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Incorporated

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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  
23 ASSOCIATION, INCORPORATED,

24 Plaintiffs,

25 v.

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

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

**DECLARATION OF JON SIVERS,  
TREASURER OF SOUTH BAY ROD  
AND GUN CLUB, INC. IN SUPPORT  
OF PLAINTIFFS’ MOTION FOR  
PRELIMINARY INJUNCTION**

DATE: November 21, 2022  
COURTROOM: 5B

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**DECLARATION OF JON SIVERS**

1. I, Jon Sivers, am the Treasurer of Plaintiff South Bay Rod and Gun Club, Inc. (“the Club”). 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. The Club is a non-profit membership sportsman’s club incorporated under the laws of California with its headquarters in Dulzura, California. Since 1955, the Club has offered many activities to members and the general public who have a love for the shooting sports.

3. The Club is a membership organization that expends resources and advocates on behalf of their members’ First and Second Amendment rights at many public forums throughout California.

4. The Club’s mission is to operate a properly managed, nonprofit shooting club that is efficiently designed, constructed, and safely operated with diligently maintained shooting ranges, support structures, and facilities so that all authorized members and guests may use our facilities with pride, confidence and satisfaction. We endeavor to ensure that future members will inherit a well-managed, top-quality shooting venue and a legacy of marksmanship, sportsmanship, and friendship.

5. The Club is a Plaintiff in *B&L Prods. v. Newsom*, Case No. 21-cv-01718-AJB-KSC, filed in the Southern District. The lawsuit challenges restrictions on gun shows on public grounds. Because it is related to firearms, the new California Code of Civil Procedure section 1021.11 may apply.

6. Under that law, if we are not successful in all our claims in gun-related litigation, it is possible that the Club could be found to be liable (together with its attorneys and the other Plaintiffs) for the State’s attorney’s fees and costs. To our understanding, this applies to existing cases because section 1021.11 is not limited to cases filed after its effective date. In *B&L Prods. v. Newsom*, a number of our

1 claims were indeed dismissed following the Defendants’ motion to dismiss,  
2 meaning that unless the dismissed claims are restored on appeal, the Club could  
3 very well have to foot the bill, in whole or in part, for the State’s expenses.

4 7. As Treasurer, I am aware of the annual expenditures and revenues of  
5 the Club. A fee award in favor of the State and against the Club of hundreds of  
6 thousands of dollars would devastate the Club financially and could very well drive  
7 it into bankruptcy.

8 8. At the time the Club approved the filing of *B&L Prods. v. Newsom*, it  
9 did so with the understanding that the award of fees to either plaintiffs or the State  
10 would be governed by federal law, i.e., 42 U.S.C. § 1988. Under that standard, we  
11 understood the only way the State would be entitled to recover a significant fee  
12 award against the Club or other plaintiffs was if we brought a frivolous suit or  
13 appeal that lacked merit. Because our challenge to the gun show law is righteous  
14 and based on what we understood to be solid legal principles and arguments, we  
15 had no belief that the State could ever meet its burden of showing that our challenge  
16 in *B&L Prods. v. Newsom* was frivolous such that the Club might ever have to pay  
17 the State’s fees. Thus, the Club was comfortable investing the time and money it  
18 has thus far invested in the litigation given that the understood financial risk to the  
19 Club in bringing a constitutional challenge was limited to only the resources that  
20 the Club would expend on that challenge, and not any other exposure. Certainly not  
21 the massive exposure presented by Section 1021.11.

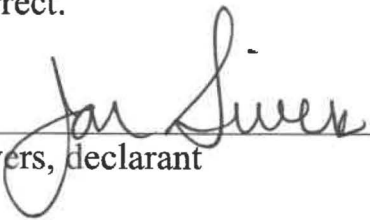
22 9. If Section 1021.11 is not enjoined, the Club will cease bringing new  
23 lawsuits in California. The Club’s access to the court system to challenge California  
24 gun laws, as well as the access of the members it represents, will effectively be  
25 eliminated.

26 10. Even if the Club were willing to take the financial risk of bankruptcy  
27 to file gun law challenges under the Section 1021.11 prevailing party standard, its  
28 attorneys would not be willing to take that risk. Given that the Club’s attorneys

1 would also be liable under Section 1021.11 for the State’s legal expenses, the  
2 Club’s attorneys have informed the Club that they will have to cease representing  
3 the Club in gun-related cases. This is both because of the financial risk to them and  
4 because of the ethical concerns of the inherent conflicts that could arise in their  
5 representation of the Club under such circumstances.

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

8 Executed on October 12, 2022

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Jon Sivers, declarant

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