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13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE CENTRAL DISTRICT OF CALIFORNIA

15 B&L PRODUCTIONS, INC., d/b/a
CROSSROADS OF THE WEST;
16 GERALD CLARK; ERIC JOHNSON;
CHAD LITRELL; JAN STEVEN
17 MERSON; CALIFORNIA RIFLE &
PISTOAL ASSOCIATION,
18 INCORPORATED; ASIAN PACIIC
AMERICAN GUN OWNERS
19 ASSOCIATION; SECOND
AMENDMENT LAW CENTER, INC.;

20 and SECOND AMENDMENT
FOUNDATION,
21
22 Plaintiffs,

23 v.

24 GAVIN NEWSOM, in his official
capacity as Governor of the State of
California; ROB BONTA, in his official
25 capacity as Attorney General of the
State of California; KAREN ROSS, in
26 her official capacity as Secretary of
California Department of Food &
27 Agriculture and in his personal capacity;
TODD SPITZER, in his official capacity
28 as District Attorney of Orange County;

CASE NO: 8:22-cv-01518 JWH (JDEx)

**FIRST AMENDED COMPLAINT FOR
DECLARATORY & INJUNCTIVE
RELIEF**

**(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
[EQUAL PROTECTION];**

**(7) VIOLATION OF 42 U.S.C. § 1983
[SECOND AMENDMENT].**

1 32nd DISTRICT AGRICULTURAL
ASSOCIATION; DOES 1-10;

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Defendants.

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DEMAND FOR JURY TRIAL

**NOTICE OF
UNCONSTITUTIONALITY OF
STATE STATUTE**

NOTICE OF RELATED CASE

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INTRODUCTION

1. Plaintiff B & L PRODUCTIONS, INC., d/b/a CROSSROADS OF THE WEST (“Plaintiff Crossroads”) has operated popular, safe, heavily regulated, legal, and family-friendly gun shows as a business in California for over 30 years, including at the Orange County Fair & Event Center (“the Fairgrounds”).

2. Plaintiff 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 Orange 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 Gerald Clark, Eric Johnson, Chad Littrell, Jan Steven Merson, California Rifle & Pistol Association, Incorporated, Second Amendment Law Center, Inc., Asian Pacific American Gun Owners Association, and Second Amendment Foundation, Inc., attend and participate in Plaintiff Crossroads’ gun show events at the Fairgrounds and elsewhere throughout California to engage in First Amendment activities that are both necessary and essential to the open, robust, and lawful exercise of their Second Amendment rights. Plaintiff CRPA also has members who attend gun shows and sell ammunition, firearms, and precursor parts.

4. At the gun show, Plaintiffs associate with like-minded people, participate in public discussions, attend informational forums, distribute and collect information, provide training, 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

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

7 5. Defendants are government actors who are responsible for the adoption
8 and enforcement of Senate Bill 264 (Min), codified at California Penal Code section
9 27575,¹ which prohibits the sale of firearms, ammunition, and “firearm precursor
10 parts” at the Fairgrounds, and Senate Bill 915 (Min), codified at California Penal
11 Code section 27573,² which prohibits the sale of firearms, ammunition, and “firearm
12 precursor parts” on *all* state-owned property with the intention and effect of
13 shuttering gun show events altogether.

14 6. Through their enforcement of SB 264 and SB 915, the government
15 Defendants have engaged in and will continue to engage in action that violates
16 Plaintiffs’ constitutional rights to free speech, assembly, and equal protection, as
17 well as their Second Amendment right to buy, sell, and acquire firearms and
18 ammunition at a gun show. Their actions also constitute an unconstitutional prior
19 restraint.

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

24 **JURISDICTION AND VENUE**

25 8. The Court has original jurisdiction of this civil action under 28 U.S.C. §

26 _____
27 ¹ Plaintiffs refer to the challenged law, California Penal Code section 27575, as
SB 264 throughout this complaint.

28 ² Plaintiffs refer to the challenged law, California Penal Code section 27573, as
SB 915 throughout this complaint.

1 1331 because the action arises under the Constitution and laws of the United States,
2 thus raising federal questions. The Court also has jurisdiction under 28 U.S.C. §
3 1343(a)(3) and 42 U.S.C. § 1983 since this action seeks to redress the deprivation,
4 under color of the laws, statutes, ordinances, regulations, customs and usages of the
5 State of California and political subdivisions thereof, of rights, privileges or
6 immunities secured by the United States Constitution and by Acts of Congress

7 9. Plaintiffs’ claims for declaratory and injunctive relief are authorized by
8 28 U.S.C. §§ 2201 and 2202, respectively, and their claim for attorneys’ fees is
9 authorized by 42 U.S.C. § 1988.

10 10. Venue is proper in this Court under 28 U.S.C. § 1391(b)(2) because the
11 32nd District Agricultural Association is located within this district and a substantial
12 part of the events or omissions giving rise to Plaintiffs’ claims occurred in this
13 district.

14 **PARTIES**

15 **[Plaintiffs]**

16 11. Plaintiff B&L PRODUCTIONS, INC., d/b/a CROSSROADS OF THE
17 WEST, is a for-profit event promoter operating in several western states. Crossroads
18 is in the business of promoting and organizing trade shows throughout the state of
19 California and other western states, including their long-running gun show events
20 held at the Orange County Fair & Event Center (“the Fairgrounds”) operated under
21 the d/b/a Crossroads of the West (“Plaintiff Crossroads”). Before the adoption and
22 enforcement of SB 264 and SB 915, Plaintiff Crossroads was the largest vendor of
23 gun show events in California and at the Fairgrounds. Typically, thousands of
24 people attend Plaintiff Crossroads’ gun shows on each of the weekends they are
25 held. Crossroads provides the space for these like-minded people to assemble. They
26 have successfully produced and operated multiple safe, legal, and family-friendly
27 gun show events in California and at the Fairgrounds every year for over 30 years.
28 But for Defendants’ adoption and enforcement of SB 264 and SB 915, Plaintiff

1 Crossroads would immediately resume producing and promoting gun show events at
2 the Fairgrounds and at other state-owned fairgrounds throughout California.

3 12. Plaintiff GERALD CLARK is a resident of Santa Ana, California, and
4 he is an NRA certified instructor. Before the implementation of SB 264 and SB 915,
5 he regularly attended Plaintiff Crossroads' gun show events at the Fairgrounds to
6 purchase firearms, ammunition, parts for firearms already owned, and materials to
7 help him with his training and as a gun owner to be more proficient. He has taught
8 gun safety and training courses for 12 years, and he has taught those courses at the
9 Crossroads gun show at the Fairgrounds as a Chief Range Safety Officer and
10 Certified Trainer. During the training courses, he talks to others about their rights,
11 the importance of membership in the CRPA, and the Second Amendment. SB 264
12 and SB 915 directly burden his right to engage in otherwise lawful commercial
13 speech in a public forum and restricts his ability to purchase ammunition, firearms,
14 and parts for lawful purposes. And because the ban is intended to make gun shows
15 less profitable and has in fact effectively banned them altogether, it also restricts his
16 right to engage in the unique types of political, educational, and commercial speech
17 that takes place at the gun show. But for Defendants' adoption and enforcement of
18 SB 264 and SB 915, Plaintiff Clark would continue attending and participating in
19 the Crossroads gun show events at the Fairgrounds.

20 13. Plaintiff ERIC JOHNSON is a resident of Whittier, California, and he
21 is a Certified Trainer, Range Safety Expert, retired coach, and Chief Range Safety
22 Officer. Before the implementation of SB 264 and SB 915, he regularly attended
23 Plaintiff Crossroads' gun show events at the Fairgrounds to purchase firearms,
24 ammunition reloading supplies, ammunition, parts for the firearms he owns,
25 materials for caring for his firearms, and much more. Plaintiff Johnson also attended
26 the Crossroads gun show at the Fairgrounds to engage in expressive activities with
27 like-minded people, including discussions related to firearms, ammunition, and
28 firearm accessories, the shooting sports, politics, and the Second Amendment. He

1 regularly sets up and works Plaintiff CRPA’s vendor booths at gun shows at the
2 Fairgrounds. SB 264 and SB 915 directly burden his right to engage in otherwise
3 lawful commercial speech in a public forum and restricts his ability to purchase
4 ammunition, firearms, and parts for lawful purposes. And because the ban is
5 intended to make gun shows less profitable and has in fact effectively banned them
6 altogether, it also restricts his right to engage in the unique types of political,
7 educational, and commercial speech that takes place at the gun show. But for
8 Defendants’ adoption and enforcement of SB 264 and SB 915, Plaintiff Johnson
9 would continue attending and participating in the Crossroads gun show events at the
10 Fairgrounds.

11 14. Plaintiff CHAD LITTRELL is a resident of La Habra, California, and
12 owns Vytamenc 22 Tactical. Before the implementation of SB 264 and SB 915, his
13 company was a regular vendor at Plaintiff Crossroads’ gun show events at the
14 Fairgrounds. At these events, he would lawfully sell “uppers,” precursor parts, and
15 AR-15 rifles and discuss issues regarding firearms, ammunition, and gun safety with
16 customers of the gun show. Plaintiff Littrell also attended the Crossroads gun show
17 at the Fairgrounds to engage in expressive activities with like-minded people,
18 including discussions related to firearms, ammunition, and firearm accessories, the
19 shooting sports, politics, and the Second Amendment. SB 264 and SB 915 directly
20 burden his right to engage in otherwise lawful commercial speech in a public forum
21 and restricts his ability to sell and purchase ammunition, firearms, and parts for
22 lawful purposes. And because the ban is intended to make gun shows less profitable
23 and has in fact effectively banned them altogether, it also restricts his right to engage
24 in the unique types of political, educational, and commercial speech that takes place
25 at the gun show. Because of the essential shutting down of gun shows at the
26 Fairgrounds, Plaintiff Littrell had to close his business. But for Defendants’ adoption
27 and enforcement of SB 264 and SB 915, Plaintiff Clark would re-open his business
28 and continue attending and participating in the Crossroads gun show events at the

1 Fairgrounds.

2 15. Plaintiff JAN STEVEN MERSON is a resident of Fullerton, California,
3 and he owns Merson’s Machining Tool Making and Gunsmithing. Before the
4 implementation of SB 264 and SB 915, his company (then known as Merson’s
5 Custom Tooling & Gunsmith) was a regular vendor at Plaintiff Crossroads’ gun
6 show events at the Fairgrounds. At these events, he would lawfully sell “firearm
7 precursor parts”—which are legal products in California and are not considered
8 firearms by legal definition. Plaintiff Merson also attended the Crossroads gun show
9 at the Fairgrounds to engage in expressive activities with like-minded people,
10 including discussions related to firearms, ammunition, and firearm accessories, the
11 shooting sports, politics, and the Second Amendment. SB 264 and SB 915 directly
12 burden his right to engage in otherwise lawful commercial speech in a public forum
13 and restricts his ability to sell and purchase ammunition, firearms, and parts for
14 lawful purposes. And because the ban is intended to make gun shows less profitable
15 and has in fact effectively banned them altogether, it also restricts his right to engage
16 in the unique types of political, educational, and commercial speech that takes place
17 at the gun show. But for Defendants’ adoption and enforcement of SB 264 and SB
18 915, Plaintiff Merson would continue attending and participating in the Crossroads
19 gun show events at the Fairgrounds.

20 16. Plaintiff ASIAN PACIFIC AMERICAN GUN OWNERS
21 ASSOCIATION (“APAGOA”) is a nonprofit organization incorporated under the
22 laws of Texas and registered with the California Secretary of State to do business in
23 the state of California. APAGOA is a community of gun owners with an Asian
24 Pacific American (“APA”) heritage. Its core focus is to promote safe and
25 responsible gun ownership within the APA community by providing educational
26 materials and other resources to its members and other interested parties. APAGOA
27 advocates for firearm safety, education, and community-building initiatives. And it
28 strives to educate and empower the APA gun owner community so they can use

1 their firearms safely and responsibly. It brings this action on behalf of its
2 approximately 270 members and supporters who reside in California and, but for the
3 implementation of SB 264 and SB 915, would attend and participate in the
4 Crossroads gun show events at the Fairgrounds.

5 17. Plaintiff CALIFORNIA RIFLE & PISTOL ASSOCIATION,
6 INCORPORATED (“CRPA”) is a nonprofit membership organization incorporated
7 under the laws of California, with headquarters in Fullerton, California. Among its
8 other activities, CRPA works to preserve and expand constitutional and statutory
9 rights of gun ownership, including the right to self-defense and the right to keep and
10 bear arms. CRPA accomplishes this through its educational offerings, publications,
11 member engagement events, and legislative advocacy and initiatives. CRPA has
12 individual members and business affiliates that attend gun shows. Before the
13 implementation of SB 264 and SB 915, CRPA and many of its members were
14 regular vendors at Plaintiff Crossroads’ gun show events at the Fairgrounds, where
15 they engaged the public in discussions about the organization and its purposes, the
16 shooting sports, firearms and firearm safety, and the Second Amendment and other
17 political issues. CRPA and its members also attended gun shows at the Fairgrounds
18 to sell organization memberships, advertise its events, distribute its publications, and
19 sell its merchandise, some of which includes expressly pro-gun messaging.

20 Members of CRPA would attend to advertise events, distribute publications, sell
21 merchandise, ammunition, and firearms, some of which includes expressly pro-gun
22 messaging. CRPA has also hosted political rallies, educational seminars, and range
23 safety officer training at gun shows throughout the state, including those at the
24 Fairgrounds. CRPA members and other gun enthusiasts attended these political
25 rallies. CRPA has tens of thousands of members and supporters, many of whom
26 attended the Crossroads gun shows at the Fairgrounds to engage in expressive
27 activities with like-minded people, including discussions related to firearms,
28 ammunition, and firearm accessories, the shooting sports, politics, and the Second

1 Amendment. SB 264 and SB 915 directly burden the right of CRPA, its officers,
2 employees, volunteers, members, and supporters, to engage in otherwise lawful
3 commercial speech in a public forum and to buy and sell firearms, ammunition, and
4 parts for lawful purposes. And because the ban on sales of firearms, ammunition,
5 and parts is intended to make gun shows less profitable and has in fact effectively
6 banned them altogether, it restricts the right of CRPA, its officers, employees,
7 volunteers, members, and supporters, to engage in the unique types of political,
8 educational, and commercial speech that takes place at the gun show. But for
9 Defendants' adoption and enforcement of SB 264 and SB 915, Plaintiff CRPA, its
10 members, and supporters would continue attending and participating in the
11 Crossroads gun show events at the Fairgrounds. Through this lawsuit, CRPA
12 represents not only its own interests as a gun show vendor, but also the interests of
13 its members as gun show vendors and attendees and supporters of the right to keep
14 and bear arms for lawful purposes.

15 18. Plaintiff SECOND AMENDMENT LAW CENTER, INC. ("2ALC"),
16 is a nonprofit organization, incorporated under the laws of Nevada with headquarters
17 in Henderson, Nevada, and registered with the California Secretary of State to do
18 business in the state of California. 2ALC works to advance Second Amendment
19 jurisprudence across the country while educating the public, participating in
20 scholarly research, and providing thought-provoking writings and content to help
21 advance the Second Amendment. 2LC works to support and protect Second
22 Amendment rights across the country, and they distribute materials at gun shows in
23 California to inform the public about their work. Because the ban on sales of
24 firearms and ammunition at the Fairgrounds is intended to make gun shows less
25 profitable and has in fact effectively banned them altogether, it restricts the rights of
26 2ALC to share education and training materials with gun owners and those that
27 attend gun show events. In this lawsuit, 2ALC represents its interests as a gun show
28 attendee and purveyor of educational materials.

1 members, Defendant Newsom has a unique ability to coerce fair boards responsible
2 for managing state fairgrounds to *not* enter contracts with gun show promoters for
3 use of these public venues—even if those events otherwise comply with the law.
4 Defendant Newsom is sued in his official capacity.

5 21. Defendant ROB BONTA is the Attorney General of the State of
6 California. He is the “chief law officer” of the state and has the duty to ‘see that the
7 laws of the State are uniformly and adequately enforced.” Cal. Const. art. 5, § 1.
8 Additionally, Defendant Bonta has “direct supervision over every district attorney”
9 within the State. *Id.* If, at any point a district attorney of the State fails to enforce
10 adequately “any law of the State,” Defendant Bonta must “prosecute any violations
11 of the law.” *Id.* Finally, Defendant Bonta, as Attorney General of the State of
12 California, “shall assist any district attorney in the discharge” of duties when
13 “required by the public interest or directed by the Governor. . . .” *Id.* He is thus
14 responsible for the enforcement of SB 264 and SB 915 and for prosecuting
15 violations of these laws. Defendant Bonta is sued in his official capacity.

16 22. Defendant TODD SPITZER is the District Attorney responsible for
17 enforcing the law within the county of Orange. Under the California Government
18 Code, the district attorney must prosecute “all actions for the recovery” of fines and
19 penalties. Cal. Gov’t Code § 26521. He is thus responsible for the enforcement of
20 SB 264 and SB 915 and for prosecuting violations of these laws. Defendant Spitzer
21 is sued in his official capacity.

22 23. Defendant KAREN ROSS is the Secretary of the California Department
23 of Food & Agriculture—the entity responsible for the policy oversight of the
24 network of California fair venues, which includes the Orange County Fair & Event
25 Center. Through the Department, Defendant Ross issues guidance for governance
26 and contracting to all agricultural districts throughout California (including
27 Defendant District) and requires reporting from the districts on operational issues.
28 Because of her direct supervision of all fair boards responsible for managing state

1 fairgrounds, Defendant Ross has the ability to direct fair boards to *not* enter
2 contracts with gun show promoters for use of these public venues—even if those
3 events otherwise comply with the law. The Department maintains an office of legal
4 counsel for any actions brought against Agricultural Association Districts in the
5 state. Defendant Ross is sued in her official capacity.

6 24. Defendant 32nd DISTRICT AGRICULTURAL ASSOCIATION
7 (“District”) is a Governor-appointed Board of Directors that manages the state-
8 owned Orange County Fair & Event Center public venue. The District is governed
9 by a nine-member board, each member serving a four-year term. The District Board
10 of Directors appoints a CEO charged with the daily operations of the facilities but
11 maintains control over activities not delegated to the CEO, including contracting
12 with those seeking to host events, including gun shows, at the Fairgrounds. It is
13 responsible for ensuring that all state laws governing gun shows at the Fairgrounds,
14 including SB 264 and SB 915, are faithfully enforced. Defendant District refused to
15 consider contracts for the gun show by refusing to place the question of contract
16 approval on monthly meeting agendas when considering other similar contracts.

17 25. The true names and capacities of Defendants named as DOES 1
18 through 10, inclusive, are individual, corporate, associate or otherwise, and are
19 unknown to Plaintiffs. They are, however, believed to be responsible in some way
20 for Plaintiffs’ loss and damages. Each Doe Defendant is, and at all times mentioned
21 here was, a partner, agent, principal, co-conspirator, or are otherwise vicariously or
22 directly responsible for the acts or omissions of the other defendants or themselves.
23 They are each sued individually and are joined as party defendants. Plaintiffs thus
24 sue each Doe Defendant under rules 15 and 21 of the Federal Rules of Civil
25 Procedure. Plaintiffs are informed and believed that the Doe Defendants are all
26 California residents. Plaintiffs will amend this complaint to show such true names
27 and capacities of Doe Defendants when they have been ascertained.

28 ///

1 **FACTUAL ALLEGATIONS**

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

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

7 27. Political and ideological speech—including speech concerning
8 “politics, nationalism, religion, or other matters of opinion”—has long been
9 considered the core of the First Amendment. *W. Va. State Bd. of Educ. v. Barnette*,
10 319 U.S. 624, 642 (1943).

11 28. Public property made available for lease by community groups to
12 engage in expressive activity must thus be available without regard to the viewpoint
13 sought to be expressed *Cinevision Corp. v. City of Burbank*, 745 F.2d 560 (9th Cir.
14 1984). Such venues cannot be opened to some and closed to others, suppressing
15 protected expression, absent a compelling government interest. *Id.* at 571.

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

23 30. A content-based restriction that implicates political or ideological
24 speech must generally survive “strict scrutiny,” where the government must show
25 that the law is narrowly tailored to achieve a compelling government interest. *See*
26 *Reed v. Town of Gilbert*, 576 U.S. 155 (2015); *see also Lorillard Tobacco Co. v.*
27 *Reilly*, 533 U.S. 525 (2001) (holding that tobacco marketing restrictions – even
28 those purposed to protecting minors -- must be the narrowest means of achieving an

1 asserted state interest); *Brown v. Entm't Merchs. Ass'n*, 564 U.S. 786 (2011)
 2 (overturing California law banning sale or rental of “violent video games” to
 3 minors); *see also Tracy Rifle & Pistol LLC v. Harris*, 339 F. Supp. 3d 1007, 1018
 4 (E.D. Cal. 2018) (holding that a California law prohibiting the display of a handgun,
 5 an imitation handgun, or a placard advertising the sale of a handgun in a manner that
 6 is visible from the outside of a gun dealer’s premises is unconstitutional).

7 31. Even purely commercial speech—speech that “does no more than
 8 propose a commercial transaction” or relates solely to the economic interests of the
 9 speaker and audience—receives First Amendment protection if it is not misleading
 10 and concerns a lawful activity. *Cent. Hudson Gas & Elec. Corp. v. Public Serv.*
 11 *Comm'n*, 447 U.S. 557 (1980).

12 32. “An offer to sell firearms or ammunition” is constitutionally protected
 13 commercial speech. *Nordyke v. Santa Clara*, 110 F.3d 707, 710 (9th Cir. 2009).

14 33. Government restrictions on protected commercial speech are
 15 constitutional *only* if they directly advance a substantial government interest and are
 16 not broader than necessary to serve that interest. *Cent. Hudson*, 447 U.S. 557.³

17 34. The First Amendment protects not only the right of free speech, but
 18 also “the right of the people peaceably to assemble.” U.S. Const., amend. I. The
 19 right to assemble often merges with the right to free expression. For “[e]ffective
 20 advocacy of both public and private points of view, particularly controversial ones,
 21

22 ³ Though this is currently the controlling test for so-called “commercial speech,”
 23 modern case law is trending toward extending *full* First Amendment protection to all
 24 speech, including “commercial speech.” *See Sorrell v. IMS Health, Inc.*, 564 U.S.
 25 552 (moving toward providing commercial speech the same level of heightened
 26 protection long accorded to political speech); *see also 44 Liquormart, Inc. v. Rhode*
 27 *Island*, 517 U.S. 484, 523 (1996) (Thomas, J., concurring in part and concurring in
 28 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.”).

Furthermore, *Bruen*’s command that courts conduct an historical/categorical
 analysis when evaluating the constitutionality of laws that impact Second
 Amendment rights (the right to buy, sell, and acquire at a gun show at issue here)
 means that the Defendants bear a heavy burden to produce relevant (non-racist) laws
 (circa. 1868) that forbid offers to buy and sell firearms on public property.

1 is undeniably enhanced by group association.” *NAACP v. Patterson*, 357 U.S. 449,
2 462 (1958). “Governmental action which may have the effect of curtailing the
3 freedom to associate is subject to the *closest* scrutiny.” *Id.* at 461-62.

4 **[The Second Amendment Right to Keep and Bear Arms Under the Law]**

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

8 36. The Second Amendment protects a fundamental, individual right that
9 applies against both the federal government and the states. *District of Columbia v.*
10 *Heller*, 554 U.S. 570, 592 (2008); *McDonald v. City of Chicago*, 561 U.S. 742, 750
11 (2010).

12 37. The Supreme Court recently confirmed that Second Amendment
13 questions are to be analyzed in light of “text, history, tradition.” “When the Second
14 Amendment’s plain text covers an individual’s conduct, the Constitution
15 presumptively protects that conduct. The government must then justify its regulation
16 by demonstrating that it is consistent with the Nation’s historical tradition of firearm
17 regulation.” *N.Y. State Rifle & Pistol Ass’n v. Bruen*, --U.S.--, 142 S. Ct. 2111, 2126
18 (2022) (citing *Heller*, 554 U.S. at 634).

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

28 39. Finally, the Second Amendment protects the corresponding right to

1 obtain protected firearms and ammunition. *See id.* at 967 (“[T]he right to possess
2 firearms for protection implies a corresponding right’ to obtain bullets necessary to
3 use them.”); *see also Ezell v. City of Chicago*, 651 F.3d 684, 704 (7th Cir. 2011)
4 (holding that the right to possess firearms implies a corresponding right to access
5 firing ranges to train to be proficient with such firearms).

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

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

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

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

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

23 43. The state of California has the most rigorous regulatory regime for
24 commerce in firearms and ammunition in the United States. That regulatory regime
25 applies to the operation of gun show events throughout California. The laws related
26 to the acquisition and sale of firearms are arguably stricter at gun shows than at
27 brick-and-mortar stores or internet sales.

28 44. Only state-approved, licensed gun show producers may operate gun

1 shows in California.

2 45. All gun show producers, including Plaintiff Crossroads, must have an
3 individual (the “promoter”) who holds a valid Certificate of Eligibility issued by the
4 California Department of Justice.

5 46. Gun show producers must also, among other things:

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

16 47. Gun show producers must submit an annual event and security plan and
17 schedule to the California Department of Justice and any local law enforcement
18 agency. The plan must include:

- 19 a. Type of show or event;
20 b. Estimated number of vendors offering for sale or display
21 firearms;
22 c. Estimated number of attendees;
23 d. Number of entrances and exits at the event;
24 e. Location, dates, and times of the event;
25 f. Contact person and telephone number for both promoter and
26 facility;
27 g. Number of sworn peace officers employed by the producer or
28 facility who will be present at the event;

- 1 h. Number of non-sworn security personnel employed by the
2 producer or the facility who will be present at the event; and
3 i. Promoters must inform all prospective vendors of all California
4 laws regarding gun shows.

5 Cal. Penal Code §§ 27210, 27215.

6 48. Gun show producers must also provide a list of all prospective vendors
7 and designated firearm transfer agents who are licensed firearm dealers to the
8 California Department of Justice no later than seven days before the event so that the
9 Department of Justice may determine whether each vendor possesses a valid license
10 and is thus eligible to participate in the event. Cal. Penal Code § 27220.

11 49. If a vendor is not approved by the California Department of Justice or
12 fails to comply with all applicable California laws, they cannot participate in the gun
13 show event. Cal. Penal Code § 27220.

14 50. If a gun show producer fails to inform all prospective vendors of
15 California’s state laws or fails to submit a list of all prospective vendors to the
16 California Department of Justice, the event cannot commence. Cal. Penal Code §
17 27230.

18 51. Gun show producers must have written contracts with each vendor
19 selling firearms at the event. Cal. Penal Code § 27235.

20 52. Gun show producers must post signs in a readily visible location at
21 each public entrance to the event that includes all of the following notices:

- 22 • “This gun show follows all federal, state, and local firearms and
23 weapons laws, without exception.”
24 • “Any firearm carried onto the premises by any member of the public
25 will be checked, cleared of any ammunition, and secured in a manner
26 that prevents it from being operated, and an identification tag or sticker
27 will be attached to the firearm before the person is allowed admittance
28 to the show.”

- 1 • “No member of the public under the age of 18 years shall be admitted
2 to the show unless accompanied by a parent, grandparent, or legal
3 guardian.”
- 4 • “All firearm transfers between private parties at the show shall be
5 conducted through a licensed dealer in accordance with applicable state
6 and federal laws.”
- 7 • “Persons possessing firearms in this facility must have in their
8 immediate possession government-issued photo identification and
9 display it upon the request to any security officer or any peace officer,
10 as defined in Section 830.”

11 Cal. Penal Code § 27240(a).

12 53. Gun show producers must also post signs in a readily visible location at
13 each entrance to the parking lot stating: “The transfer of firearms on the parking lot
14 of this facility is a crime.” Cal. Penal Code § 27240(b).

15 54. A willful failure of a producer to comply with any of California’s
16 applicable laws is a misdemeanor punishable with a fine of up to \$2,000 dollars and
17 would render the producer ineligible for a gun show producer license for up to one
18 year, which could cost a producer hundreds of thousands of dollars in lost revenue
19 for a willful infraction. Cal. Penal Code § 272459(c).

20 55. Except in very limited exceptions applicable only to law enforcement,
21 actual firearm transfers are already prohibited from taking place at any gun show in
22 California.⁴ The firearm sale can be started through an on-site licensed “transfer
23 dealer,” but it cannot be completed on site. Instead, purchasers must pick up their
24

25 ⁴ Cal. Penal Code § 27310 (requiring all firearm transfers at gun shows to comply
26 with state and federal law); *id.* § 26805 (prohibiting the sale and transfer of a firearm
27 by a licensed dealer at any location other than the dealer’s premises as listed on their
28 license but allowing dealer to prepare documents at a gun show in 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 purchase at a licensed firearm retailer at a different licensed location—but only after
2 a 10-day waiting period and background check. There is no “Gun Show Loophole”
3 at gun shows operated in accordance with California Law.

4 56. The Gun Show Act of 2000, California Penal Code sections 27200-
5 27245, places even more restrictions on the operation of a gun show in California by
6 requiring that:

- 7 a. Vendors do not display, possess, or offer for sale any firearms,
8 knives, or weapons for which possession or sale is prohibited;
- 9 b. Vendors acknowledge that they are responsible for knowing and
10 complying with all applicable federal, state, and local laws
11 dealing with the possession and transfer of firearms;
- 12 c. Vendors will not engage in activities that incite or encourage hate
13 crimes;
- 14 d. Vendors will process all transfers of firearms through licensed
15 firearms dealers as required by state law;
- 16 e. Vendors will verify that all firearms in their possession will be
17 unloaded and that the firearms will be secured in a manner that
18 prevents them from being operated except for brief periods, when
19 the mechanical condition of the firearm is being demonstrated to
20 prospective buyer;
- 21 f. Vendors provide all required information under Penal Code §
22 27320;
- 23 g. Vendors will not display or possess black powder or offer it for
24 sale;
- 25 h. Ammunition only be displayed in closed original factory boxes
26 or other closed containers, with the only exception for showing
27 the ammunition to a prospective buyer. On July 1, 2019,
28 additional state-law restrictions on the sale of ammunition will

1 63. Gun shows, in general, and the Crossroads show at the Fairgrounds, in
2 particular, are a First Amendment forum where literature and information are
3 shared, speakers provide valuable lectures, classes are conducted, political forums
4 are held where gun rights discussions take place, and candidates for political office
5 can meet to discuss political issues, the government, and the constitution with
6 constituents who are part of the California gun culture.

7 64. Thousands of people attend gun shows on the weekends they are held at
8 the Fairgrounds. Many attend as new gun owners seeking information and
9 instruction. With over 1 million new gun owners in California in the past year, gun
10 shows offer the opportunity for these new gun owners to learn about firearms,
11 safety, and speak to expert firearm enthusiasts.

12 65. Gun shows place a huge emphasis on safety as citizens come together.
13 Gun shows are designed to offer a communal atmosphere of like-minded people that
14 one does not find in a store where people are running in to pick up one or two items.
15 Gun shows are designed so that people will congregate, take their time, engage each
16 other and the vendors, and learn in a way that they do not otherwise engage.

17 66. Gun shows also happen to include the exchange of products and ideas,
18 knowledge, services, education, entertainment, and recreation related to the lawful
19 uses of firearms. Those lawful uses include (but are not limited to): firearm safety
20 training; defense of self and others; defense community, state, and nation; hunting;
21 target shooting; gunsmithing; admiration of guns as art; appreciation of guns as
22 technological artifacts; and the study of guns as historical objects.

23 67. Gun shows, in general, and the Crossroads show at the Fairgrounds, in
24 particular, are cultural marketplaces for those members of the “gun culture” who
25 attend to celebrate their constitutional rights and to pass their beliefs in patriotism
26 and the rights of the individual on to the next generation. It is a place where parents
27 take their children and grandparents take their grandchildren to share with them,
28 among other things, a love of historic firearms, stories of American war heroes, and

1 their love of hunting.

2 68. Gun shows, in general, and the Crossroads show at the Fairgrounds, in
3 particular, are places where parents can learn to protect their families and their
4 homes, and how to stay in compliance with California’s ever-changing gun laws.

5 69. Gun shows, in general, and the Crossroads show at the Fairgrounds, in
6 particular, are places where people can discuss the positions of political candidates
7 and whether those values line up with their own beliefs in protecting the Second
8 Amendment.

9 70. Gun shows, in general, and the Crossroads show at the Fairgrounds, in
10 particular, are held and promoted, and considerable investment is made, precisely to
11 promote and “normalize” the “gun culture” and the constitutional principles that gun
12 show participants hold dear.

13 71. This forum is vitally important especially in California where
14 government actors at all levels of government (federal, state, and local) are openly
15 hostile to the cultural values of the Second Amendment and where supporters of
16 those cultural values are not considered “mainstream.”

17 72. Participating in “gun culture” is an important reason people attend
18 Crossroads gun shows as vendors, exhibitors, customers, and guests (even if
19 particular vendors or attendees are not in the firearm business or in the market to
20 buy a gun at a particular event).

21 73. While less than 40% of vendors at Crossroads’ events offer firearms or
22 ammunition for sale (the remaining vendors offer accessories, collectibles, home
23 goods, lifestyle products, educational information, food, and other refreshments), the
24 principle draw of gun shows is the availability of firearms, ammunition, and firearm
25 parts and accessories for sale, as well as the ability to handle and inspect firearms
26 while in the presence of knowledgeable vendors.

27 74. Indeed, many people attend gun shows to learn about the technology
28 and use of various firearms and ammunition when they are considering whether to

1 buy or sell a firearm and to exchange knowledge with experienced dealers and
2 firearm enthusiasts that they cannot get anywhere else. *Teixeira v. County of*
3 *Alameda*, No. 13-17132 (9th Cir. 2017).⁵

4 75. Without the ability to buy and sell firearms, ammunition, and parts at
5 gun shows at the Fairgrounds, the events will no longer be able to draw many of its
6 vendors and attendees, making the events unprofitable and economically infeasible.
7 When events are no longer profitable, producers and vendors cannot afford to attend
8 and host the shows or maintain the speech components of gun show.

9 76. The complete economic infeasibility of gun shows is a “feature” of SB
10 264 and SB 915, not a “bug.” Indeed, Defendants wish to end this celebration of
11 “gun culture” and Second Amendment rights because they do not understand the
12 culture or the people. To that end, Defendants have attempted, through SB 264 and
13 SB 915’s bans on sales of firearms, ammunition, and “firearm precursor parts” at the
14 Fairgrounds, to permanently deprive Plaintiffs of their right to engage in
15 constitutionally protected conduct at the Fairgrounds.

16 **[The Orange County Fair & Event Center]**

17 77. The Fairgrounds is owned by the state of California and managed by
18 the Board of Directors of Defendant District, which must regularly report its
19 activities to the California Department of Food & Agriculture.

20 78. Among other things, Defendant District is charged with maintaining the
21 Fairgrounds and ensuring that is used for public purposes.

22 79. Defendant Ross, as the Secretary of the California Department of Food
23 & Agriculture, oversees the operation of the various agricultural districts in the state,
24 including Defendant District.

25 80. The California Department of Food & Agriculture, under Secretary

26 _____
27 ⁵ The *Teixeira* court did not answer whether the Second Amendment includes a
28 right to purchase a firearm. Plaintiffs allege, in good faith, that the right to keep and
bear arms *necessarily* includes the rights to purchase and sell them. Indeed, those
rights are a necessary predicate to the exercise of the Second Amendment.

1 Ross, provides policies and guidance for the operation of all agricultural districts in
2 the state, including the use of facilities as directed by Department policy.

3 81. The California Department of Food & Agriculture maintains a *CDFA*
4 *Contracts Manual for Agricultural Districts* (“Manual”). Section 6.25 of the Manual
5 states that “[w]hether or not a fair rents out their facilities for gun shows is a policy
6 decision to be made by the fair board and their community.” That said, Defendant
7 Ross has used her position to influence fair boards’ decisions about renting their
8 facilities for gun show events.

9 82. Similarly, Defendant Ross, as Secretary of the California Department of
10 Food & Agriculture, prohibits the individual fair boards from taking any position on
11 legislation that would effect the ability of fair boards to make decisions about the
12 use of their facilities for gun shows, including SB 264 and SB 915 which restrict
13 their ability to contract to hold events where firearms, ammunition, or precursor
14 parts are sold.

15 83. The Fairgrounds is a state-owned property maintained and opened for
16 use by the public. By virtue of being opened by the state for use by the public, it is a
17 “public forum,” from which the government may not generally exclude expressive
18 activity. *Cinevision*, 745 F.2d at 569 (quoting *Perry Educ. Ass’n v. Perry Local*
19 *Educators’ Assn*, 460 U.S. 37, 45-46 (1983)).

20 84. The Fairgrounds is used by many different groups and is a major event
21 venue for large gatherings of people to engage in expressive activities, including
22 concerts, festivals, and industry shows. Indeed, “OC Fair & Event Center is a 150-
23 acre event venue that hosts over 150 events and attracts approximately 4.3 million
24 visitors annually. [Its] versatile multi-use property can be transformed to fit a variety
25 of events from small private events to large-scale trade shows and festivals.” OC
26 Fair & Event Center, Event Space Sales, [https://ocfair.com/venue-rentals/venue-](https://ocfair.com/venue-rentals/venue-options/rental-property-brochure/)
27 [options/rental-property-brochure/](https://ocfair.com/venue-rentals/venue-options/rental-property-brochure/) (last visited Aug. 4, 2022) (attached as Exhibit 1).

28 85. The Fairgrounds actively promotes the use of the property by the public

1 through contracting for available space at the Fairgrounds. *Id.*; *see also* OC Fair &
2 Event Center, Venue Rentals, <https://ocfair.com/venue-rentals/> (last visited Aug. 4,
3 2022).

4 86. The Fairgrounds’ Board of Directors Governing Manual states that
5 Defendant District’s purpose is “(1) to hold fairs, expositions and exhibitions in
6 Orange County to exhibit the industries and industrial enterprises, resources, and
7 products of every kind or nature of the state, with a view toward improving,
8 exploiting, encouraging, and stimulating them; and (2) to construct, maintain, and
9 operate recreational and cultural facilities of general public interest in Orange
10 County.

11 87. Defendant District has adopted a mission statement to effectuate these
12 purposes, which is the celebration of Orange County’s communities, interests,
13 agriculture and heritage.” 32nd District Agricultural District, *Board of Directors*
14 *Governing Manual*, Introduction at 1, available at [https://s3.us-west-](https://s3.us-west-1.amazonaws.com/ocfair.com/wp-content/uploads/2021/02/02141413/Policy-Combo-All.pdf)
15 [1.amazonaws.com/ocfair.com/wp-content/uploads/2021/02/02141413/Policy-](https://s3.us-west-1.amazonaws.com/ocfair.com/wp-content/uploads/2021/02/02141413/Policy-Combo-All.pdf)
16 [Combo-All.pdf](https://s3.us-west-1.amazonaws.com/ocfair.com/wp-content/uploads/2021/02/02141413/Policy-Combo-All.pdf) (last visited Aug. 4, 2022).

17 88. The Fairgrounds has held non-gun-show events in which criminal
18 activity has taken place. These criminal incidents are no more likely to happen at a
19 gun show than at other types of events, but the Defendants have not banned these
20 promoters or their events.

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

22 89. Defendant District has a process, as do most of the state’s fairgrounds,
23 for securing returning contractors who would like to secure specific dates into future
24 years before the contracts can be drafted and executed.

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

1 91. Due to the size and extensive planning that goes into producing gun
2 show events, Defendant District has—for decades—provided and held preferred
3 dates for Plaintiff Crossroads, a long-time contractor, until the contracts can fully be
4 executed.

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

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

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

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

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

23 **Plaintiff Crossroads, after doing business in this customary manner for more**
24 **than 30 years, had no reason to doubt that Defendant District would continue**
25 **to honor such relationship with Plaintiff Crossroads. [Ban on Gun Shows at**
26 **Other Fairgrounds & Resulting Litigation]**

27 97. Despite the long history that Plaintiff Crossroads has had in California,
28 operating safe and legal events, the political environment has become hostile toward

1 gun show events and (more generally) toward the “gun culture” in recent years.

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

6 99. With increasing regularity, the same activists are making appearances
7 on Zoom board meetings held by fair boards across the state, and during each
8 appearance, they make the same claims in order to shut down lawful gun shows.

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

17 101. In 2017, gun-show-banning activists using the same tactics described
18 above began pressuring the 22nd District Agricultural Association (“22nd DAA”),
19 which manages the Del Mar Fairgrounds in San Diego, to prohibit gun show events
20 at the Del Mar Fairgrounds. In response, the 22nd DAA began a series of meetings
21 and comment periods to determine whether it would continue to contract with
22 Plaintiff Crossroads or other gun show producers for the use of the Del Mar
23 Fairgrounds to host gun show events.

24 102. The 22nd DAA also engaged in communications with other
25 government agencies and with Crossroads to determine whether gun shows at the
26 Fairgrounds were operated in full compliance with state and federal law, and if the
27 events pose any real danger to the community.

28 103. On April 23, 2018, Defendant Newsom sent a letter to the 22nd DAA,

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

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

14 105. At a public hearing on September 11, 2018, a fair board ad hoc
15 “Contracts Committee” recommended that the 22nd DAA “not consider any
16 contracts with the producers of gun shows beyond December 31st, 2018, until such
17 time as the [22nd DAA] has put into place a more thorough policy regarding the
18 conduct of gun shows.”

19 106. In testimony before the 22nd DAA at the September 11, 2018 hearing,
20 Patrick Kerins, who was then the Public Safety Director for the 22nd DAA, reported
21 on the laws that apply to gun shows in California, as well as Plaintiff Crossroads
22 history of events at the Fairgrounds.

23 107. During his comments at the September 11, 2018 hearing, Mr. Kerins
24 referenced a memorandum that he prepared for the 22nd DAA’s Board of Directors
25 in 2016. In that memorandum, he reported that:

26 As Chief of Security for the 22nd DAA, I routinely inspect the
27 gun show and on a regular basis communicate with the San Diego
28 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

1 Detective Jaime Rodriguez of the Sheriff's North Coastal Station
2 who supervises the four Deputies assigned to the gun show security
3 detail and Detective Stacey Smith who is assigned to the Sheriff's
4 Licensing Division. Both Detectives said the Crossroads of the West
5 Gun Show is in complete compliance with all the local, State and
6 Federal laws that govern gun shows and that there have not been any
7 violations of law. Both Detectives had high praise for the show
8 promoters and the 22 DAA staff.

9 Memorandum of Patrick Kerins, Public Safety Director, 22nd District Agricultural
10 Association, to Board of Directors, 22nd District Agricultural Association, at 17
11 (2016) (attached as Exhibit 4).

12 108. Mr. Kerins' 2016 memorandum continued:

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

22 Ex. 4 at 17.

23 109. Ultimately, the lengthy process of meetings, public comment, and
24 communications with stakeholders resulted in **no finding** that allowing the (already
25 heavily regulated) gun show events to continue at the Del Mar Fairgrounds posed a
26 definite or unique risk to public safety. Indeed, the 22nd DAA presented *no*
27 evidence of any safety concerns within the community that could be linked to the
28 over-30-year-old gun show at the Del Mar Fairgrounds.

109. Nonetheless, relying on contrived possibilities of unknown dangers and
unfounded claims that prohibiting gun shows might prevent suicide and violent
crime because the "gun culture" would be censored, the 22nd DAA voted to impose
a one-year moratorium on gun show events at the Del Mar Fairgrounds.

110. Plaintiffs Crossroads, CRPA, SAF, and others sued the 22nd DAA,
Defendant Ross, and others in federal court to enjoin the enforcement of the
moratorium, alleging violations of various constitutional rights, including the rights

1 to free speech, assembly, and equal protection. *See B&L Prods. v. 22nd Dist. Agric.*
2 *Ass’n*, 394 F. Supp. 3d 1226 (S.D. Cal. 2019) (“*B&L I*”) (attached as Exhibit 5).

3 112. Denying the 22nd DAA’s motion to dismiss and granting plaintiffs a
4 preliminary injunction—*sua sponte*—on the ground that plaintiffs were exceedingly
5 likely to succeed on the merits of their *constitutional* claims, the court in *B&L*
6 *Productions* temporarily enjoined the enforcement of the 22nd DAA’s gun show
7 moratorium and ordered the 22nd DAA to contract with Crossroads as it would any
8 other similar event promoter at the Fairgrounds. *Id.*

9 113. Shortly thereafter, the *B&L Productions* plaintiffs negotiated a
10 settlement with the 22nd DAA, represented by attorneys for the California
11 Department of Justice, permanently terminating the gun show moratorium,
12 reinstating Crossroads’ right to promote gun show events at the Fairgrounds, and
13 permanently barring the 22nd DAA from unilaterally halting B&L’s gun show
14 events at the Del mar Fairgrounds.

15 **[California’s Assembly Bill 893 (Gloria)]**

16 114. Making good on previous threats, and fully aware of the court’s
17 decision in *B&L I*, Assemblymember Gloria introduced Assembly Bill 893 (“AB
18 893”) on or about February 20, 2019. Assem. Bill 893, 2019-2020 Reg. Sess. (Cal.
19 2019) (attached as Exhibit 6).

20 115. AB 893, which added section 4158 to the California Food &
21 Agricultural Code, bars any “officer, employee, operator, lessee, or licensee of the
22 [District]” from “contract[ing] for, authoriz[ing], or allow[ing] the sale of any
23 firearm or ammunition on the property or in the buildings that comprise the Del Mar
24 Fairgrounds.” Violation of the law is a misdemeanor. *Id.*

25 116. AB 893 does not bar the possession of firearms or ammunition on the
26 property or in the buildings that comprise the Del Mar Fairgrounds. *Id.*

27 117. The text of AB 893 expressly identifies the ongoing presence at the Del
28 Mar Fairgrounds of “marketplaces popularly known as ‘gun shows,’ at which

1 firearms and ammunition and other items are sold to the public approximately five
2 times a year.” *Id.*

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

8 119. AB 893 failed to identify, however, any real public safety or security
9 concern *specifically* related to the existence of gun show events at the Fairgrounds.

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

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

23 122. Indeed, AB 893 opens with a list of tragedies, including the horrific
24 mass murders that took place at Columbine High School, Sandy Hook Elementary
25 School, and Marjory Stoneman Douglas High School—none of which were carried
26 out with firearms traced to gun show events at the Fairgrounds. Ex. 6.

27 123. What’s more, a March 26, 2019, analysis of AB 893 presented to the
28 Assembly Committee on Public Safety quoted claims by Assemblymember Gloria,

1 the bill’s sponsor, that “[t]here is an ever-apparent link between the gun violence we
2 see virtually every week and the number of guns in our communities.” These
3 statements, however, made no attempt to link gun violence to gun shows, generally,
4 or to gun shows at the Fairgrounds, specifically. Ex. 7 at 2.

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

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

14 126. But neither the VPRP report nor AB 893’s legislative history links any
15 illegally trafficked firearm or gun used in crime to gun shows at the Del Mar
16 Fairgrounds (or even to gun shows in California). *See* Garen Wintemute, MD, *Inside*
17 *Gun Shows: What Goes on When Everybody Thinks Nobody’s Watching*, ch. 1
18 (2009) (attached as Exhibit 8). This is unsurprising because, as the study states,
19 “[m]uch of the concern about gun shows as a source of crime guns focuses on
20 private party gun sales, *since no background checks are conducted and no records*
21 *are kept.*” *Id.* at 32. But such concerns are simply irrelevant in California where
22 private party transfers—even those initiated at gun shows—must be processed by a
23 licensed firearm dealer and are subject to background checks, 10-day waiting
24 periods, and registration under state law.

25 127. The VPRP report cited by the Public Safety Committee’s analysis of
26 AB 893 also attempts to implicate licensed firearm retailers operating at gun shows
27 as sources of crime guns in America, claiming that “30% of dealers with gun show
28 sales, but 22% of all dealers, had previously had a crime gun traced to them.” But it

1 expressly recognizes that “in California, where both gun shows themselves and gun
2 commerce generally are regulated, *sales at gun shows are not a risk factor among*
3 *licensed retailers for disproportionate sales of crime guns.*” Ex. 8 at 33 (emphasis
4 added).

5 128. The Public Safety Committee’s March 26, 2019, analysis also cited a
6 report from the Government Accountability Office, claiming that a GAO report
7 “regarding gun trafficking to Mexico confirmed that many traffickers buy guns at
8 gun shows.” Ex. 7 at 3. But again, neither the BATFE report nor AB 893’s
9 legislative history links any illegally trafficked firearm to gun shows at the Del Mar
10 Fairgrounds (or even to gun shows in California). *See* U.S. Gov’t Accountability
11 Off., GAO-16-223, *Firearms Trafficking: U.S. Efforts to Combat Firearms*
12 *Trafficking to Mexico Have Improved, but Some Collaboration Challenges Remain*
13 (2016) (attached as Exhibit 9). To be sure, the GAO report identifies U.S. Southwest
14 border states, including Texas (41%), California (19%), and Arizona (15%), as the
15 largest sources of firearms illegally trafficked into Mexico from the United States.
16 Ex. 9 at 14. But it does not trace these illegally trafficked guns to licensed dealers,
17 generally, or to those operating at gun shows, specifically. Rather, it says only that
18 “there were about 10,134 licensed dealers and pawnbrokers in the four Southwest
19 border states, many of them along the border,” and that “these licensed dealers and
20 pawnbrokers can operate in locations such as gun shops, pawn shops, their own
21 homes, or gun shows.” *Id.*

22 129. The Public Safety Committee’s March 26, 2019, analysis did concede
23 that “less than one percent of inmates incarcerated in state prisons for gun crimes
24 acquired their firearms at a gun show”—though it transparently tries to diminish that
25 fact by citing only a website of the National Rifle Association as the source of the
26 statistic, instead of the U.S. Department of Justice, Bureau of Justice Statistics
27 reports from which the NRA drew it. Ex. 7 at 2-3 (citing NRA-ILA, *Background*
28 *Checks/NICS*, <https://www.nraila.org/get-the-facts/background-checks-nics> (last

1 visited Sept. 29, 2021)); *but see* Caroline Wolf Harlow, Ph.D., Bureau of Justice
2 Statistics, *Firearm Use by Offenders* (Nov. 2001) attached as Exhibit 10.

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

18 **[California’s Senate Bill 264 (Min)]**

19 131. Not to be outdone and following the encouragement from both
20 Defendant Newsom and Assemblymember Gloria, Senator Dave Min sought early
21 on to rid the state of gun shows on all state fairground properties. Indeed, Senator
22 Min promised “in my first 100 days in office, I promise to author legislation for a
23 *ban* on these gun shows at the OC Fair and Events Center once and for all.”
24 Anthony Pignataro, *SD-37 Candidate Min: Ban Gun Shows from OC Fair & Event*
25 *Center*, OC Weekly (Aug. 6, 2019), [https://www.ocweekly.com/sd-37-candidate-](https://www.ocweekly.com/sd-37-candidate-min-ban-gun-shows-from-oc-fair-event-center/)
26 [min-ban-gun-shows-from-oc-fair-event-center/](https://www.ocweekly.com/sd-37-candidate-min-ban-gun-shows-from-oc-fair-event-center/) (emphasis added). And he called on
27 the “governing board of the OC Fair to *end its contract* with Crossroads of the West
28 and other gun show marketers.” *Id.*

1 132. In response, Board Member Ashleigh Aitken, advocating for the known
2 safety of the Fairgrounds, noted that “[t]he gun show loophole does not exist in
3 California. No citizen can purchase a firearm at the gun show and walk off property
4 with it. The purchases are subject to the same background checks and waiting
5 periods as any other store purchase.” Aitken went on to note that “California’s legal
6 gun shows are not a priority as our state has the strictest gun laws in the country.”
7 Anthony Pignataro, *OC Fair Board Member Responds to Min’s Gun Show Ban Idea*
8 (Aug. 7, 2019), available at [https://www.ocweekly.com/oc-fair-board-member-
9 responds-to-mins-gun-show-ban-idea/](https://www.ocweekly.com/oc-fair-board-member-responds-to-mins-gun-show-ban-idea/).

10 133. Nevertheless, Senator Min introduced Senate Bill 264 (“SB 264”) on
11 January 27, 2021. Sen. B. 264, 2019-2020Reg. Sess. (Cal. 2020) (attached as Exhibit
12 11). SB 264, which added section 27575 to the California Penal Code, bars any
13 “officer, employee, operator, lessee, or licensee of the [District]” from “contract[ing]
14 for, authoriz[ing], or allow[ing] the sale of any firearm, firearm precursor part, or
15 ammunition on the property or in the buildings that comprise the OC Fair and
16 Events Center.” Violation of the law is a misdemeanor. *Id.*

17 134. SB 264 does not bar the possession of firearms, ammunition, or firearm
18 precursor parts on the property or in the buildings that comprise the Orange County
19 Fairgrounds. Ex. 10. And it provides exceptions for (1) gun buyback events held by
20 law enforcement, (2) the sale of a firearm by a public administrator, public
21 conservator, or public guardian in the course of their duties, (3) the sale of a firearm,
22 firearm precursor part, or ammunition on state property that occurs pursuant to a
23 contract that was entered into before January 1, 2022, and (4) the purchase of
24 ammunition on state property by a law enforcement agency in the course of its
25 regular duties. *Id.*

26 135. Like AB 893, SB 264 clearly recognizes that “[p]romoters maintain
27 relationships with a core group of vendors, some selling guns and some selling other
28 merchandise, who travel as the schedule dictates from city to city and state to state

1 and in the West, for example, many of the same vendors can be seen at Crossroads
2 of the West Gun Shows from San Francisco, California, to Tucson, Arizona.” *Id.*

3 136. SB 264 failed to identify, however, any real public safety or security
4 concern specifically related to the existence of gun show events at the Fairgrounds.
5 Indeed, without citing specific safety concerns related to the *Orange County*
6 Fairgrounds, the authors of SB 264 literally copied and pasted the same vague
7 “security concerns” related to the *Del Mar* Fairgrounds from the language of AB
8 893 to label the Orange County events a threat to the local community. *Id.*

9 137. To be sure, SB 264 claims that “[g]un shows bring grave danger to a
10 community” and that “dangerous incidents” have taken place at guns shows at the
11 Fairgrounds, including “*an official vendor accused of trafficking illegal firearms,*
12 *sales of firearms to individuals registered in the Department of Justice Bureau of*
13 *Firearms Armed Prohibited Persons System, and illegal importation of large-*
14 *capacity magazines.”* *Id.* But SB 264 makes no effort to show that these incidents
15 are any more likely to occur at the Orange County gun show or gun shows in
16 California in general, which are regulated at least as heavily as retailers operating
17 out of brick-and-mortar stores. What’s more, these incidents are identical to the
18 crimes alleged to have taken place at the Del Mar Fairgrounds—an odd coincidence
19 to be sure.

20 138. Instead, SB 264’s legislative history reveals only general concerns
21 about gun violence occurring all over the country, unrelated to California gun
22 shows, and legislators’ beliefs that the state should not profit from sales of firearms
23 and ammunition.

24 139. Indeed, SB 264 opens with a list of tragedies, including the horrific
25 mass murders that took place at Columbine High School, Sandy Hook Elementary
26 School, and Marjory Stoneman Douglas High School—none of which were carried
27 out with firearms traced to gun show events at the Fairgrounds. *Id.*

28 140. The Senate Committee on Public Safety’s March 15, 2021, analysis

1 cited a report from the Government Accountability Office, claiming that a GAO
2 report “regarding gun trafficking to Mexico confirmed that many traffickers buy
3 guns at gun shows.” Sen. Comm. Pub. Safety, Bill Analysis Re: SB 264 (Min),
4 2019-2020 Reg. Sess., at 4 (Cal. 2021) (attached as Exhibit 12). But again, neither
5 the BATFE report nor SB 264’s legislative history links any illegally trafficked
6 firearm to gun shows at the Fairgrounds (or even to gun shows in California). *See*
7 Ex. 9.

8 141. In comments to the Senate Public Safety Committee on March 16,
9 2021, Senator Min claimed that “SB 264 will ensure that the state is not profiting
10 from the sale of firearms and ammunition on state property or facilitating gun shows
11 that would undermine California’s strong firearm regulations.” Sen. Pub. Safety
12 Committee Hrg., Mar. 16, 2021, at 3:20:18, *available at*
13 [https://www.senate.ca.gov/media-archive/default?title=Public+Safety&startdate=](https://www.senate.ca.gov/media-archive/default?title=Public+Safety&startdate=03%2F16%2F2021&enddate=03%2F17%2F2021)
14 [03%2F16%2F2021&enddate=03%2F17%2F2021](https://www.senate.ca.gov/media-archive/default?title=Public+Safety&startdate=03%2F16%2F2021&enddate=03%2F17%2F2021) (last accessed Aug. 4, 2022).

15 142. In his remarks to the Senate Public Safety Committee, Senator Min
16 claimed that the carnival-like atmosphere of gun shows lends itself to “lots of gun
17 sales in the parking lot or by Venmo where the gun is delivered later.” No data was
18 presented to support these claims even when asked by Senator Bogh. Senator Min
19 ultimately conceded that he does not know how many firearms from gun shows
20 actually move into the stream of illegal commerce. *Id.* at 4:05:36. He went on to
21 state that even if there have zero unlawful acts at guns shows, “there is a principal
22 that taxpayers should not be utilized, and taxpayer venues should not be utilized to
23 promulgate the distribution of more guns in our communities.” *Id.* at 4:09:40.

24 143. Senator Min’s closing remarks to the Senate Public Safety Committee
25 recognized that SB 264 is “symbolic” and makes a statement that the state does not
26 want to give an endorsement of “our taxpayer venues being used to sell more guns
27 in our communities. *Id.* at 4:12:59.

28 144. Similarly, in his remarks to the Assembly Committee on Public Safety

1 on July 13, 2021, Senator Min said that ending gun shows and banning the sale of
2 firearms, ammunition, and precursor parts at state-owned properties is a value
3 statement that the state of California must make. *See* Assem. Pub. Safety Committee
4 Hrg., Mar. 16, 2021, at 4:01:22, *available at*
5 [https://www.assembly.ca.gov/media/assembly-public-safety-committee-](https://www.assembly.ca.gov/media/assembly-public-safety-committee-20210713/video)
6 [20210713/video](https://www.assembly.ca.gov/media/assembly-public-safety-committee-20210713/video) (last accessed Aug. 4, 2022). “Value statements” are made about
7 likes and dislikes, not about issues of public safety. Min’s candid remarks about the
8 intention of SB 264 clearly illustrate a commitment to end gun shows not for safety
9 reasons, but to restrict the lawful speech and activities of a culture that he does not
10 understand and does not support.

11 **[California’s Senate Bill 915 (Min)]**

12 145. Having failed in 2021 to made good on his campaign promise to pass
13 legislation that would ban gun shows from all state property, an undeterred Senator
14 Min introduced Senate Bill 915 (“SB 915”) on February 2, 2022. Sen. B. 915, 2021-
15 2022 Reg. Sess. (Cal. 2022) (attached as Exhibit 15).

16 146. SB 915, which added section 27573 to the California Penal Code, bars
17 any “state officer or employee, or operator, lessee, or licensee of any state property”
18 from “contract[ing] for, authoriz[ing], or allow[ing] the sale of any firearm, firearm
19 precursor part, or ammunition on state property or in the buildings that sit on state
20 property or property otherwise owned, leased, occupied, or operated by the state.”
21 *Id.*

22 147. Just like SB 264, Min’s SB 915 does not bar the possession of firearms,
23 ammunition, or firearm precursor parts on state property or in the buildings that sit
24 on that property. *Id.* And it provides exceptions for (1) gun buyback events held by
25 law enforcement, (2) the sale of a firearm by a public administrator, public
26 conservator, or public guardian in the course of their duties, (3) the sale of a firearm,
27 firearm precursor part, or ammunition on state property that occurs pursuant to a
28 contract that was entered into before January 1, 2023, (4) the purchase of

1 ammunition on state property by a law enforcement agency in the course of its
2 regular duties, and (5) sale or purchase of a firearm pursuant to subdivision (b) or (c)
3 of Section 10334 of the Public Contract Code. *Id.*

4 148. SB 915 takes effect on January 1, 2023, but officials have already
5 stopped entering into contracts with gun show promoters, like Plaintiff Crossroads,
6 for events in 2022 and beyond. And while there is an exemption allowing events to
7 take place if contracts for those events were entered into before January 1, 2023, it
8 has not been the practice of state venues to grant these contracts for gun show events
9 in anticipation of the law's effective date.

10 149. The bill's purpose was—and its actual effect is—to banish gun shows
11 from state-owned properties—properties that are otherwise open to the public for
12 gathering and expressive activities—throughout California. Indeed, Senator Min, the
13 author of SB 915, has made very clear that banning the events was the bill's intent:
14 “Last year we laid the foundation for this moment with a ban on gun shows at the
15 Orange County Fairgrounds. Today, I am proud to announce that California will
16 become the first nation to enact a total ban statewide.” Press Release, *California*
17 *Becomes the First State to Ban Gun Shows on State Property, Builds on Orange*
18 *County Fairgrounds Ban* (July 21, 2022), available at
19 [https://sd37.senate.ca.gov/news/california-becomes-first-state-ban-gun-shows-state-](https://sd37.senate.ca.gov/news/california-becomes-first-state-ban-gun-shows-state-property-builds-orange-county-fairgrounds)
20 [property-builds-orange-county-fairgrounds](https://sd37.senate.ca.gov/news/california-becomes-first-state-ban-gun-shows-state-property-builds-orange-county-fairgrounds) (last accessed Nov. 7, 2022).

21 150. Notably, SB 915 identifies no real public safety concern related to the
22 existence of gun show events at any of the state venues in California. To the
23 contrary, when giving testimony about SB 915, Senator Min only noted issues with
24 criminal activity from outside of California.

25 151. Instead, SB 915's legislative history reveals only general concerns
26 about gun violence occurring all over the country, unrelated to California gun
27 shows, and legislators' beliefs that the state should not profit from sales of firearms
28 and ammunition.

1 152. In describing the need for the bill, the legislative history of SB 915 cites
2 little more than a 1999 BATFE report that identified “gun shows as a ‘major
3 trafficking channel’” and found “that gun shows were the second largest source of
4 illegally trafficked firearms.” *See* Sen. Comm. Pub. Safety, Bill Analysis Re: SB
5 915 (Min), 2021-2022 Reg. Sess., at 3 (Cal. 2022) (attached as Exhibit 16). Setting
6 aside the fact that the report is nearly a quarter-of-a-century old, the legislature made
7 no effort to link such concerns to gun shows in California, where state law governs
8 sales at gun shows at least as strictly as it governs sales at “brick-and-mortar” stores.
9 Nor did it make any effort to show that gun shows remain “the second largest source
10 of illegally trafficked firearms” 23 years after the BATFE report published its
11 findings.

12 **[The Impact of SB 264 and SB 915 on the Orange County Gun Show]**

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

17 154. SB 264 and SB 915 thus have the same practical effect as Del Mar’s
18 unconstitutional gun show moratorium which was enjoined by federal court—that is,
19 by permanently banning the commercial sale of firearms, ammunition, and firearm
20 parts at the Fairgrounds, it has the effect of banning gun shows at the Fairgrounds.

21 155. The Legislature was well-aware when it passed SB 264 and SB 915 that
22 a “gunless” gun show would not survive financially. Indeed, the intended purpose of
23 SB 264 and SB 915 was to end gun shows at the Fairgrounds as noted by bill
24 sponsor Senator Min in numerous committee testimonies and public comments.

25 156. The July 12, 2021, Assembly Committee on Public Safety’s bill
26 analysis references other similar legislative attempts to ban gun shows on state
27 agricultural land. *Assem. Comm. Pub. Safety, Bill Analysis Re: SB 264 (Min),*
28 *2021-2022 Reg. Sess., at 3 (Cal. 2021) (attached as Exhibit 13).* The analysis notes

1 that:

2 AB 893 (Gloria) Chapter 731, Statutes of 2019, added a section to the
3 Food and Agricultural Code that prohibits the sale of firearms and
4 ammunition at the Del Mar Fairgrounds, effectively terminating the
5 possibility for future gun shows at the Del Mar Fairgrounds. AB 893
6 was signed into law by Governor Newsom. This bill would expand the
7 provisions of AB 893 by including all state property within the
8 prohibition on the sale or transfer of firearms and ammunition.⁶

9 157. Senator Min knew that the intended and practical effect of SB 264 (and
10 later SB 915) was to end gun shows. His official Senate press release notes that “[i]f
11 signed into law, SB 264 would effectively put a stop to most gun shows on county
12 fairgrounds. Press Release, *Senator Dave Min’s Gun Violence Prevention Bill
13 Advances from Assembly Public Safety Committee* (July 13, 2021), available at
14 [https://sd37.senate.ca.gov/news/senator-dave-mins-gun-violence-prevention-bill-
15 advances-assembly-public-safety-committee](https://sd37.senate.ca.gov/news/senator-dave-mins-gun-violence-prevention-bill-advances-assembly-public-safety-committee) (last accessed Aug. 4, 2022).

16 158. On July 21, 2022, Senator Min reiterated the intent of his gun show
17 bills: “Last year we laid the foundation for this moment with a ban on gun shows at
18 the Orange County Fairgrounds. Today I am proud to announce that California will
19 become the first in the nation to enact a total ban statewide.” Press Release, *Senator
20 Dave Min’s California Becomes the First State To Ban Gun Shows on State
21 Property, Builds on Orange County Fairgrounds Ban* (July 21, 2022), available at
22 [https://sd37.senate.ca.gov/news/california-becomes-first-state-ban-gun-shows-state-
23 property-builds-orange-county-fairgrounds](https://sd37.senate.ca.gov/news/california-becomes-first-state-ban-gun-shows-state-property-builds-orange-county-fairgrounds) (last accessed Nov. 7, 2022).

24 159. And further evidencing the Legislature’s intended effect of SB 264 and
25 SB 915, Senator Min wrote to Defendant District, warning members not to stand in
26 the way of his bill that would ban sales of firearms, ammunition, and firearm
27 precursor parts at the Fairgrounds. Letter from Senator Dave Min to Board Members
28 of 32nd District Agricultural Association (on or about September 13, 2021)

⁶ SB 264 was initially introduced as a bill to end sales of firearms, ammunition, and firearm precursor parts on *all* state-owned property. But Min failed to garner enough support for such a ban and agreed to limit the scope of SB 264 to the OC Fair & Event Center.

1 (attached as Exhibit 14).

2 160. In his letter dated on or about September 13, 2021, letter, Min
3 addressed the District's concerns that its venue was being unfairly and exclusively
4 targeted, responding that SB 264 was no different from earlier attempts to ban gun
5 shows at a single fairground:

6 While Item 6A expresses a concern that SB 264 "exclusively targets
7 the 32nd DAA," such action to ban gun shows at a single fairground
8 site has recent precedent. In 2019, Gov. Newsom signed Assembly
9 Bill 893 (Gloria) into law, ending the sale of firearms and
ammunition at the Del Mar Fairgrounds, operated by the 22nd
District Agricultural Association.

10 *Id.* (emphasis added).

11 161. In that same letter, Senator Min also threatened the District's board
12 members with individual liability lawsuits should they move to approve contracts
13 for the gun shows even before Governor Newsom had signed SB 264 into law. *Id.*

14 162. Nonetheless, Plaintiff Crossroads has repeatedly reached out to
15 Defendant District to request dates for events at the Fairground in 2021, 2022, and
16 beyond. But Defendant District refused to place the contracts for gun shows on the
17 agenda for October, November, or December 2021, stating instead that they would
18 revisit the issue again in January 2022 after SB 264 would go into effect.

19 163. Defendant District's refusal to enter into contracts with Plaintiff
20 Crossroads before the implementation of AB 264 and SB 915 may have satisfied
21 Senator Min's threats towards individual board members, but in doing so, the
22 District failed in their duty to bring profitable and family-friendly events to the
23 Fairgrounds and caused great losses to Plaintiffs.

24 164. Plaintiff Crossroads was unable to secure dates and enter into new
25 contracts for events at the Fairgrounds in 2022 and beyond due to the Defendants'
26 intentional act of adopting and enforcing SB 264 and refusing to consider their
27 contracts in the same way they would any other member of the public seeking to
28 rent the Fairgrounds venue.

1 165. Indeed, in compliance with SB 264 and SB 915, Defendant District
2 cannot and will not enter into contracts for gun shows at the Fairgrounds if firearms,
3 ammunition, or firearm precursor parts will be sold during the shows.

4 166. Even though Plaintiff Crossroads has offered to attempt to hold events
5 without sales of firearms, ammunition, or firearm precursor parts to preserve its
6 longstanding relationship with the District, mitigate damages, and continue planning
7 and promoting its family-friendly events until its claims can be heard, Defendant
8 District dragged its feet and refused to provide dates for events for 2022 and beyond.
9 Plaintiffs are also unable to enter into new contracts for shows at other state venues
10 before the implementation of SB 915 because those venues also refuse to provide
11 dates before January 1, 2023.

12 167. Because of the time and resources needed to plan and implement its
13 gun show events, Plaintiff Crossroads must plan its shows about one year in
14 advance, but Defendant District has not allowed Plaintiff Crossroads to secure dates
15 in 2023 either.

16 168. What's more, Defendant District seems to have stripped Plaintiff
17 Crossroads of its effective right of first refusal under the District's "hold" system
18 described above. Indeed, it failed to give Crossroads first (or any) choice of its dates
19 in 2021 or 2022.

20 169. Defendants' adoption and enforcement of SB 264 and SB 915, which
21 have the intended and practical effect of banning gun shows at the Fairgrounds and
22 other state fairgrounds, has caused and will continue to cause Plaintiff Crossroads
23 significant economic damages, including loss of event revenue, breakdown of
24 relationships and agreements with long-time event vendors and companies used as
25 suppliers for gun show events, relinquishment of future show dates, and loss of
26 business reputation and goodwill that has been built by Plaintiff Crossroads for more
27 than 30 years.

28 170. Plaintiff Crossroads has already lost revenue for gun show events at the

1 Fairgrounds in December 2021 and all of 2022 because Defendant District will not
2 finalize event dates, citing SB 264 as the reason along with the threats from Senator
3 Min for personal liability should they act. If shows do not return to the Fairgrounds
4 in 2022, Plaintiff Crossroads will lose all revenue for gun show events at the
5 Fairgrounds in 2022 and possibly 2023 because of the amount of time it takes to
6 plan large-scale events like the gun shows.

7 171. Even if Plaintiff Crossroads could secure dates, plan, promote, and host
8 gun shows in 2022 or 2023, SB 264 and SB 915 stand in the way of Crossroads
9 generating the profits the events typically generate because the ban on firearm and
10 ammunition sales will significantly impact paid event attendance and the types and
11 numbers of paid vendors who will do business with Crossroads at the Orange
12 County gun show.

13 172. Plaintiff Crossroads has and will continue to suffer loss of business
14 goodwill resulting from Defendants' adoption and enforcement of SB 264 and SB
15 915 under the (unsupported) pretense that gun shows, generally, and Crossroads'
16 shows, in particular, threaten public safety. The message this sends to other venues,
17 attendees, and vendors that do business with Crossroads will no doubt affect
18 Crossroads for years.

19 173. Defendants' adoption and enforcement of SB 264 and SB 915, which
20 have the intended and practical effect of banning gun shows at the Fairgrounds and
21 other state fairgrounds, prohibits Plaintiffs and all those similarly situated from
22 making use of a state-owned "public assembly facility" to host gun show events, a
23 lawful business activity, in violation of Plaintiffs' rights to engage in free speech and
24 peaceful assembly, and their right to equal protection under the law.

25 174. Specifically, Defendants' conduct complained of here strips Plaintiffs
26 Clark, Johnson, Littrell, and Merson, as well as the organizational plaintiffs, CRPA,
27 APAGOA, 2ALC, and SAF, of a vital opportunity to assemble and engage in pure
28 speech about, among other things, the rights and responsibilities of gun owners, the

1 Second Amendment, patriotism, and political activism with like-minded individuals.

2 175. Defendants’ conduct complained of here also strips Plaintiff Crossroads
3 of the right to promote gun show events, acting as a “clearinghouse” for both
4 political speech and commercial speech.

5 176. Defendants’ conduct complained of here also strips Plaintiffs Littrell,
6 and Merson, of a vital opportunity to assemble and engage in lawful commercial
7 speech, including the offer and acceptance of sales of firearms, ammunition, and
8 related accessories.

9 177. Furthermore, even if the Court grants injunctive relief, Plaintiff
10 Crossroads will have incurred damages in having to devote extraordinary advertising
11 dollars to inform the public that gun shows will continue to be held and have not
12 been banned at the Fairgrounds.

13 178. The economic and non-economic harms and injuries to Plaintiffs are of
14 a continuing nature; they continue to compound everyday SB 264 and SB 915
15 remain the law.

16

17

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

18

19

(By Plaintiffs Clark, Johnson, Littrell, Merson, CRPA, APAGOA, 2ALC, SAF
Against All Defendants)

20

21

179. Plaintiffs incorporate by reference paragraphs 1 through 178 of this
Complaint as though fully set forth herein in their entirety.

22

23

24

180. 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.

25

26

27

28

181. Plaintiffs Clark, Johnson, Littrell, Merson, CRPA, APAGOA, 2ALC,
and SAF have attended in the past and wish to again attend Crossroads gun shows at
the Fairgrounds so they may exchange ideas, information, and knowledge, as well
discuss political issues and the importance of protecting and defending the Second

1 Amendment.

2 182. Plaintiffs Clark, Johnson, Littrell, Merson, CRPA, APAGOA, 2ALC,
3 and SAF have a right under the First Amendment to use the Fairgrounds for their
4 expressive activity on the same basis as other members of the public without regard
5 to the viewpoints they seek to express.

6 183. Defendants Newsom, Bonta, and Spitzer, acting under color of state
7 law, are the state and local actors responsible for enforcing SB 264 and SB 915,
8 which deprive Plaintiffs of free speech rights secured by the First Amendment of the
9 United States Constitution in violation of 42 U.S.C. § 1983.

10 184. Defendants Ross and District interpret, implement, and enforce state
11 laws and policies in regard to the Fairgrounds, including SB 264 and SB 915, which
12 deprive Plaintiffs of free speech rights secured by the First Amendment of the
13 United States Constitution in violation of 42 U.S.C. § 1983.

14 185. Defendants' enforcement of SB 264 and SB 915, which prohibit the
15 sale of firearms, ammunition, and "firearm precursor parts" at the Fairgrounds with
16 the purpose, intention, and effect of banning gun show events at the Fairgrounds and
17 all other state-owned properties, is an impermissible content-based restriction of
18 speech. Such enforcement constitutes a direct violation of the free speech rights of
19 Plaintiffs Clark, Johnson, Littrell, Merson, CRPA, APAGOA, 2ALC, and SAF.

20 186. Defendants have no compelling (or even legitimate) governmental
21 interest in banning the otherwise lawful (and constitutionally protected) sale of
22 lawful firearms, ammunition, and "firearm precursor parts" at the Fairgrounds and
23 all other state-owned properties, or in banning gun show events and the unique
24 expression and exchange of ideas related to promoting and preserving the "gun
25 culture" that takes place at those events. Any purported interest in "public safety" is
26 betrayed by the fact that SB 264 and SB 915 do not ban the *possession* of firearms,
27 ammunition, or firearms precursor parts on Fairgrounds property and state law
28 already governs sales at gun shows *at least* as strictly as it governs sales at "brick-

1 and-mortar” stores.

2 187. Further, SB 264 and SB 915 are neither narrowly tailored to nor the
3 least restrictive means of achieving the state’s dubious interests. Indeed, by
4 intentionally and effectively banning gun shows at the Fairgrounds and all other
5 state-owned properties, it sweeps up *all* forms of speech and expressive conduct that
6 occurs at such events and banishes it from a public venue.

7 188. Similarly, SB 264 and SB 915 are unconstitutionally overbroad
8 because, in an effort to restrict the commercial sale of firearms, ammunition, and
9 firearm precursor parts, the laws effectively and intentionally ban gun shows events
10 altogether, seriously and deliberately burdening a vast amount of speech that does
11 not constitute commercial speech and is fully protected by the First Amendment.

12 189. As a direct and proximate result of Defendants’ conduct, Plaintiffs
13 Clark, Johnson, Littrell, Merson, CRPA, APAGOA, 2ALC, and SAF have suffered
14 irreparable harm, including the violation of their constitutional right to free speech,
15 entitling them to declaratory and injunctive relief. Absent intervention by this Court,
16 through declaratory and injunctive relief, Plaintiffs will continue to suffer this
17 irreparable harm.

18

19

SECOND CAUSE OF ACTION
Violation of Right to Free Speech Under U.S. Const., amend. I
Mixed Political - Commercial
42 U.S.C. § 1983

20

21

(By Plaintiff Crossroads Against All Defendants)

22

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190. Plaintiffs incorporate by reference paragraphs 1 through 189 of this
Complaint as though fully set forth herein in their entirety.

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191. 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.

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192. Plaintiff Crossroads seeks to engage in protected speech at the
Fairgrounds, a noted “public assembly facility,” through the promotion and

1 production of events for lawful expressive activity, including events that bring
2 together like-minded individuals to engage in pure political and educational speech,
3 as well as commercial speech of vendor and individual participants to communicate
4 offer and acceptance for the sale of legal goods and services.

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

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

14 195. Defendants Newsom, Bonta, and Spitzer, acting under color of state
15 law, are the state and local actors responsible for enforcing SB 264 and SB 915,
16 which deprive Plaintiffs of free speech rights secured by the First Amendment of the
17 United States Constitution in violation of 42 U.S.C. § 1983.

18 196. Defendants Ross and District interpret, implement, and enforce state
19 laws and policies in regard to the Fairgrounds, including SB 264 and SB 915, which
20 deprive Plaintiffs of free speech rights secured by the First Amendment of the
21 United States Constitution in violation of 42 U.S.C. § 1983.

22 197. Due to the passage of SB 264 and SB 915, Defendant District has not
23 and will not enter into new contracts with Plaintiff Crossroads to hold gun show
24 events at the Fairgrounds, even though Plaintiff Crossroads has safely and legally
25 held such events at the Fairgrounds for decades.

26 198. Defendants’ enforcement of SB 264 and SB 915, which prohibit the
27 sale of firearms, ammunition, and “firearm precursor parts” at the Fairgrounds with
28 the purpose, intention, and effect of banning gun show events at the Fairgrounds and

1 all other state-owned properties, is an impermissible content-based restriction of
2 speech. Such enforcement constitutes a direct violation of the free speech rights of
3 Plaintiff Crossroads.

4 199. Defendants have no compelling (or even legitimate) governmental
5 interest in banning the otherwise lawful (and constitutionally protected) sale of
6 lawful firearms, ammunition, and “firearm precursor parts” at the Fairgrounds and
7 all other state-owned properties, or in banning gun show events and the unique
8 expression and exchange of ideas related to promoting and preserving the “gun
9 culture” that takes place at those events. Any purported interest in “public safety” is
10 betrayed by the fact that SB 264 and SB 915 do not ban the possession of firearms,
11 ammunition, or firearms precursor parts on Fairgrounds property and state law
12 already governs sales at gun shows *at least* as strictly as it governs sales at “brick-
13 and-mortar” stores.

14 200. Further, SB 264 and SB 915 are neither narrowly tailored to nor the
15 least restrictive means of achieving the state’s dubious interests. Indeed, by
16 intentionally and effectively banning gun shows at the Fairgrounds and all other
17 state-owned properties, it sweeps up *all* forms of speech and expressive conduct that
18 occurs at such events and banishes it from a public venue.

19 201. Similarly, SB 264 and SB 915 are unconstitutionally overbroad
20 because, in an effort to restrict the commercial sale of firearms, ammunition, and
21 “firearm precursor parts,” the law effectively and intentionally bans gun shows
22 events altogether, seriously and deliberately burdening a vast amount of speech that
23 does not constitute commercial speech and is fully protected by the First
24 Amendment.

25 202. As a direct and proximate result of Defendants’ conduct, Plaintiff
26 Crossroads has suffered irreparable harm, including the violation of its constitutional
27 right to free speech, entitling Crossroads to declaratory and injunctive relief. Absent
28 intervention by this Court, through declaratory and injunctive relief, Plaintiffs will

1 continue to suffer this irreparable harm.

2

3

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

4

5

(By Plaintiffs Littrell, Merson, and CRPA Against All Defendants)

6

7

203. Plaintiffs incorporate by reference paragraphs 1 through 202 of this Complaint as though fully set forth herein in their entirety.

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204. 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.

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205. Plaintiffs Littrell, Merson, and CRPA have attended in the past, or represent members who have attended in the past, and wish to again attend Crossroads gun shows at the Fairgrounds to engage in lawful commercial speech with individual attendees.

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206. Plaintiffs Littrell, Merson, and CRPA members have a right under the First Amendment to use the Fairgrounds for expressive activity on the same basis as other members of the public without regard to the viewpoints they seek to express and promote.

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207. Defendants Newsom, Bonta, and Spitzer, acting under color of state law, are the state and local actors responsible for enforcing SB 264 and SB 915, which deprive Plaintiffs of free speech rights secured by the First Amendment of the United States Constitution in violation of 42 U.S.C. § 1983.

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208. Defendants Ross and District interpret, implement, and enforce state laws and policies in regard to the Fairgrounds, including SB 264 and SB 915, which deprive Plaintiffs of free speech rights secured by the First Amendment of the United States Constitution in violation of 42 U.S.C. § 1983.

27

28

209. Defendants' enforcement of SB 264 and SB 915, which prohibit the sale of firearms, ammunition, and "firearm precursor parts" at the Fairgrounds with

1 the purpose, intention, and effect of banning gun show events at the Fairgrounds and
2 all other state-owned properties, is an impermissible content-based restriction of
3 speech. Such enforcement constitutes a direct violation of the First Amendment
4 commercial speech rights of the Plaintiffs.

5 210. Further, by directly barring the rights of vendors, like Plaintiffs Littrell,
6 Merson, and CRPA members, to sell firearms, ammunition, and “firearm precursor
7 parts” (which necessarily involves commercial speech), SB 264 and SB 915 defies
8 existing case law in the Ninth Circuit protecting the commercial speech associated
9 with firearm sales on public property. *See Nordyke v. Santa Clara Cty.*, 110 F. 3d
10 707 (9th Cir. 1997).

11 211. Defendants have no substantial (or even legitimate) governmental
12 interest in banning the otherwise lawful (and constitutionally protected) sale of
13 lawful firearms, ammunition, and firearm precursor parts at the Fairgrounds and all
14 other state-owned properties, or in banning gun show events and the unique
15 expression and exchange of ideas related to promoting and preserving the “gun
16 culture” that takes place at those events. Any purported interest in “public safety” is
17 betrayed by the fact that SB 264 and SB 915 do not ban the possession of firearms,
18 ammunition, or firearms precursor parts on Fairgrounds property and state law
19 already governs sales at gun shows *at least* as strictly as it governs sales at “brick-
20 and-mortar” stores.

21 212. Even if there were a substantial governmental interest in restricting gun
22 shows and the commercial speech that occurs at such events, it would not be directly
23 served by a ban on sales of firearms, ammunition, and “firearm precursor parts” at
24 the Fairgrounds and all other state-owned properties.

25 213. Even if there were a substantial governmental interest in restricting gun
26 shows and the commercial speech that occurs at such events, flatly banning
27 commercial speech about firearms, ammunition, and “firearm precursor parts” at the
28 Fairgrounds and all other state-owned properties is more extensive than necessary to

1 serve any such interest. *See Nordyke*, 110 F.3d 707 (holding that a ban on the sale of
2 firearms on county-owned land was overbroad as abridging commercial speech
3 associated with the sale of lawful products).

4 214. As a direct and proximate result of Defendants’ conduct, Plaintiffs
5 Littrell, Merson, and CRPA have suffered irreparable harm, including the violation
6 of their constitutional right to free speech, entitling them to declaratory and
7 injunctive relief. Absent intervention by this Court, through declaratory and
8 injunctive relief, Plaintiffs will continue to suffer this irreparable harm.

9
10 **FOURTH CAUSE OF ACTION**
11 **Prior Restraint on Right to Free Speech Under U.S. Const., amend. I**
12 **42 U.S.C. § 1983**
13 (By All Plaintiffs Against All Defendants)

14 215. Plaintiffs incorporate by reference paragraphs 1 through 214 of this
15 Complaint as though fully set forth herein in their entirety.

16 216. The First Amendment affords special protection against policies or
17 orders that impose a previous or prior restraint on speech. “[P]rior restraints on
18 speech and publication are the most serious and least tolerable infringement on First
19 Amendment Rights.” *Ass’n for L.A. Deputy Sheriffs*, 239 Cal. App. 4th at 811 (citing
20 *Neb. Press Ass’n*, 427 U.S. at 559. A prior restraint is particularly egregious when it
21 falls upon the communication of news, commentary, current events, political speech,
22 and association. *N.Y. Times Co.*, 403 U.S. at 715.

23 217. Prior restraint also involves the “unbridled discretion doctrine” where a
24 policy, or lack thereof, allows for a single person or body to act at their sole
25 discretion, without regard for any constitutional rights possessed by the person upon
26 which the action is taken, and where there is no remedy for challenging the
27 discretion of the decision makers. *Lakewood*, 486 U.S. at 757.

28 218. The Defendants are the state and local actors responsible for enforcing
SB 264 and SB 915, which are content-based restrictions of speech that will have a
chilling effect on Plaintiffs’ First Amendment rights, thus acting de facto prior

1 restraints on Plaintiffs’ rights (including a refusal to place contract approval on
2 board agendas or to offer available dates to begin the process of renting the venue).

3 219. Under SB 264 and SB 915, Defendant District has unfettered discretion
4 to determine what constitutes a “sale” under the law and is thereby prohibited at the
5 Fairgrounds. For instance, some fair boards or their employees may determine that a
6 gun raffle does not constitute a sale and allow fundraising events with such raffles to
7 take place on the property, while others might determine that it does constitute a sale
8 and thus ban such events from the property.

9 220. Defendants’ policies and practices complained of here impose an
10 unconstitutional prior restraint because they vest the District with unbridled
11 discretion to permit or refuse protected expression by members of the public,
12 including Plaintiffs.

13 221. Defendants’ policies and practices complained of here give unbridled
14 discretion to local agricultural district boards, board members, and their employees
15 to decide what forms of expression members of the public may engage in on at the
16 Fairgrounds and to ban any other expression at the whim of those boards and board
17 members in violation of the First Amendment.

18 222. As a direct and proximate result of Defendants’ conduct, Plaintiffs have
19 suffered and will continue to suffer irreparable harm, including the violation of their
20 constitutional right to freedom of expression, entitling them to declaratory and
21 injunctive relief and nominal damages.

22
23 **FIFTH CAUSE OF ACTION**
24 **Violation of Right to Assembly and Association Under U.S. Const., amend. I**
25 **42 U.S.C. § 1983**
26 (By All Plaintiffs Against All Defendants)

27 223. Plaintiffs incorporate by reference paragraphs 1 through 222 of this
28 Complaint as though fully set forth herein in their entirety.

224. The state of California owns the Fairgrounds, a public venue. It is
rented to the public, including community-based organizations and businesses, for

1 its use and enjoyment, including for concerts, festivals, and industry shows.

2 225. Plaintiffs have promoted and/or attended in the past and wish to again
3 promote and/or attend Crossroads gun shows at the Fairgrounds so they may
4 assemble and associate with one another to engage in lawful commerce, fellowship,
5 and expressive activities, including political and educational speech regarding the
6 lawful ownership, possession, and use of firearms and related products.

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

10 227. Defendants Newsom, Bonta, and Spitzer, acting under color of state
11 law, are the state and local actors responsible for enforcing SB 264 and SB 915,
12 which deprive Plaintiffs of free speech rights secured by the First Amendment of the
13 United States Constitution in violation of 42 U.S.C. § 1983.

14 228. Defendants Ross and District interpret, implement, and enforce state
15 laws and policies in regard to the Fairgrounds, including SB 264 and SB 915, which
16 deprive Plaintiffs of free speech rights secured by the First Amendment of the
17 United States Constitution in violation of 42 U.S.C. § 1983.

18 229. Defendants' enforcement of SB 264 and SB 915, which prohibit the
19 sale of firearms, ammunition, and "firearm precursor parts" at the Fairgrounds with
20 the purpose, intention, and effect of banning gun show events at the Fairgrounds and
21 all other state-owned properties, violates Plaintiffs' rights to assembly and
22 association by denying them the right to use the Fairgrounds and all other state-
23 owned properties otherwise open to the public for expressive uses, "public assembly
24 facilities," to assemble and engage in political and other types of expression—a right
25 Defendants extend to other members of the public so long as they are not meeting
26 for the purposes of holding a gun show event.

27 230. Defendants have no compelling (or even legitimate) governmental
28 interest in banning the otherwise lawful (and constitutionally protected) sale of

1 lawful firearms, ammunition, and “firearm precursor parts” at the Fairgrounds and
2 all other state-owned properties, or in banning gun show events and, by extension,
3 the rights of Plaintiffs to assemble and associate at the Fairgrounds and other state-
4 owned properties otherwise open to the public. Any purported interest in “public
5 safety” is betrayed by the fact that SB 264 and SB 915 do not ban the possession of
6 firearms, ammunition, or firearms precursor parts on Fairgrounds property and state
7 law already governs sales at gun shows *at least* as strictly as it governs sales at
8 “brick-and-mortar” stores.

9 231. Even if SB 264 and SB 915 served some sufficient government
10 purpose, they are neither narrowly tailored nor the least restrictive means to serve
11 that end.

12 232. As a direct and proximate result of Defendants’ conduct, all Plaintiffs
13 have suffered irreparable harm, including the violation of their constitutional right to
14 free association and assembly, entitling them to declaratory and injunctive relief.
15 Absent intervention by this Court, through declaratory and injunctive relief,
16 Plaintiffs will continue to suffer this irreparable harm.

17
18 **SIXTH CAUSE OF ACTION**
19 **Violation of the Right to Equal Protection Under U.S. Const., amend. XIV**
20 **42 U.S.C. § 1983**
21 (By All Plaintiffs Against All Defendants)

22 233. Plaintiffs incorporate by reference paragraphs 1 through 232 of this
23 Complaint as if fully set forth herein in their entirety.

24 234. Defendants, acting under color of state law, are enforcing SB 264 and
25 SB 915, which deprive Plaintiffs of right to equal protection under the law secured
26 by the Fourteenth Amendment of the United States Constitution in violation of 42
27 U.S.C. § 1983.

28 235. On their face and as applied, SB 264 and SB 915 are unconstitutional
abridgements of Plaintiffs’ right to equal protection under the law guaranteed by the
Fourteenth Amendment because they are viewpoint-discriminatory and/or animus-

1 based restrictions on Plaintiffs’ protected speech that serve no compelling
2 governmental interest.

3 236. On their face and as evidenced by the legislative history of both AB
4 264 and SB 915, it is clear that the laws’ purpose and intention are to make a
5 “symbolic” gesture and a “value statement” about the otherwise lawful sale of
6 firearms and related products and of the proliferation of the “gun culture” in
7 California and elsewhere.

8 237. Defendants have no compelling (or even legitimate) governmental
9 interest in banning Plaintiffs’ speech. Indeed, any purported interest in “public
10 safety” is betrayed by the fact that SB 264 and SB 915 do not ban the possession of
11 firearms, ammunition, or firearms precursor parts on Fairgrounds property and state
12 law already governs sales at gun shows *at least* as strictly as it governs sales at
13 “brick-and-mortar” stores.

14 238. Defendants’ refusal to allow Plaintiffs equal use of the public facilities
15 while continuing to allow contracts for the use of these facilities with other similarly
16 situated legal and legitimate businesses is a violation of Plaintiffs’ right to equal
17 protection under the law because it is based on a “bare desire to harm a politically
18 unpopular group.” *Moreno*, 413 U.S. at 534.

19 239. Further, SB 264 and SB 915 are not narrowly tailored to achieving the
20 state’s dubious interests.

21 232. As a direct and proximate result of Defendants’ conduct, all Plaintiffs
22 have suffered irreparable harm, including the violation of their constitutional right to
23 equal protection under the law, entitling them to declaratory and injunctive relief.
24 Absent intervention by this Court, through declaratory and injunctive relief, Plaintiffs
25 will continue to suffer this irreparable harm.

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SEVENTH CAUSE OF ACTION
Violation of Right to Keep and Bear Arms Under U.S. Const., amend. II
42 U.S.C. § 1983

(By All Plaintiffs Against All Defendants)

233. Plaintiffs incorporate by reference paragraphs 1 through 232 of this Complaint as if fully set forth herein in their entirety.

234. Plaintiffs Clark, Johnson, Littrell, Merson, Crossroads, and members and supporters of Plaintiffs CRPA, 2ALC, APAGOA, and SAF, have sold or bought firearms, ammunition, and/or “firearm precursor parts” at gun show events at the Fairgrounds in the past and, but for the adoption and enforcement of SB 264 and SB 915, they would do so again.

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

236. Defendants Bonta and Spitzer, acting under color of state law, are the government actors responsible for enforcing and prosecuting violations of SB 264 and SB 915, which deprive 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.

237. Defendants District and Ross interpret, implement, and enforce state laws and policies in regard to the Fairgrounds, including SB 264 and SB 915, which deprive Plaintiffs of their right to access firearms, ammunition, and firearm parts secured by the Second Amendment of the United States Constitution in violation of 42 U.S.C. § 1983.

238. Defendants’ enforcement of SB 264 and SB 915, which prohibit the sale of firearms, ammunition, and “firearm precursor parts” at the Fairgrounds and all other state-owned venues with the purpose, intention, and effect of banning gun show events at the Fairgrounds and all state-owned fairgrounds, violates Plaintiffs’

1 Second Amendment right to buy and sell firearms and the ammunition and parts
2 necessary to the effective operation of those firearms.

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

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

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiffs pray for:

13 1. A declaration that SB 264, codified at California Penal Code section
14 27575, violates the free speech rights of Plaintiffs Clark, Johnson, Littrell, Merson,
15 CRPA, APAGOA, 2ALC, and SAF under the First Amendment to the United States
16 Constitution, on its face and as applied;

17 2. A declaration that SB 915, codified at California Penal Code section
18 27573, violates the free speech rights of Plaintiffs Clark, Johnson, Littrell, Merson,
19 CRPA, APAGOA, 2ALC, and SAF under the First Amendment to the United States
20 Constitution, on its face and as applied;

21 3. A declaration that SB 264, codified at California Penal Code section
22 27575, violates the free speech rights of Plaintiff Crossroads under the First
23 Amendment to the United States Constitution, on its face and as applied;

24 4. A declaration that SB 915, codified at California Penal Code section
25 27573, violates the free speech rights of Plaintiff Crossroads under the First
26 Amendment to the United States Constitution, on its face and as applied;

27 5. A declaration that SB 264, codified at California Penal Code section
28 27575, violates the commercial speech rights of Plaintiffs Littrell, Merson, and

1 CRPA under the First Amendment to the United States Constitution, on its face and
2 as applied;

3 6. A declaration that SB 915, codified at California Penal Code section
4 27573, violates the commercial speech rights of Plaintiffs Littrell, Merson, and
5 CRPA under the First Amendment to the United States Constitution, on its face and
6 as applied;

7 7. A declaration that SB 264, codified at California Penal Code section
8 27575, violates the free speech rights of all Plaintiffs under the First Amendment to
9 the United States Constitution because it imposes a prior restraint on their speech;

10 8. A declaration that SB 915, codified at California Penal Code section
11 27573, violates the free speech rights of all Plaintiffs under the First Amendment to
12 the United States Constitution because it imposes a prior restraint on their speech;

13 9. A declaration that SB 264, codified at California Penal Code section
14 27575, violates Plaintiffs' rights of assembly and association under the First
15 Amendment to the United States Constitution, on its face and as applied;

16 10. A declaration that SB 915, codified at California Penal Code section
17 27573, violates Plaintiffs' rights of assembly and association under the First
18 Amendment to the United States Constitution, on its face and as applied;

19 11. A declaration that SB 264, codified at California Penal Code section
20 27575, violates the rights of all Plaintiffs to equal protection under the law per the
21 Fourteenth Amendment to the United States Constitution, on its face and as applied;

22 12. A declaration that SB 915, codified at California Penal Code section
23 27573, violates the rights of all Plaintiffs to equal protection under the law per the
24 Fourteenth Amendment to the United States Constitution, on its face and as applied;

25 13. A declaration that SB 264, codified at California Penal Code section
26 27575, violates the rights of all Plaintiffs to keep and bear arms under the Second
27 Amendment to the United States Constitution, on its face and as applied;

28 14. A declaration that SB 915, codified at California Penal Code section

1 27573, violates the rights of all Plaintiffs to keep and bear arms under the Second
2 Amendment to the United States Constitution, on its face and as applied;

3 15. A preliminary and permanent injunction enjoining Defendants, their
4 employees, agents, successors in office, and all District Attorneys, County Counsel,
5 and City Attorneys holding office in the state of California, as well as their
6 successors in office, from enforcing SB 264, codified at California Penal Code
7 section 27575;

8 16. A preliminary and permanent injunction enjoining Defendants, their
9 employees, agents, successors in office, and all District Attorneys, County Counsel,
10 and City Attorneys holding office in the state of California, as well as their
11 successors in office, from enforcing SB 915, codified at California Penal Code
12 section 27573;

13 17. An order for damages, including nominal damages, according to proof;

14 18. An award of costs and expenses, including attorney’s fees, pursuant to
15 42 U.S.C. § 1988 or other appropriate state or federal law; and

16 19. Any such other relief the Court deems just and equitable.

17

18 Dated: November 11, 2022

MICHEL & ASSOCIATES, P.C.

19

s/ Anna M. Barvir

20

Anna M. Barvir
Counsel for Plaintiffs B&L Productions, Inc.,
California Rifle & Pistol Association,
21 Incorporated, Gerald Clark, Eric Johnson, Chad
22 Littrell, Jan Steven Merson, Asian Pacific
23 American Gun Owner Association, Second
Amendment Law Center, Inc.

24 Dated: November 11, 2022

LAW OFFICES OF DONALD KILMER, APC

25

s/ Donald Kilmer

26

Donald Kilmer
Counsel for Plaintiff Second Amendment
27 Foundation

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