for
18 gun show events. Plaintiff Crossroads has thus been unable to find a suitable
19 alternate location to the Fairgrounds.

20 ~~139.166.~~ 139.166. Defendants' adoption and enforcement of AB 893, which has the
21 intended and practical effect of banning gun shows at the Fairgrounds, has and will
22 continue to cause Plaintiff Crossroads significant economic damages, including loss
23 of event revenue, breakdown of relationships and agreements with long-time event
24 vendors and companies used as suppliers for gun show events, relinquishment of
25 future show dates, and loss of business reputation and goodwill that has been built
26 by Plaintiff Crossroads for more than 30 years.

27 ~~140.167.~~ 140.167. Plaintiff Crossroads has already lost all revenue for gun show
28 events at the Fairgrounds in 2021 because the Fair Board will not finalize event

1 dates, citing AB 893 as the reason. If shows do not return to the Fairgrounds in
2 2022, Plaintiff Crossroads will lose all revenue for gun show events at the
3 Fairgrounds in 2022 as well.

4 ~~141.168.~~ 141.168. Even if Plaintiff Crossroads could secure dates, plan, promote,
5 and host gun shows in the ~~remainder~~ remaining months of ~~2021 and in~~ 2022, AB 893 ~~stands~~
6 ~~in the way of~~ interferes with Crossroads generating the profits ~~the~~ its events typically
7 generate because the ban on firearm and ammunition sales will significantly impact
8 paid event attendance and the types and numbers of paid vendors who will do
9 business with Crossroads at the Del Mar gun show.

10 ~~142.169.~~ 142.169. Plaintiff Crossroads has and will continue to suffer loss of
11 business goodwill resulting from Defendants' adoption and enforcement of AB 893
12 under the (unsupported) pretense that gun shows, generally, and Crossroads' shows,
13 in particular, threaten public safety. The message this sends to other venues,
14 attendees, and vendors that do business with Crossroads will no doubt affect
15 Crossroads for years.

16 ~~143.170.~~ 143.170. Defendants' adoption and enforcement of AB 893, which has the
17 intended and practical effect of banning gun shows at the Fairgrounds, also causes
18 economic damage to the organizational plaintiffs, CRPA, SAF, and South Bay,
19 which use their vendor spaces, in part, to sell organization memberships, advertise
20 their educational courses, request donations, and sell organization merchandise, like
21 hats and stickers.

22 ~~144.171.~~ 144.171. Defendants' adoption and enforcement of AB 893, which has the
23 intended and practical effect of banning gun shows at the Fairgrounds, also causes
24 economic damage to the vendor plaintiffs, Solis, Walsh, Captain Jon's, and LAX
25 Ammo, who uses their vendor spaces, in part, to sell firearms, ammunition, and/or
26 related accessories.

27 ~~145.172.~~ 145.172. Defendants' adoption and enforcement of AB 893, which has the
28 intended and practical effect of banning gun shows at the Fairgrounds, prohibits

1 Plaintiffs and all those similarly situate from making ~~sue~~USE of a state-owned “public
2 assembly facility” to host gun show events, a lawful business activity, in violation of
3 Plaintiffs’ rights to engage in free speech and peaceful assembly, and their right to
4 equal protection under the law.

5 ~~146.173.~~ Specifically, Defendants’ conduct complained of here strips
6 Plaintiffs Bardack, Diaz, Dupree, Irick, Solis, and Walsh, as well as the
7 organizational plaintiffs, CRPA, SAF, and South Bay, of a vital opportunity to
8 assemble and engage in pure speech about, among other things, the rights and
9 responsibilities of gun owners, the Second Amendment, patriotism, and political
10 activism with like-minded individuals.

11 ~~147.174.~~ Defendants’ conduct complained of here also strips Plaintiff
12 Crossroads of the right to promote gun show events, acting as a “clearinghouse” for
13 both political speech and commercial speech.

14 ~~148.175.~~ Defendants’ conduct complained of here also strips Plaintiffs
15 Solis, Walsh, Captain Jon’s, and LAX Ammo of a vital opportunity to assemble and
16 engage in lawful commercial speech, including the offer and acceptance of sales of
17 firearms, ammunition, and related accessories.

18 ~~149.176.~~ Furthermore, even if the Court grants injunctive relief, Plaintiff
19 Crossroads will have incurred damages in having to devote extraordinary advertising
20 dollars to inform the public that gun shows will continue to be held and have not
21 been banned at the Fairgrounds.

22 ~~150.177.~~ The economic and non-economic harms and injuries to Plaintiffs
23 are of a continuing nature; they continue to compound everyday AB 893 remains the
24 law.

25 **[Government Tort Claim]**

26 ~~151.178.~~ On August 2, 2021, Plaintiffs Crossroads, Walsh, LAX Ammo,
27 CRPA, and SAF notified Defendants Newsom, Bonta, Ross, and District of their
28 claims for intentional and/or negligent interference with prospective advantage by

1 filing a timely Government Tort Claim pursuant to under California’s Tort Claims
2 Act. B&L Productions, Inc., et al., Government Tort Claim (filed Aug. 2, 2021)
3 (attached as Exhibit 13-).

4 ~~152.179.~~ Defendants Newsom, Bonta, Ross, and District neither accepted
5 nor rejected Plaintiffs’ Government Tort Claim in writing within 45 days, so the
6 claim was rejected by operation of law.

7 ~~153.180.~~ On August 2, 2021, Plaintiff Crossroads of its claim for
8 intentional interference with contract by filing a timely Government Tort Claim
9 pursuant to under California’s Tort Claims Act. Ex. 7.

10 ~~154.181.~~ Defendants Newsom, Bonta, Ross, and District neither accepted
11 nor rejected Plaintiffs’ Government Tort Claim in writing within 45 days, so the
12 claim was rejected by operation of law.

13 **FIRST CAUSE OF ACTION**
14 **Violation of Right to Free Speech Under U.S. Const., amend. I**
15 **42 U.S.C. § 1983**

(By Plaintiffs CRPA, South Bay, SAF, and All Individuals Against ~~All~~ Defendants
16 Bonta, Stephan, and District)

17 ~~155.182.~~ Plaintiffs incorporate by reference paragraphs 1 through ~~154~~181
18 of this Complaint as though fully set forth herein in their entirety.

19 ~~156. The First Amendment provides that “Congress shall make no law . . .~~
20 ~~abridging the freedom of speech. . . .”~~

21 ~~157.1. The First Amendment’s Freedom of Speech Clause is incorporated and~~
22 ~~made applicable to the states and their political subdivisions by the Fourteenth~~
23 ~~Amendment to the United States Constitution and by 42 U.S.C. § 1983.~~

24 ~~158.1. The First Amendment does not tolerate the suppression of speech based~~
25 ~~on the viewpoint of the speaker. Public property made available for lease by~~
26 ~~community groups to engage in expressive activity must thus be available without~~
27 ~~regard to the viewpoint sought to be expressed. *Cinevision*, 745 F.2d 560. Such~~
28 ~~venues cannot be opened to some and closed to others, suppressing protected~~
~~expression, absent a compelling government interest. *Id.* at 571.~~

1 ~~159.183.~~ The state of California owns the Fairgrounds, a public venue. It
2 is rented to the public, including community-based organizations and businesses, for
3 its use and enjoyment, including for concerts, festivals, and industry shows.

4 ~~160. Defendants Newsom, Becerra, Summers, and Montgomery are the state
5 and local actors responsible for ensuring that AB 893 is enforced and thus have the
6 authority to prosecute violations of AB 893.~~

7 ~~161. Defendants Ross and District interpret, implement, and enforce state
8 laws and policies as regards the Fairgrounds, including AB 893.~~

9 ~~162.184.~~ Plaintiffs CRPA, South Bay, SAF, and Individuals Bardack,
10 Diaz, Dupree, Irick, Solis, and Walsh have attended ~~in the past~~ and wish to again
11 attend Crossroads ~~of the West Gun Showgun shows~~ at the Fairgrounds so they may
12 exchange ideas, information, and knowledge, as well discuss political issues and the
13 importance of protecting and defending the Second Amendment.

14 ~~163.185.~~ Plaintiffs CRPA, South Bay, SAF, and Individuals Bardack,
15 Diaz, Dupree, Irick, Solis, and Walsh have a right under the First Amendment to use
16 the Fairgrounds for their expressive activity on the same basis as other members of
17 the public without regard to the viewpoints they seek to express.

18 ~~186. Defendants' enforcement~~Defendants Bonta and Stephan, acting under
19 color of state law, are the government actors responsible for enforcing and
20 prosecuting violations of AB 893, which ~~prohibits the sale of firearms and~~
21 ~~ammunition at~~deprives Plaintiffs CRPA, South Bay, SAF, and Individuals Bardack,
22 Diaz, Dupree, Irick, Solis, and Walsh of free speech rights secured by the First
23 Amendment of the United States Constitution in violation of 42 U.S.C. § 1983.

24 ~~187. Defendant District interprets, implements, and enforces state laws and~~
25 policies as regards the Fairgrounds ~~with the purpose and intention (or at least the~~
26 ~~effect) of ending gun show events at,~~ including AB 893, which deprives Plaintiffs of
27 free speech rights secured by the First Amendment of the United States Constitution
28 in violation of 42 U.S.C. § 1983.

1 ~~164.188.~~ Defendants’ enforcement of AB 893, which prohibits the sale of
2 firearms and ammunition at the Fairgrounds with the purpose and intention (or at
3 least the effect) of ending gun show events at the Fairgrounds, is an impermissible
4 content-based restriction of speech. Fairgrounds, is an impermissible content-based
5 restriction of speech. Such enforcement constitutes a direct violation of the First
6 Amendment. free speech rights of Plaintiffs CRPA, South Bay, SAF, and Individuals
7 Bardack, Diaz, Dupree, Irick, Solis, and Walsh.

8 ~~189.~~ There is no compelling (or even legitimate) governmental interest to
9 support the ban on the commercial sales of all Similarly, by expressly banning the
10 sale of firearms and ammunition at the Fairgrounds, effectively shuttering AB 893
11 strips gun shows of an essential function and one of the main reasons people attend
12 these events, limiting the number and types of vendors at the gun shows and the
13 number of individuals in attendance. Thus, AB 893 has a chilling effect on the First
14 Amendment.

15 ~~165.190.~~ Defendants have no compelling (or even legitimate) interest in
16 banning the otherwise lawful (and constitutionally protected) sale of lawful firearms
17 and ammunition at the Fairgrounds, or in banning gun show events at the
18 Fairgrounds and destroying a vital outlet for the and the unique expression and
19 exchange of ideas related to promoting and preserving the “gun culture” in
20 California and elsewhere. that takes place at those events. Any purported interest in
21 “public safety” is betrayed by the fact that AB 893 does not ban the possession of
22 firearms or ammunition on Fairgrounds property and state law already governs sales
23 at gun shows at least as strictly as it governs sales at “brick-and-mortar” stores.

24 ~~191.~~ Further, AB 893 is neither narrowly tailored to nor the least restrictive
25 means of achieving the state’s dubious interests. Indeed, by intentionally and
26 effectively banning gun shows at the Fairgrounds, it sweeps up all forms of speech
27 and expressive conduct that occurs at such events and impermissibly banishes that
28 speech from a public venue.

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192. Similarly, AB 893 is unconstitutionally overbroad because, in an effort to restrict the commercial sale of firearms and ammunition, the law intentionally and effectively bans gun shows events altogether, seriously and deliberately burdening a vast amount of speech that does not constitute such a communication and is fully protected by the First Amendment.

~~166.193.~~ As a direct and proximate result of Defendants’ conduct, Plaintiffs ~~CRPA, South Bay, SAF and Individuals Bardack, Diaz, Dupree, Iriek, Solis, and Walsh~~ Clark, Johnson, Littrell, Merson, CRPA, APAGOA, 2ALC, and SAF have suffered irreparable harm, including the violation of their constitutional right to ~~freedom of expression~~ free speech, entitling them to declaratory and injunctive relief. Without intervention by this Court, through declaratory and injunctive relief, Plaintiffs will continue to suffer this irreparable harm.

SECOND CAUSE OF ACTION
Violation of Right to Free Speech Under U.S. Const., amend. I
42 U.S.C. § 1983
(By Plaintiff Crossroads Against ~~All~~ Defendants Bonta, Stephan, and District)

~~167.194.~~ Plaintiffs incorporate by reference paragraphs 1 through ~~166~~193 of this Complaint as though fully set forth herein in their entirety.

195. The state of California owns the Fairgrounds, a public venue. It is rented to the public, including community-based organizations and businesses, for its use and enjoyment, including for concerts, festivals, and industry shows.

196. Plaintiff Crossroads seeks to engage in protected speech at the Fairgrounds, a noted “public assembly facility,” through the promotion and production of events for lawful expressive activity, including events that bring together like-minded individuals to engage in pure political and educational speech, as well as commercial speech of vendor and individual participants to communicate offer and acceptance for the sale of legal goods and services.

~~168.—The First Amendment provides that “Congress shall make no law . . . abridging the freedom of speech. . . .”~~

1 ~~169. The First Amendment’s Freedom of Speech Clause is incorporated and~~
2 ~~made applicable to the states and their political subdivisions by the Fourteenth~~
3 ~~Amendment to the United States Constitution and by 42 U.S.C. § 1983.~~

4 ~~170. The First Amendment does not tolerate the suppression of speech based~~
5 ~~on the viewpoint of the speaker. Public property made available for lease by~~
6 ~~community groups to engage in expressive activity must thus be available without~~
7 ~~regard to the viewpoint sought to be expressed. *Cinevision*, 745 F.2d 560. Such~~
8 ~~venues cannot be opened to some and closed to others, suppressing protected~~
9 ~~expression, absent a compelling government interest. *Id.* at 571.~~

10 ~~171.197.~~ Event promoters, though they generally promote events for
11 profit, “still enjoy the protections of the First Amendment.” *Id.* at 567. For “[t]he
12 role of a promoter in ensuring access to the public is at least as critical as the role of
13 a bookseller or theater owner and . . . is in a far better position than a concert goer or
14 individual performers to vindicate First Amendment rights and ensure public
15 access.” *Id.* at 568. The conduct they engage in is protected expression.

16 ~~172.1. The state of California owns the Fairgrounds, a public venue. It is~~
17 ~~rented to the public, including community-based organizations and businesses, for~~
18 ~~its use and enjoyment, including for concerts, festivals, and industry shows.~~

19 ~~173. Defendants Newsom, Becerra, Summers, and Montgomery are the state~~
20 ~~and local actors responsible for ensuring that AB 893 is enforced and thus have the~~
21 ~~authority to prosecute violations of AB 893.~~

22 ~~174. Defendants Ross and District interpret, implement, and enforce state~~
23 ~~laws and policies as regards the Fairgrounds, including AB 893.~~

24 ~~175.1. Plaintiff Crossroads seeks to engage in protected speech at the~~
25 ~~Fairgrounds, a noted “public assembly facility,” through the promotion and~~
26 ~~production of events for lawful expressive activity, including events that bring~~
27 ~~together like-minded individuals to engage in pure political and educational speech,~~
28 ~~as well as commercial speech of vendor and individual participants to communicate~~

~~offer and acceptance for the sale of legal goods and services.~~

~~176.198.~~ Plaintiff Crossroads has a right under the First Amendment to use the Fairgrounds for its expressive activity on the same basis as other members of the public without regard to the content or viewpoint it seeks to express and promote.

~~199. Defendants' enforcement of AB 893, which prohibits the sale of firearms and ammunition at the Fairgrounds with the purpose and intention (or at least the effect) of ending gun show events at the Fairgrounds, is an impermissible content-based restriction of speech. Defendants Bonta and Stephan, acting under color of state law, are the government actors responsible for enforcing and prosecuting violations of AB 893, which deprives Plaintiff Crossroads of free speech rights secured by the First Amendment of the United States Constitution in violation of 42 U.S.C. § 1983.~~

~~200. Defendant District interprets, implements, and enforces state laws and policies as regards the Fairgrounds, including AB 893, which deprives Plaintiff Crossroads of free speech rights secured by the First Amendment of the United States Constitution in violation of 42 U.S.C. § 1983.~~

~~177.201. Defendants' enforcement of AB 893, which prohibits the sale of firearms and ammunition at the Fairgrounds with the purpose and intention (or at least the effect) of ending gun show events at the Fairgrounds, is an impermissible content-based restriction of speech. Such enforcement constitutes a direct violation of the First Amendment free speech rights of Plaintiff Crossroads.~~

~~202. There is no compelling (or even legitimate) governmental interest to support the ban on the commercial sales of all. Similarly, by expressly banning the sale of firearms and ammunition at the Fairgrounds, effectively shuttering AB 893 strips gun shows of an essential function and one of the main reasons people attend these events, limiting the number and types of vendors at the gun shows and the number of individuals in attendance. Thus, AB 893 has a chilling effect on the First Amendment.~~

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203. Defendants have no compelling (or even legitimate) interest in banning the otherwise lawful (and constitutionally protected) sale of lawful firearms, ammunition, and firearm precursor parts at the Fairgrounds, or in banning gun show events at the Fairgrounds and destroying a vital outlet for the and the unique expression and exchange of ideas related to promoting and preserving the “gun culture” in California and elsewhere. that takes place at those events. Any purported interest in “public safety” is betrayed by the fact that AB 893 does not ban the possession of firearms or ammunition on Fairgrounds property and state law already governs sales at gun shows at least as strictly as it governs sales at “brick-and-mortar” stores.

204. Further, AB 893 is neither narrowly tailored to nor the least restrictive means of achieving the state’s dubious interests. Indeed, by intentionally and effectively banning gun shows at the Fairgrounds, it sweeps up all forms of speech and expressive conduct that occurs at such events and banishes from a public venue.

178.205. Similarly, AB 893 is unconstitutionally overbroad because, in an effort to restrict the commercial sale of firearms, ammunition, and firearm precursor parts, the law effectively and intentionally bans gun shows events altogether, seriously and deliberately burdening a vast amount of speech that does not constitute such a communication and is fully protected by the First Amendment.

179.206. As a direct and proximate result of Defendants’ conduct, Plaintiff Crossroads has suffered and will continue to suffer irreparable harm, including the violation of its constitutional right to freedom of expression free speech, entitling Plaintiff Crossroads to declaratory and injunctive relief. Without intervention by this Court, through declaratory and injunctive relief, Plaintiffs will continue to suffer this irreparable harm.

THIRD CAUSE OF ACTION
Violation of Right to Free Speech Under U.S. Const., amend. I
42 U.S.C. § 1983

///

1 //

2 ~~THIRD CAUSE OF ACTION~~
3 ~~Violation of Right to Free Speech Under U.S. Const., amend. I~~
4 ~~42 U.S.C. § 1983~~

(By Plaintiffs Solis, Walsh, Captain Jon's, ~~and~~ LAX Ammo, ~~and~~ CRPA Against ~~All~~
5 Defendants Bonta, Stephan, and District)

6 ~~180.207.~~ Plaintiffs incorporate by reference paragraphs 1 through ~~179206~~
of this Complaint as though fully set forth herein in their entirety.

7 ~~208.~~ The state of California owns the Fairgrounds, a public venue. It is
8 rented to the public, including community-based organizations and businesses, for
9 its use and enjoyment, including for concerts, festivals, and industry shows.

10 ~~181.~~ The First Amendment provides that “Congress shall make no law . . .
11 abridging the freedom of speech. . . .”

12 ~~182.~~ The First Amendment’s Freedom of Speech Clause is incorporated and
13 made applicable to the states and their political subdivisions by the Fourteenth
14 Amendment to the United States Constitution and by 42 U.S.C. § 1983.

15 ~~183.~~ The First Amendment does not tolerate the suppression of speech based
16 on the viewpoint of the speaker. Public property made available for lease by
17 community groups to engage in expressive activity must thus be available without
18 regard to the viewpoint sought to be expressed. *Cinevision*, 745 F.2d 560. Such
19 venues cannot be opened to some and closed to others, suppressing protected
20 expression, absent a compelling government interest. *Id.* at 571.

21 ~~184.~~ AB 893 violates the commercial free speech rights of the Plaintiffs,
22 both on its face and as applied. This violation is especially egregious given the well-
23 established law of this Circuit with regard to the commercial speech rights at gun
24 shows that are protected by the First Amendment. *Nordyke v. Santa Clara Cty.*, 110
25 F.3d 707 (9th Cir. 1997).

26 ~~185.1.~~ The state of California owns the Fairgrounds, a public venue. It is
27 rented to the public, including community-based organizations and businesses, for
28 its use and enjoyment, including for concerts, festivals, and industry shows.

1 ~~186. Defendants Newsom, Becerra, Summers, and Montgomery are the state~~
2 ~~and local actors responsible for ensuring that AB 893 is adequately enforced and~~
3 ~~thus have the authority to prosecute violations of AB 893.~~

4 ~~187. Defendants Ross and District interprets, implements, and enforces state~~
5 ~~laws and policies as regards the Fairgrounds, including AB 893.~~

6 ~~188.209.~~ Plaintiffs Solis, Walsh, Captain Jon’s, and LAX Ammo, as well
7 as business members of CRPA, have attended ~~in the past~~ and wish to again attend
8 Crossroads gun shows at the Fairgrounds to engage in lawful commercial speech
9 with individual attendees.

10 ~~189.210.~~ Plaintiffs Solis, Walsh, Captain Jon’s, and LAX Ammo, as well
11 as business members of CRPA, have a right under the First Amendment to use the
12 Fairgrounds for expressive activity on the same basis as other members of the public
13 without regard to the viewpoints they seek to express and promote.

14 ~~211. Defendants Bonta and Stephan, acting under color of state law, are the~~
15 ~~government actors responsible for enforcing and prosecuting violations of AB 893,~~
16 ~~which deprives Plaintiffs Solis, Walsh, Captain Jon’s, and LAX Ammo, as well as~~
17 ~~business members of CRPA, of free speech rights secured by the First Amendment~~
18 ~~of the United States Constitution in violation of 42 U.S.C. § 1983.~~

19 ~~212. Defendant District interprets, implements, and enforces state laws and~~
20 ~~policies as regards the Fairgrounds, including AB 893, which deprives Plaintiffs~~
21 ~~Solis, Walsh, Captain Jon’s, and LAX Ammo, as well as business members of~~
22 ~~CRPA, of free speech rights secured by the First Amendment of the United States~~
23 ~~Constitution in violation of 42 U.S.C. § 1983.~~

24 ~~190.213.~~ Defendants’ enforcement of AB 893, which prohibits the sale of
25 firearms and ammunition at the Fairgrounds with the purpose and intention (or at
26 least the effect) of ending gun show events at the Fairgrounds, is an impermissible
27 content-based restriction of speech. Such enforcement constitutes a direct violation
28 of the First Amendment commercial speech rights of the Plaintiffs.

1 214. Further, by directly barring the rights of vendors, like Plaintiffs Solis,
2 Walsh, and LAX Ammo, to sell firearms and ammunition (*which necessarily*
3 *involves commercial speech*), AB 893 defies existing case law in the Ninth Circuit
4 protecting the commercial speech associated with firearm sales on public property.
5 *See Nordyke, v. Santa Clara Cty.*, 110 F.3d 707 (9th Cir. 1997). ~~There is no governmental~~
6 ~~interest—let alone~~ holding that a ban on the sale of firearms on county-owned land
7 was overbroad as abridging commercial speech associated with the sale of lawful
8 products).

9 215. Finally, by expressly banning the sale of firearms and ammunition at
10 the Fairgrounds, AB 893 strips gun shows of an essential function and one of the
11 main reasons people attend these events, limiting the number and types of vendors at
12 the gun shows and the number of individuals in attendance. Thus, AB 893 has a
13 chilling effect on the First Amendment.

14 ~~191.216.~~ 216. Defendants have no substantial ~~one—to support~~(or even
15 legitimate) interest in banning the ban on the commercial sales otherwise lawful (and
16 constitutionally protected) sale of all lawful firearms and ammunition at the
17 Fairgrounds, ~~effectively shuttering or in banning~~ gun show events ~~at the Fairgrounds~~
18 ~~and destroying a vital outlet for the~~ and the unique expression and exchange of ideas
19 related to promoting and preserving the “gun culture” ~~in California and elsewhere.~~
20 ~~This is especially true where the~~ that takes place at those events. Any purported
21 interest in “public safety” is betrayed by the fact that AB 893 does not ban the
22 possession of firearms or ammunition on Fairgrounds property and state maintains
23 an interest in tax revenue from the lawful sale of firearms and ammunition at
24 locations other than gun shows law already governs sales at gun shows at least as
25 strictly as it governs sales at “brick-and-mortar” stores.

26 217. Even if there were a substantial governmental interest in restricting gun
27 shows and the commercial speech that occurs at such events, it would not be directly
28 served by a ban on sales of firearms and ammunition (and the speech necessary to

1 such sales) at the Fairgrounds.

2 ~~192.218. Even if there were a substantial government interest in restricting~~
3 ~~gun shows and the commercial speech that occurs at such events,~~ banning
4 commercial speech about firearms and ammunition at the Fairgrounds altogether is
5 more extensive than necessary to serve any such interest. *See Nordyke, 110 F.3d 707*
6 ~~(holding that a ban on the sale of firearms on county-owned land was overbroad as~~
7 ~~abridging commercial speech associated with the sale of lawful products).~~

8 ~~193.219.~~ As a direct and proximate result of Defendants’ conduct,
9 Plaintiffs Solis, Walsh, Captain Jon’s, and LAX Ammo ~~will suffer, as well as~~
10 ~~business members of CRPA, have suffered~~ irreparable harm, including the violation
11 of their constitutional right to ~~freedom of expression~~ free speech, entitling them to
12 declaratory and injunctive relief. Without intervention by this Court, through
13 declaratory and injunctive relief, Plaintiffs will continue to suffer this irreparable
14 harm.

15
16 **FOURTH CAUSE OF ACTION**
17 **Prior Restraint on Right to Free Speech Under U.S. Const., amend. I**
18 **42 U.S.C. § 1983**
19 (By All Plaintiffs Against ~~All~~ Defendants Bonta, Stephan, and District)

20 ~~194.220.~~ Plaintiffs incorporate by reference paragraphs 1 through ~~194~~ 219
21 of this Complaint as though fully set forth herein in their entirety.

22 ~~195.—The First Amendment provides that “Congress shall make no law . . .~~
23 ~~abridging the freedom of speech. . . .”~~

24 ~~196.—The First Amendment’s Freedom of Speech Clause is incorporated and~~
25 ~~made applicable to the states and their political subdivisions by the Fourteenth~~
26 ~~Amendment to the United States Constitution and by 42 U.S.C. § 1983.~~

27 ~~197.221.~~ The First Amendment affords special protection against policies
28 or orders that impose a previous or prior restraint on speech. “[P]rior restraints on
speech and publication are the most serious and least tolerable infringement on First
Amendment Rights.” *Ass’n for L.A. Deputy Sheriffs, 239 Cal. App. 4th at 811* (citing

1 *Neb. Press Ass’n*, 427 U.S. at 559. A prior restraint is **particularly**
2 **egregious** **especially bad** when it falls upon the communication of news,
3 commentary, current events, political speech, and association. *N.Y. Times Co.*, 403
4 U.S. at 715.

5 ~~198.222.~~ 222. Prior restraint also involves the “unbridled discretion doctrine”
6 where a policy, or lack thereof, allows for a single person or body to act at their sole
7 discretion, without regard for any constitutional rights possessed by the person
8 **upon** which the action is taken, and where there is no remedy for challenging the
9 discretion of the decision makers. *Lakewood, v. Plain Dealer Publ’g Co.*, 486 U.S.
10 ~~at 750, 757.~~ (1988).

11 ~~199.223.~~ 223. ~~The~~ Defendants **Bonta, Stephan, and District** are the state and
12 local actors responsible for enforcing **and prosecuting violations of** AB 893, which
13 is a content-based restriction of speech that will have a chilling effect on Plaintiffs’
14 First Amendment rights, thus acting as a de facto prior restraint on Plaintiffs’ rights.

15 ~~200.224.~~ 224. Under AB 893, Defendant District has unfettered discretion to
16 determine what constitutes a “sale” under the law and is thereby prohibited at the
17 Fairgrounds.

18 ~~201.225.~~ 225. Defendants’ policies and practices complained of here impose an
19 unconstitutional prior restraint because they vest the District with unbridled
20 discretion to permit or refuse protected expression by members of the public,
21 including Plaintiffs.

22 ~~202.226.~~ 226. Defendants’ policies and practices complained of here give
23 unbridled discretion to local agricultural district boards and board members to
24 decide what forms of expression members of the public may engage in on at the
25 Fairgrounds and to ban any other expression at the whim of those boards and board
26 members in violation of the First Amendment.

27 ~~203.227.~~ 227. As a direct and proximate result of Defendants’ conduct,
28 Plaintiffs have suffered and will continue to suffer irreparable harm, including the

1 violation of their constitutional right to freedom of expression, entitling them to
2 declaratory and injunctive relief and nominal damages.

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4 **FIFTH CAUSE OF ACTION**
5 **Violation of Right to Assembly and Association Under U.S. Const., amend. I**
6 **42 U.S.C. § 1983**

7 (By All Plaintiffs Against ~~All~~ Defendants Bonta, Stephan, and District)
8 204.228. Plaintiffs incorporate by reference paragraphs 1 through ~~204~~227
9 of this Complaint as though fully set forth herein in their entirety.

10 229. The state of California owns the Fairgrounds, a public venue. It is
11 rented to the public, including community-based organizations and businesses, for
12 its use and enjoyment, including for concerts, festivals, and industry shows.

13 ~~205. The First Amendment protects the rights to association and assembly.~~
14 ~~Indeed, “[e]ffective advocacy of both public and private points of view, particularly~~
15 ~~controversial ones, is undeniably enhanced by group association.” NAACP, 377 U.S.~~
16 ~~at 462.~~

17 206.230. Plaintiffs ~~are attempting~~have promoted or attended in the past
18 and wish to engage in their protected right to free assembly and association through
19 lawful activities that bring together like-minded individuals~~again~~ promote or attend
20 Crossroads gun shows at the Fairgrounds so they may assemble and associate with
21 one another to engage in lawful commerce, fellowship, and expressive activities,
22 including political and educational speech, and fellowship about the lawful
23 ownership, possession, and use of firearms and related products.

24 231. Plaintiffs have a right under the First Amendment to use the
25 Fairgrounds to assemble and associate on the same basis as other members of the
26 public without regard to the content or viewpoint it seeks to express and promote.

27 232. Defendants ~~violate~~Bonta and Stephan, acting under color of state law,
28 are the government actors responsible for enforcing and prosecuting violations of
AB 893, which deprives Plaintiffs of their rights of assembly and association
secured by the First Amendment of the United States Constitution in violation of 42

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U.S.C. § 1983.

233. Defendant District interprets, implements, and enforces state laws and policies in regard to the Fairgrounds, including AB 893, which deprives Plaintiffs of their rights of assembly and association secured by the First Amendment of the United States Constitution in violation of 42 U.S.C. § 1983.

207.234. Defendants’ enforcement of AB 893, which prohibits the sale of firearms and ammunition at the Fairgrounds with the purpose and intention (or at least the effect) of banning gun show events at the Fairgrounds, violates Plaintiffs’ rights to freedom of assembly and association by denying them the right to use the Fairgrounds, a “public assembly facility”, to assemble and engage in political and other types of expression—a right Defendants extend to other members of the public so long as they are not meeting for the purposes of holding to hold a gun show event.

208.—Defendants have no compelling (or even legitimate and substantial) governmental interest in prohibiting banning the otherwise lawful (and constitutionally protected) sale of lawful firearms and ammunition, effectively shuttering gun shows at at the Fairgrounds, or in banning gun show events and, by extension, the rights of Plaintiffs to assemble and associate and assemble at such events at the Fairgrounds.

209.—Defendants have expressly banned the sale of firearms and ammunition at the Fairgrounds, which Any purported interest in “public safety” is an essential function of gun show and one of the main reasons people attend these events. By eliminating the sale of firearms and ammunition, Defendants have stripped gun shows of an essential function, limiting the number and types of vendors at the gun shows and the number of individuals in attendance. Thus, having a chilling effect on the First Amendment.

210.235. Not only does betrayed by the fact that AB 893 eliminate Plaintiffs’ ability to engage in discussion with event attendees about the sale and

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~~purchase of firearms and ammunition, but it does also so unnecessarily because of California’s already extensive regulation of gun show events. For instance, California’s mandatory 10-day waiting period prevents any attendee from taking does not ban the possession of firearms or ammunition on the premises of the Fairgrounds, requiring that they instead go to a different location property and state law already governs sales at gun shows at least 10 days later to take possession of any firearm purchased as strictly as it governs sales at the gun show. Before a gun show attendee would take possession of ammunition purchased on the premises, the attendee would have to rely on a vendor to retrieve the ammunition from stock, pass a background check conducted electronically by the California Department of Justice, pay a fee, and wait for the vendor to upload the purchaser’s personal information and details of the specific ammunition being transferred. What’s more, no person other than security personnel or law enforcement may possess both a firearm and ammunition for that firearm at the same time, with the exception of vendors who are selling both “brick-and-mortar” stores.~~

211.236. But even if Defendants had a “legitimate and substantial” interest in limiting a key aspect of gun show events, and thus barring Plaintiffs from freely assembling and associating at the Fairgrounds, they have imposed an unconstitutional and overly broad restriction on Plaintiffs’ rights ~~to assembly~~ by prohibiting the sale of firearms and ammunition at the Fairgrounds.

237. As a direct and proximate result of Defendants’ conduct, all Plaintiffs have suffered irreparable harm, including the violation of their constitutional right to free association and assembly, entitling them to declaratory and injunctive relief. Without intervention by this Court, through declaratory and injunctive relief, Plaintiffs will continue to suffer this irreparable harm.

SIXTH CAUSE ~~O~~OF ACTION
Violation of ~~the~~ Right to ~~Equal Protection~~ Keep & Bear Arms Under U.S. Const., amend. ~~XIV~~II****
42 U.S.C. § 1983
(By ~~All~~ Plaintiffs ~~Bardack, Diaz, Dupree, Irick, Solis, Walsh, LAX Ammo, CRPA,~~
FIRST AMENDED COMPLAINT
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

South Bay, and SAF Against ~~All~~ Defendants Bonta, Stephan, and District)

212.238. Plaintiffs incorporate by reference paragraphs 1 through 212237 of this Complaint as if fully set forth herein in their entirety.

~~213.1. The Fourteenth Amendment to the United States Constitution, enforceable under 42 U.S.C. § 1983, provides that no state shall deny to any person within its jurisdiction the equal protection of the laws.~~

~~214. Generally, equal protection is based upon protected classes of person who are similarly situated; however, individuals who suffer irrational and intentional discrimination or animus can bring claims of equal protection where the government is subjecting only the Plaintiffs to differing and unique treatment compared to others who are similarly situated, *Engquist*, 553 U.S. 591, even if not based on group characteristics, *Village of Willowbrook*, 528 U.S. 562.~~

239. Disparate treatment Plaintiffs Bardack, Diaz, Dupree, Irick, Solis, Walsh, LAX Ammo, and members and supporters of Plaintiffs CRPA, South Bay, and SAF, have sold or bought firearms or ammunition at gun show events at the Fairgrounds in the past and, but for the adoption and enforcement of AB 893, they would do so again.

240. Plaintiffs have a right, under the Second Amendment, to buy and sell firearms and the ammunition necessary for the effective operation of those firearms.

241. Defendants Bonta and Stephan, acting under the color of state law, when one is engaged in activities that are fundamental rights, is actionable are the government actors responsible for enforcing and prosecuting violations of AB 893, which deprives Plaintiffs of their right to access firearms and ammunition secured by the Second Amendment of the United States Constitution in violation of 42 U.S.C. § 1983.

242. Defendant District interprets, implements, and enforces state laws and policies in regard to the Fairgrounds, including AB 893, which deprives Plaintiffs of their right to access firearms and ammunition secured by the Second Amendment of

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the United States Constitution in violation of 42 U.S.C. § 1983.

243. Defendants’ enforcement of AB 893, which prohibits the sale of firearms and ammunition at the Fairgrounds with the purpose and intention (or at least the effect) of banning gun show events at the Fairgrounds, violates Plaintiffs’ Second Amendment right to buy and sell firearms and the ammunition necessary to the effective operation of those firearms.

244. Defendants cannot satisfy their burden to justify their ban on the sale of firearms and ammunition at the Fairgrounds under the history- and tradition-based test applied in *Heller* and recently confirmed in *Bruen*.

245. As a direct and proximate result of Defendants’ conduct, all Plaintiffs have suffered irreparable harm, including the violation of their constitutional right to buy and sell firearms and ammunition, entitling them to declaratory and injunctive relief. Without intervention by this Court, through declaratory and injunctive relief, Plaintiffs will continue to suffer this irreparable harm.

SEVENTH CAUSE OF ACTION
Violation of the Right to Equal Protection Clause of Under U.S. Const., amend. XIV
42 U.S.C. § 1983

(By All Plaintiffs Against Defendants Bonta, Stephan, and District)

246. Plaintiffs incorporate by reference paragraphs 1 through 245 of this Complaint as if fully set forth herein in their entirety.

247. Defendants, acting under color of state law, are enforcing AB 893, which deprives Plaintiffs of right to equal protection under the law secured by the Fourteenth Amendment of the United States Constitution in violation of 42 U.S.C. § 1983.

248. On its face and as applied, AB 893 is an unconstitutional abridgement of Plaintiffs’ right to equal protection under the law guaranteed by the Fourteenth Amendment. ~~*Mosley*, 408 U.S. 92; *Carey*, 447 U.S. 455.~~ because it is a viewpoint-discriminatory and animus-based restriction on Plaintiffs’ protected

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speech that serves no compelling governmental interest

216.249. Although Plaintiff Crossroads operates a legal and legitimate business and the Fairgrounds is suitable for the purposes of hosting a gun show at its public facility, as ~~demonstrated~~shown by over 30 years of unfringed use of the Fairgrounds, AB 893 prevents Plaintiffs from equally participating in the use of the publicly owned venue by unconstitutionally eliminating Plaintiffs’ ability to freely conduct otherwise lawful business transactions and freely express their beliefs with like-minded people.

217.250. Defendants’ refusal to permit Plaintiffs equal access to the Fairgrounds ~~for to host its promotion of gun show~~show events and engage in the speech, assembly, and association that takes place at such events, does not further any compelling (or even legitimate) governmental interest.

218.251. Defendants’ refusal to allow Plaintiffs equal use of the public facility while continuing to allow contracts for the use of the facility with other similarly situated legal and legitimate businesses ~~is a violation of~~violates Plaintiffs’ right to equal protection under the law because it is based on a “bare desire to harm a politically unpopular group.” *U.S. Dep’t of Agric. v. Moreno*, 413 U.S. ~~at~~528, 534-(1973)

219.252. As a direct and proximate result of Defendants’ conduct, Plaintiffs have suffered irreparable harm, including the violation of their constitutional right to equal protection under the law, entitling them to declaratory and injunctive relief and nominal damages. Without intervention by this Court, through declaratory and injunctive relief, Plaintiffs will continue to suffer this irreparable harm.

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~~EIGHTH CAUSE OF ACTION~~
~~SEVENTH CAUSE OF ACTION~~

Intentional Interference with Prospective Economic Advantage
(By Plaintiffs Crossroads, Walsh, LAX Ammo, CRPA, and SAF Against
Defendants Newsom, Bonta, Ross, and District)

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3 220.253. Plaintiffs incorporate by reference paragraphs 1 through ~~220.252~~
4 of this Complaint as if fully set forth herein in their entirety.

5 221.254. For more than 30 years, Plaintiff Crossroads has maintained
6 contracts with Defendant District, under which Plaintiff Crossroads annually hosts
7 about five gun-show events at the Fairgrounds. An economic relationship has been
8 in effect between Plaintiff Crossroads and Defendant District to operate gun shows
9 on the state fairground property for over 30 years.

10 222.255. In turn, Plaintiff Crossroads maintains countless economic
11 relationships with for-profit and nonprofit vendors, including but not limited to,
12 Plaintiffs Walsh, LAX Ammo, CRPA, and SAF. These vendors pay for space at
13 Plaintiff Crossroads' Del Mar gun shows ~~in order~~ to sell merchandise (including
14 firearms and ammunition) and organization memberships, among other things.

15 223.256. Defendants Newsom, Bonta, Ross, and District had actual
16 knowledge of the existence of these relationships.

17 224.257. By adopting and enforcing AB 893, which bans the sale of
18 firearms and ammunition at the Fairgrounds and effectively bans gun shows at the
19 Fairgrounds, Defendants Newsom, Bonta, Ross, and District engaged in an
20 intentional act designed to disrupt these economic relationships.

21 225.258. The adoption and enforcement of AB 893 by Defendants
22 Newsom, Bonta, Ross, and District did, in fact, disrupt the known economic
23 relationships between Plaintiff Crossroads and Defendant ~~2nd DAA District~~ and
24 between Plaintiff Crossroads and its vendors, including Plaintiffs Walsh, LAX
25 Ammo, CRPA, and SAF.

26 226.259. Plaintiffs Crossroads, Walsh, LAX Ammo, CRPA, and SAF
27 have suffered actual damages as a result of the conduct of Defendants Newsom,
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Bonta, Ross, and District complained of herein.

227.260. Plaintiffs Crossroads, Walsh, LAX Ammo, CRPA, and SAF notified Defendants Newsom, Bonta, Ross, and District of this claim by filing a Government Tort Claim ~~pursuant to~~ under California’s Tort Claims Act. Ex. 7.

228.261. Defendants Newsom, Bonta, Ross, and District neither accepted nor rejected Plaintiffs’ Government Tort Claim in writing within 45 days, so the claim was rejected by operation of law.

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NINTH CAUSE OF ACTION

~~**EIGHTH CAUSE OF ACTION**~~

Negligent Interference with Prospective Economic Advantage
(By Plaintiffs Crossroads, Walsh, LAX Ammo, CRPA, and SAF Against Defendants Newsom, Bonta, Ross, and District)

229.262. Plaintiffs incorporate by reference paragraphs 1 through ~~229~~261 of this Complaint as if fully set forth herein in their entirety.

230.263. For more than 30 years, Plaintiff Crossroads has maintained contracts with Defendant District, under which Plaintiff Crossroads annually hosts about five gun-show events at the Fairgrounds. An economic relationship has been in effect between Plaintiff Crossroads and Defendant District to operate gun shows on the state fairground property for over 30 years.

231.264. In turn, Plaintiff Crossroads maintains countless economic relationships with for-profit and nonprofit vendors, including, but not limited to, Plaintiffs Walsh, LAX Ammo, CRPA, and SAF. These vendors pay for space at Plaintiff Crossroads’ Del Mar gun shows ~~in order~~ to sell merchandise (including firearms and ammunition) and organization memberships, among other things.

232.265. Defendants Newsom, Bonta, Ross, and District had actual

1 knowledge of the existence of these relationships.

2 233.266. Defendants Newsom, Bonta, Ross, and District knew that, by
3 adopting and enforcing AB 893, which bans the sale of firearms and ammunition at
4 the Fairgrounds and effectively bans gun shows at the Fairgrounds, these economic
5 relationships would be disrupted if they did not act with reasonable care.

6 234.267. Defendants Newsom, Bonta, Ross, and District knew that, by
7 adopting and enforcing AB 893, which bans the sale of firearms and ammunition at
8 the Fairgrounds and effectively bans gun shows at the Fairgrounds, in fact failed to
9 act with reasonable care.

10 235.268. The adoption and enforcement of AB 893 by Defendants
11 Newsom, Bonta, Ross, and District did, in fact, disrupt the known economic
12 relationships between Plaintiff Crossroads and Defendant 2nd DAA and between
13 Plaintiff Crossroads and its vendors, including Plaintiffs Walsh, LAX Ammo,
14 CRPA, and SAF.

15 236.269. Plaintiffs Crossroads, Walsh, LAX Ammo, CRPA, and SAF
16 have suffered actual damages as a result of the conduct of Defendants Newsom,
17 Bonta, Ross, and District complained of herein.

18 237.270. Plaintiffs Crossroads, Walsh, LAX Ammo, CRPA, and SAF
19 notified Defendants Newsom, Bonta, Ross, and District of this claim by filing a
20 Government Tort Claim pursuant to under California’s Tort Claims Act. Ex. 7.

21 238.271. Defendants Newsom, Bonta, Ross, and District neither accepted
22 nor rejected Plaintiffs’ Government Tort Claim in writing within 45 days, so the
23 claim was rejected by operation of law.

24 **~~NINTH~~TENTH CAUSE OF ACTION**
Intentional Interference with Contract

25 (By Plaintiff Crossroads Against Defendants Newsom, Bonta, Ross, and District)

26 239.272. Plaintiffs incorporate by reference paragraphs 1 through 239.271
27 of this Complaint as if fully set forth herein in their entirety.

28 240.273. For more than 30 years, Plaintiff Crossroads has maintained

1 contracts with Defendant District, under which Plaintiff Crossroads annually hosts
2 about five gun-show events at the Fairgrounds. Thus, an economic relationship has
3 been in effect between Plaintiff Crossroads and the District to operate gun shows on
4 state fairground property for over 30 years.

5 241.274. For decades, Defendant District has given Plaintiff Crossroads an
6 effective right of first refusal to secure event dates for the coming year as a returning
7 contractor at the Fairgrounds under the District’s longstanding “hold” system.

8 242.275. Defendants Newsom, Bonta, Ross, and District had actual
9 knowledge of the existence of these relationships.

10 243.276. By adopting and enforcing AB 893, which bans the sale of
11 firearms and ammunition at the Fairgrounds and effectively bans gun shows at the
12 Fairgrounds, Defendants Newsom, Bonta, Ross, and District engaged in an
13 intentional act designed to disrupt these economic relationships.

14 244.277. The adoption and enforcement of AB 893 by Defendants
15 Newsom, Bonta, Ross, and District did, in fact, disrupt the known economic
16 relationships between Plaintiff Crossroads and Defendant 2nd DAA and between
17 Plaintiff Crossroads and its vendors, including Plaintiffs Walsh, LAX Ammo,
18 CRPA, and SAF.

19 245.278. Plaintiffs Crossroads has suffered actual damages as a result of
20 the conduct of Defendants Newsom, Bonta, Ross, and District complained of herein.

21 246.279. Plaintiff Crossroads notified Defendants Newsom, Bonta, Ross,
22 and District of this claim by filing a Government Tort Claim pursuant to under
23 California’s Tort Claims Act. Ex. 7,

24 247.280. Defendants Newsom, Bonta, Ross, and District neither accepted
25 nor rejected Plaintiffs’ Government Tort Claim in writing within 45 days, so the
26 claim was rejected by operation of law.

27 **PRAYER FOR RELIEF**

PRAYER FOR RELIEF

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WHEREFORE, Plaintiffs pray for:

1. A declaration that AB 893, codified at California Food & Agricultural Code section 4158, violates the free speech rights of Plaintiffs CRPA, South Bay, SAF, and Individual Plaintiffs Bardack, Diaz, Dupree, Irick, Solis, and Walsh under the First Amendment to the United States Constitution;

2. A declaration that AB 893 violates the free speech rights of Plaintiff Crossroads under the First Amendment to the United States Constitution;

3. A declaration that AB 893, codified at California Food & Agricultural Code section 4158, violates the free speech rights of Plaintiffs Solis, Walsh, Captain Jon’s, and LAX Ammo under the First Amendment to the United States Constitution;

4. A declaration that AB 893, codified at California Food & Agricultural Code section 4158, violates the free speech rights of all Plaintiffs under the First Amendment to the United States Constitution because it imposes a prior restraint on their speech;

5. A declaration that AB 893, codified at California Food & Agricultural Code section 4158, violates the rights of assembly and association of all Plaintiffs under the First Amendment to the United States Constitution;

6. A declaration that AB 893, codified at California Food & Agricultural Code section 4158, violates the rights of all Plaintiffs to keep and bear arms under the Second Amendment to the United States Constitution;

6.7. A declaration that AB 893, codified at California Food & Agricultural Code section 4158, violates the rights of all Plaintiffs to equal protection under the law per the Fourteenth Amendment to the United States Constitution;

7.8. AmA preliminary and permanent injunction prohibiting all Defendants or any of Bonta, Stephan, and District, their employees, agents, and successors in office, from enforcing AB 893, codified at California Food & Agricultural Code

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section 4158;

~~8.9.~~ An order for damages, including punitive and nominal damages, according to proof;

~~9.10.~~ An award of costs and expenses, including attorney’s fees, ~~pursuant to~~under 42 U.S.C. § 1988 or other appropriate state or federal law; and

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~~10.11.~~ Any such other relief the Court deems just and equitable.

Dated: ~~October 4, 2021~~August 31, 2022

MICHEL & ASSOCIATES, P.C.

s/ Anna M. Barvir
Anna M. Barvir

Counsel for Plaintiffs B&L Productions, Inc., Barry Bardack, Ronald J. Diaz, Sr., John Dupree, Christopher Irick, Robert Solis, Lawrence Michael Walsh, Captain Jon’s Lockers, LLC, L.A.X. Firing Range, Inc., California Rifle & Pistol Association, ~~Incorporated, Inc.~~, South Bay Rod and Gun Club, Inc.

Dated: ~~October 4, 2021~~August 31, 2022

LAW OFFICES OF DON KILMER

s/ Don Kilmer
Don Kilmer
Counsel for Plaintiff Second Amendment Foundation

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CERTIFICATE OF SERVICE
IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Case Name: *B & L Productions, Inc., et al. v. Newsom, et al.*
Case No.: 21-cv-01718-AJB-KSC

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

I am not a party to the above-entitled action. I have caused service of:

NOTICE OF ERRATA RE: FIRST AMENDED COMPLAINT

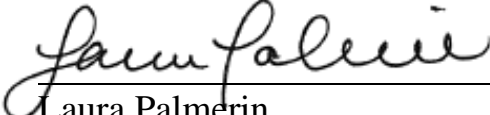
on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Charles J. Sarosy, Deputy Attorney General
charles.sarosy@doj.ca.gov
300 South Spring Street, Suite 1702
Los Angeles, CA 90013-1230
*Attorneys for Defendants Governor Gavin Newsom,
Attorney General Rob Bonta, Secretary Karen Ross, and
22nd District Agricultural Association*

Timothy M. White, Senior Deputy
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1600 Pacific Highway, Room 355
San Diego, CA 92101-2469
*Attorneys for Defendants Summer Stephan, Attorney of
San Diego County and Lonnie Eldridge, County Counsel
of San Diego County*

I declare under penalty of perjury that the foregoing is true and correct.

Executed September 8, 2022.



Laura Palmerin