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15 **UNITED STATES DISTRICT COURT**
16 **SOUTHERN DISTRICT OF CALIFORNIA**

17 SOUTH BAY ROD & GUN CLUB,
INC.; GARY BRENNAN, an
18 individual; CORY HENRY, an
individual; PATRICK LOVETTE, an
19 individual; VIRGINIA DUNCAN, an
individual; RANDY RICKS, an
20 individual; CITIZENS COMMITTEE
FOR THE RIGHT TO KEEP AND
21 BEAR ARMS; GUN OWNERS OF
CALIFORNIA; SECOND
22 AMENDMENT LAW CENTER; and
CALIFORNIA RIFLE & PISTOL
ASSOCIATION, INCORPORATED,

23 Plaintiffs,

24 v.

25 ROBERT BONTA, in his official
26 capacity as Attorney General of the
State of California; and DOES 1-10,
27

28 Defendants.

CASE NO: 3:22-cv-01461-RBM-WVG

**DECLARATION OF GARY
BRENNAN IN SUPPORT OF
PLAINTIFFS’ MOTION FOR
PRELIMINARY INJUNCTION**

DATE: November 21, 2022
COURTROOM: 5B

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DECLARATION OF GARY BRENNAN

1. I, Gary Brennan, am a plaintiff in the above-entitled action. I make this declaration of my own personal knowledge and, if called as a witness, I could and would testify competently to the truth of the matters set forth herein.

2. I am a law-abiding adult who is not prohibited from owning firearms under the laws of the United States of America or the state of California. I have never been found by any law enforcement agency, any court, or any other government agency to be irresponsible, unsafe, or negligent with firearms in any manner.

3. I am the President of the San Diego County Wildlife Federation. I have a great affinity for wildlife conservation and stewardship hunting practices, and, in turn, am a supporter of the use of firearms and the Second Amendment.

4. I am currently a Plaintiff in an individual capacity in the matter of *Rhode v. Bonta*, a case which challenges California’s ammunition restrictions including its complete ban on direct mail-order ammunition purchases, its implementation of a costly vendor licensing system, its burdensome registration scheme on ammunition, and its imposition of multiple costly fees and prohibitive price increases on ammunition purchasers.

5. My attorneys have explained to me that under the newly enacted California Code of Civil Procedure section 1021.11, if we are not successful in all our claims in *Rhode v. Bonta*, it is possible that I could be found to be liable (together with my attorneys and the other Plaintiffs) for the State’s attorney’s fees and costs because Section 1021.11 is not limited to cases filed after its effective date.

6. I also understand that given how these cases take years to litigate and the expert testimony that is often involved, the State’s attorney’s fees and costs can easily stretch into the hundreds of thousands of dollars, and in certain cases, even more.

1 7. I can't risk that kind of financial hit, as being stuck with a liability of
2 that size could ruin me and therefore put my family's well-being in jeopardy. While
3 I care deeply about the Second Amendment, I cannot prioritize it over the financial
4 security of myself and my family, particularly when I have no idea how much I
5 may be required to pay, as we are not told what the State is spending on its legal
6 expenses as a case progresses.

7 8. Because of this, if this litigation to stop Section 1021.11 is not
8 successful, I will have to withdraw as a Plaintiff from the *Rhode* matter and will
9 have to hope such a withdrawal dissuades the State from pursuing a claim against
10 me for its legal expenses. I also will not be able to participate in any future cases
11 either for the same reasons. My access to the court system to challenge California
12 gun laws will effectively be eliminated.

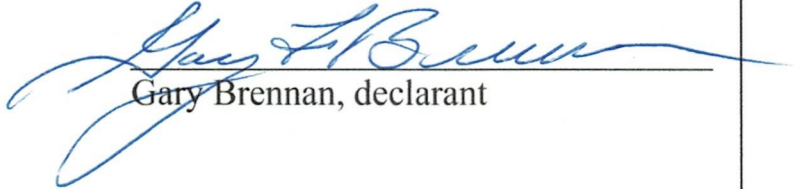
13 9. For example, I had intended to be a Plaintiff in other CRPA-backed
14 lawsuits, including a planned challenge to California's upcoming restrictions on the
15 right to carry (which failed to pass this year, but are expected to be taken up again
16 next year). I cannot do so while Section 1021.11 is in effect because I would be
17 subjecting myself to further financial exposure should I have to pay for the State's
18 attorney's fees and costs.

19 10. Even if I were willing to take that risk, I have concerns that any
20 attorneys I retained to assist me in challenging a California gun law would have an
21 unwaivable conflict. Attorneys who represent plaintiffs in firearms challenges are
22 jointly liable with their clients for the State's attorney's fees under Section 1021.11.
23 I fear that under Section 1021.11's biased standard that makes me and my attorneys
24 reimburse the State for attorney's fees on almost all gun challenges—even those on
25 which we ultimately prevail—any attorney I hire to represent me will have a desire
26 to litigate the case in a manner that least exposes that attorney to having to pay the
27 State's attorney's fees. Thus, although I might be willing to take risks and be
28 aggressive in litigating legal theories challenging a particular firearm law—and thus

1 assume a greater risk for being liable under Section 1021.11 for having to pay the
2 State’s attorney’s fees if any one of those legal theories does not succeed—what is
3 to keep my attorney from advising me against such a strategy so that attorney isn’t
4 stuck being personally liable for my aggressive strategy? How can I trust the
5 advice of any attorney whom I know is equally on the hook for the State’s fees for
6 litigating a gun law case and who thus has a personal incentive to advise me to
7 plead as few legal theories as possible. Further, I understand I cannot offer to
8 indemnify my attorney against their share of such fees because I have been told that
9 would be an ethical conflict under the rules governing attorney conduct.

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

12 Executed on October 11, 2022


Gary Brennan, declarant

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