

1 ROB BONTA
Attorney General of California
2 MARK R. BECKINGTON
Supervising Deputy Attorney General
3 ROBERT L. MEYERHOFF
Deputy Attorney General
4 State Bar No. 298196
300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013-1230
Telephone: (213) 269-6177
6 Fax: (916) 731-2144
E-mail: Robert.Meyerhoff@doj.ca.gov
7 *Attorneys for Defendant Rob Bonta in his*
official capacity as Attorney General of the
8 *State of California*

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
11 CIVIL DIVISION

12
13 **VIRGINIA DUNCAN, RICHARD**
LEWIS, PATRICK LOVETTE,
14 **DAVID MARGUGLIO,**
CHRISTOPHER WADDELL, and
15 **CALIFORNIA RIFLE & PISTOL**
ASSOCIATION, INC., a California
16 **corporation,**

17 Plaintiffs,

18 v.

19 **ROB BONTA, in his official capacity as**
20 **Attorney General of the State of**
21 **California; and DOES 1-10,**

22 Defendants.
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Case No. 3:17-cv-1017-BEN-JLB

DECLARATION OF RYAN BUSSE

Courtroom: 5A
Judge: Hon. Roger T. Benitez
Action Filed: May 17, 2017

DECLARATION OF RYAN BUSSE

I, Ryan Busse, declare under penalty of perjury that the following is true and correct:

1. I am a former senior executive in the firearms industry and the author of *Gunfight: My Battle Against the Industry that Radicalized America* (New York: PublicAffairs, 2021). I make this declaration in support of Defendants' Supplemental Brief in Response to the Court's Order of August 29, 2022.

2. This declaration is based on my own personal knowledge and experience, and if I am called to testify as a witness, I could and would testify competently to the truth of the matters discussed in this declaration.

3. I have been retained by the California Department of Justice to render expert opinions in this case. I am being compensated at a rate of \$150 per hour.

BACKGROUND AND QUALIFICATIONS

4. I was raised with firearms as an integral part of my life. I began shooting with various guns as a young boy and continued to regularly use and study guns throughout my life (I am now 52). After graduating college, I entered the firearms industry in 1992. I became a sales executive in the firearms industry in 1995, and I spent more than 25 years in this role. While in the industry, I developed innovative sales teams, maintained relationships with the largest national retailers, and was responsible for worldwide sales of millions of firearms. I built a dealer-direct sales network that included more than 2500 firearms dealers including locations in all 50 states, and I regularly visited these dealers. In my job, I also studied and built sales programs that relied on understanding the technical nature of most firearms available in the U.S. market, including AR-platform and other types of rifles. During my career I played an integral role in building one of the largest firearms companies in the United States, Kimber, and I was nominated by shooting industry leadership many times for the SHOT Business "Shooting Industry Person

1 of the Year” Award.¹ I served in an executive sales capacity as Vice President of
 2 Sales until August 2020. While in the industry I served as an advisor to the United
 3 States Senate Sportsmen’s Caucus, and as the board chairman for Backcountry
 4 Hunters & Anglers, a national wildlife conservation and hunting organization.

5 5. I left the firearms industry because I was concerned about what I
 6 believed to be irresponsible and dangerous marketing and sales practices. Since I
 7 left, I have served as an advisor to the 2020 Biden presidential campaign, I have
 8 testified twice before the U.S. Congress about the firearms industry and gun policy
 9 (before the House Committee on Oversight and Reform² and the Joint Economic
 10 Committee³, respectively), I have been called to testify in closed-door briefings at
 11 the U.S. Senate, and I currently serve as a Senior Advisor to Giffords. I remain a
 12 proud and active gun owner, outdoorsman, and advocate for responsible gun
 13 ownership. I have provided expert witness testimony in *Miller v. Bonta*, No. 3:19-
 14 cv-01537-BEN-JLB (S.D. Cal.).

15 OPINIONS

16 6. When I first started my work in the gun industry neither AR-15s nor
 17 large-capacity magazines (those capable of holding more than 10 rounds) were
 18 common. There was an unspoken agreement in the industry that tactical guns and
 19 gun paraphernalia—and virtually all large capacity magazines were considered
 20 tactical at this time—would not be displayed at trade shows or used at industry-
 21 sponsored shooting events. Individuals who brought such rifles to shooting events
 22 were asked not to return. This remained true as late as 2007. It was not until very
 23

24
 25 ¹ SHOT Business is a trade publication of the shooting and firearms industry,
 26 and “Person of the Year” was the highest award given to an individual in the
 firearms industry.

27 ² See <https://bit.ly/3CVDQc4>.

28 ³ See <https://bit.ly/3My2gLJ>.

1 recently that the gun industry began to push AR-15s leading to their popularization
2 today.

3 7. Despite the recent popularization of large-capacity magazines, it is
4 important to note that I am not aware of a single existing firearm that requires a
5 high-capacity magazine to function as designed. By this, I mean that all firearms
6 that can accept a large-capacity magazine can also accept a magazine that holds 10
7 or fewer rounds and function precisely as intended. This is true even of AR-style
8 rifles. Although many AR-style rifles are sold with a 30-round magazine, the
9 manufacturers all offer the optional purchase of 10-round or even lower-capacity
10 magazines. There are many pistols (such as the very popular Model 1911—which
11 was the accepted sidearm of the U.S. Military for decades and is still one of the
12 most widely sold guns in the United States) that are built for magazines of eight
13 rounds or less. While larger 10-plus round magazines exist for the 1911 and other
14 similar pistols, a smaller magazine (standard seven or eight round) are considered
15 preferable by almost all consumers because the physical size/profile of the shorter
16 magazine is easier to carry, shoot and conceal. Still today, the 1911 and other
17 similar guns which are built to function with sub-10 round magazines are built by
18 many gun companies (Smith and Wesson, Ruger, Kimber, Springfield, Rock Island,
19 Dan Wesson, and many other companies build and sell these 1911 pistols) and they
20 are sold in high volumes by most retailers in the United States. These guns are still
21 considered extremely effective self-defense firearms by many of the leading
22 firearms trainers in the country.

23 8. Today there are also many handguns that can accept a magazine within
24 15–20-plus rounds, but these handguns can accept and fully function with a
25 magazine that holds 10 or fewer rounds. Firearm manufacturers have been
26 providing these lower capacity magazines for years and can easily modify a “high
27 capacity” magazine into one that will accept only 10 rounds but still function just
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1 as designed in a firearm. In 1994, Congress enacted the Violence Crime Control
2 and Law Enforcement Act that prohibited the possession of “large capacity
3 ammunition feeding devices” defined as any magazine capable of accepting more
4 than ten rounds of ammunition. California enacted a ban on the sale of large
5 capacity magazines in 2000 and that law is still on the books today. Since that
6 enactment, and still today, firearms manufacturers build and sell dozens of gun
7 models and magazines that are compliant with that California law. I am not aware
8 of any assertion that these guns, built for and sold in California, are incapable of
9 functioning as designed.

10 9. Because a large capacity magazine is not a required component for a
11 firearm to operate, it can and should be characterized as a firearms accessory. There
12 is a massive market for magazines that far surpasses that of the market for firearms
13 themselves in terms of numeric sales. There are companies, such as Magpul, that
14 entirely specialize in firearms accessories including large capacity magazines. In
15 fact, most firearms manufacturers do not consider the magazines as integral enough
16 to build their own magazines for their own guns. In almost all cases even the largest
17 gun manufacturers contract with “accessory makers” who build magazines and then
18 supply them to the gun manufacturer who then sells the magazines with the guns
19 but also as an “add-on” accessory. Based on my experience, these magazines are a
20 large profit center for the gun industry and sales of these magazines are treated as a
21 category separate from gun sales throughout the sales chain. For example, I am
22 aware of compensation programs from gun manufacturers that offer increased
23 payment for magazines as opposed to guns, and retailers often incentivize their
24 employees to push a buyer to purchase additional magazines because it is known
25 that consumers view the purchase of magazines as separate from the gun and they
26 are therefore viewed as “add-on sales” for retailers. These magazines are almost
27 always manufactured by third party companies (not the manufacturer of the
28 firearm). The degree to which a magazine is viewed as an accessory by firearms

1 retailers is reinforced by the fact that when manufacturers add additional magazines
2 to the gun at the time of sale as an incentive to encourage consumers to purchase
3 the gun, the practice often upsets the retailers who view this as taking away an
4 accessory sale they could have made.

5 10. In my experience, magazines are often used as marketing tactics to
6 increase sales. Many gun buyers are encouraged to buy extra magazines of various
7 sizes and they are encouraged to build an excess supply of more magazines than are
8 needed even though these accessories basically never wear out. While it is possible
9 for someone who shoots high volumes to eventually wear out a magazine, these
10 shooters are exceptionally rare. Additionally, when a magazine begins to wear out
11 you can purchase a new spring tune-up kit for the magazine and thereby refurbish
12 the magazine.

13 11. It is also important to note that even the ability of guns to accept an
14 external magazine is not as ubiquitous as one would be led to believe. Fixed
15 magazine firearms are and have long been extremely prevalent. The majority of
16 hunting rifles have a fixed internal magazine, all revolvers hold ammunition in what
17 is in essence a circular fixed magazine, almost all shotguns are built with fixed
18 magazines or without any magazine at all, some tactical rifles, and most tactical
19 shotguns are built with, and function with fixed magazines.

20 12. Lastly, many widely available guns including all AR-15 style rifles
21 accept all other AR-15 magazines. In other words, the magazine is a universal
22 accessory much like tires that fit many brands of cars. This is true of AR-15
23 magazines regardless of capacity or size (a 10 round AR-15 magazine will function
24 in all other AR-15 style firearms). It is also true of the 1911 style pistol which is
25 one of the most popular self-defense guns in history. This century-old design is still
26 a leading seller and its standard specifications call for a seven or eight round
27 magazines. Dozens of the largest manufacturers in the world currently offer 1911
28 pistol models and magazines from each are interchangeable between all of these

1 others. This interchangeability of magazines as accessories is illustrated by the fact
2 that third party manufacturers who produce magazines for multiple gun companies
3 will sometimes mistakenly ship a magazine from “company A” to “company B”
4 because the only difference is the marking (there is no functional difference). I have
5 personally witnessed this on multiple occasions.

6 13. Based on my experience, a large-capacity magazine is not necessary to
7 use a firearm effectively for self-defense or other sporting purpose, like hunting.

8 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the
9 laws of the United States of America that the foregoing is true and correct.

10 Executed on November 9, 2022, at Kalispell, Montana.

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14 Ryan Busse
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