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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

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

Plaintiffs,

v.

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

Defendants.

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

REPLY TO DEFENDANT'S OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Hearing Date: November 21, 2022
Courtroom: 5B
Judge: Hon. Roger T. Benitez

1. INTRODUCTION

The Attorney General does not attempt to defend Section 1021.11 on the merits. Instead, trying to defend the indefensible, he engages in the false pretense of an unenforceable promise. First, he recounts the history of Texas's SB 8 and its effect on abortion rights in that state. Then he admits that the equally malicious SB 1327 was enthusiastically plagiarized from the Texas law to attack gun rights here in California. And given the heated rhetoric of Governor Newsom and Attorney General Bonta about the Texas law, they leave no doubt that they would fervently enforce Section 1021.11 in California, but for their opposition to the Texas law.

How do we know the constitutional harm of Section 1021.11 still exists? Because in disclosing some of the parties' confidential settlement communications, the Attorney General admits that his Potemkin "promise" not to enforce Section 1021.11 today is conditioned upon resurrecting that power in the future if the Texas law is upheld. The Attorney General's purported voluntary forbearance in enforcing Section 1021.11 is an attempt to manufacture a standing controversy. By asking this Court to sanction such sophistry in an effort to moot this lawsuit, he is flaunting the law and abandoning his duties to this Court under Federal Rule of Civil Procedure 11.

2. THE PARTIES' SETTLEMENT DISCUSSIONS

Sidestepping Federal Rule of Evidence 408 to manufacture standing issues in this case, the Attorney General sets forth his version of settlement discussions between his office and Plaintiffs' counsel regarding this motion. But the Attorney General provides only a one-sided and incomplete account of those discussions.

While it is true that the Attorney General proposed a resolution under which he would stipulate that his office would not seek attorney's fees and costs under Section 1021.11 from any plaintiffs or attorneys for now, the Attorney General admits that this offer was conditioned on reserving the right to reassert the validity and constitutionality of Section 1021.11, if Texas' equivalent (SB 8) fee-shifting

provision was upheld. Opp. At 16.[1]

Plaintiffs were clear during those discussions that this proposal would not provide the necessary relief to Plaintiffs for a number of reasons. First and foremost, his offer to stipulate to *temporarily* not enforce Section 1021.11—subject to revocation if the Texas law is upheld—is not the same character of relief as Plaintiffs are seeking in this lawsuit, which is to enjoin Section 1021.1, full stop.

If California's Second Amendment-only fee-shifting law is unconstitutional, then it is unconstitutional. What happens in a different district court, in a different circuit, in some future holding regarding a mirror-image law passed by a different state, as applied to litigation over activities that are no longer protected by the U.S. Constitution (abortion), has no bearing on the relief Plaintiffs seek in this lawsuit. The right to petition courts to uphold Second Amendment rights against infringements by the United States and all 50 states (including California), is the

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[1]An Attorney General declining to defend a law that he believes is unconstitutional is not without precedent. *See Perry v. Brown*, 671 F.3d 1051, 1071 n.9 (9th Cir. 2012) (California Attorney General refusing to defend Proposition 8), *vacated and remanded, Hollingsworth v. Perry*, 570 U.S. 693 (2013), *on remand, appeal dismissed*, *Perry v. Brown*, 725 F.3d 1140 (9th Cir. 2013).

What this Attorney General has not done, is make a written Offer of Judgment under Federal Rule of Civil Procedure 68. Nor has he circulated a terms sheet, or moved this Court for an order that the parties participate in Alternative Dispute Resolution (a motion plaintiffs would oppose).

Perhaps the Attorney General in these circumstances should have just filed a notice of non-opposition, rather than make a nearly fraudulent settlement proposal and then try to pass that off as grounds for dismissing this case as moot.

Here, not only is the Attorney General wasting taxpayer and this Court's resources submitting opposition briefing supporting a fee-shifting law that he has repeatedly argued is unconstitutional in Texas, but now he causes this Court and Plaintiffs to expend resources to consider and respond to opposition arguments that are based on facts that are patently inadmissible. FED. R. EVID. 408.

There is not enough time, given the current briefing schedule, and urgency of this matter, for Plaintiffs to challenge the Attorney General to withdraw the offending filing under Rule 11(c)(2); although this Court can issue its own order to show cause pursuant to Rule 11(c)(3).

Section 1021.11 and the Attorney General's attempt to defend it is unprecedented. But that does not excuse California's top lawyer and law enforcement official brandishing a disrespect for the law by presenting to this court a pleading, written motion, or other paper, and advocating a position, that is unwarranted by existing law and/or that by his own admission is frivolous. FED. R. CIV. P. 11.

gravamen of this action regardless of what happens to abortion rights in Texas.[2]

The Attorney General only offered to enter into a stipulation that Plaintiffs were entitled to judgment. He expressly refused to agree to have declaratory findings such as those sought by Plaintiffs' complaint included in any stipulated judgment. Such a stipulated judgment, absent findings based on constitutional grounds as to why Plaintiffs were entitled to judgment, would not constitute "settled law." Cities and counties would simply argue that the stipulated judgment neither bound local governments nor provided them with notice that it would be unconstitutional to enforce Section 1021.11. *See Boyd v. Benton County*, 374 F.3d 773, 781 (9th Cir. 2004) ("a victim's constitutional rights may be clearly established in the absence of [an appellate] case 'on all fours prohibiting [the] particular manifestation of unconstitutional conduct [at issue]' " if the violation is patent) (quoting *Deorle v. Rutherford*, 272 F.3d 1272, 1286 (9th Cir. 2001)).

At least one of the Plaintiffs in this case has already had to risk exposure to the ravages of Section 1021.11 against a municipal defendant who would not be bound by the Attorney General's "promise." *See California Rifle & Pistol Association, Incorporated, et al. v. City of Glendale, et al*., C.D. Cal. Case No. 2:22-cv-07346 (current CRPA litigation challenging City of Glendale's "sensitive places" ordinances prohibiting carrying of firearms in public places within the city).

A preliminary injunction or a judgment with declaratory findings as to the unconstitutionality of Section 1021.11 would not only enjoin the Attorney General from enforcing it, but it would also enjoin other agencies and local governments.

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[2] While attorneys are subject to Rule 11 sanctions for their court filings, section (c)(1) authorizes this Court to impose sanctions against a "***party*** that violated the rule or is responsible for the violation." *Id.* (emphasis added). Governor Newsom and the Legislature (as evidenced by press releases, heated rhetoric, their own legislative analysis, and admissions made by their lawyer) are waging a proxy war in the courts by pitting abortion rights in Texas against Second Amendment rights in California. Neither Governor Newson nor his Attorney General represent the people of Texas. The perception that constitutional rights are in jeopardy in Texas has no bearing on constitutional adjudications in California. This is litigation for an "improper purpose." FED. R. CIV. P. 11(b)(1).

See Cal. Chamber of Commerce v. Council for Educ. & Rsch. on Toxics, 29 F.4th 468, 483 (9th Cir. 2022) (district court's order enjoining the Attorney General from enforcing certain sections of Proposition 65 against Plaintiffs also enjoined private actors who "identified with [the AG] in interest, [were] in 'privity' with them, represented by them or subject to their control.") (citing FED R. CIV. P. 65(d)(2) and quoting *Golden State Bottling Co. v. NLRB*, 414 U.S. 168, 179, (1973)).

Plaintiffs had suggested that the Attorney General simply agree to issue a detailed Legal Opinion or Legal Alert confirming that Section 1021.11 was unconstitutional. He could cut/paste them from his filings in Texas. But the Attorney General refused that option.[3]

Ultimately the details of the settlement proposal and the discussions over why Plaintiffs did not accept it are not admissible for consideration by the Court on this motion. FED. R. EVID. 408. But the Attorney General's mischaracterization that it offered the relief Plaintiffs seek in this lawsuit, but Plaintiffs refused, comes close to a false statement. It appears to have been proffered to harass, cause unnecessary delay, or needlessly increase the cost of this litigation. FED. R. CIV. P. 11.

3. ARGUMENT

A. Voluntary Cessation of Harmful Conduct Does Not Moot a Case

Defendants cannot moot a case by simply voluntarily ceasing the injurious conduct, especially when they admit that they will resume the conduct based on some alternative contingent event they have no control over. *See Friends of the Earth v. Laidlaw Environmental Services,* 528 U.S. 167, 189-90 (2008) (police moratorium on chokehold policy did not render case challenging policy mott

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[3] If Defendants want to moot the case they can follow in the footsteps of New York. California can repeal the law. *New York State Rifle & Pistol Association, Inc. v. City of New York, New York*, 140 S. Ct. 1525 (2020). They could also make an agreement that California will refrain from enforcing Section 1021.11 in perpetuity and indemnify any future plaintiffs and their lawyers litigating gun rights in California, again in perpetuity, by defending said plaintiffs, and paying any fees awarded under Section 1021.1.

because moratorium was not permanent).

B. The Attorney General's Promise of Forbearance is an Empty One

The Attorney General's basic argument in opposition is that because he promises not to enforce Section 1021.11 until some future time if-and-when SB 8's fee shifting provision is upheld, that this suit and plaintiffs lack Article III standing. Opp. at 16-20. To begin with, the Attorney General has not yet actually made any signed commitment, and he has refused Plaintiffs' suggestion to issue a formal legal opinion confirming that Section 1021.11 is unconstitutional.

The Attorney General's claims that judicial estoppel would bind him in the future is a tortured interpretation of the doctrine. Judicial estoppel isn't based on some promise in a vacuum, rather, courts inquire "whether the party has succeeded in persuading a court to accept that party's earlier position, so that judicial acceptance of an inconsistent position in a later proceeding would create the perception that either the first or the second court was misled." *Peter-Palican v. Gov't of the Commonwealth of the N. Mar. I.*, No. C07-0022, 2013 U.S. Dist. LEXIS 202666, at *23-24 (D. N. Mar. I. Sep. 13, 2013), citing *New Hampshire v. Maine*, 532 U.S. 742, 750 (2001).

Here, this Court has yet to weigh in on this case at all, so judicial estoppel is not applicable on those facts. But it is arguable that judicial estoppel is already available AGAINST the California Attorney General now, in this case, regardless of what a court in Texas does with the fee shifting provisions of Texas's SB 8.

The *New Hampshire* Court did not intend to limit the judicial estoppel doctrine to only those elements set forth in that opinion, and reliance was only one of the factors cited. "In enumerating these factors, we do not establish inflexible prerequisites or an exhaustive formula for determining the applicability of judicial estoppel. Additional considerations may inform the doctrine's application in specific factual contexts." *Id.* at 752.

This Attorney General has already taken a position on a Texas law that is a

mirror image of a later-enacted law in California. Those positions are clearly inconsistent in successive (and ongoing) litigation. And now he is seeking to derive an unfair advantage (dismissal of this case) by maintaining those inconsistent positions through intentional self-contradiction.

The *New Hampshire* Court pointed out that judicial estoppel's essential purpose is to "protect the integrity of the judicial process" by "preventing parties from deliberately changing positions according to the exigencies of the moment" and to "prevent parties from playing fast and loose with the court." *Id.* at 750-51 (internal citations omitted).

The Attorney General also lacks the power to bind his successors. See *Ariz. All. for Retired Ams. v. Hobbs*, No. CV-22-01374-PHX-GMS, 2022 U.S. Dist. LEXIS 173622, at *12 (D. Ariz. Sep. 26, 2022) ("The Attorney General's position that Plaintiffs are not likely to be prosecuted for this conduct does not change the Court's conclusion . . . as the Attorney General acknowledges, his interpretation will not bind his successor in office, and he will only remain in office for three more months."). Even if the Attorney General's promise could bind his successors via estoppel as he suggests, Opp. at 19, the Attorney General is not the only party at the state level that could enforce the fee shifting provision at issue.

For example, in *B&L Productions, Inc., et al. v. Gavin Newsom, et al.*, Case No. 8:22-cv-01518, currently pending in the Central District of California, Plaintiff CRPA has joined several other plaintiffs in suing Governor Newsom, Rob Bonta, Karen Ross (the Secretary of the California Department of Food & Agriculture), Todd Spitzer (District Attorney of Orange County), and the 32nd District Agricultural Association. The case challenges restrictions on the use of public property for gun shows. If Plaintiffs lose on any one of their six causes of action in that case, then Section 1021.11 would arguably apply. Perhaps the Attorney General or his successor would keep his promise at that point, but that promise does not bind any of the other named defendants.

C. Plaintiffs Have Active Gun Litigation Against Local Governments

Even if the Attorney General's promise can bind state-level officials—and his opposition cites no authority to suggest it does—it certainly would not bind local governments or entities. District attorneys, county counsel, and city attorneys can also enforce Section 1021.11.

In addition to Plaintiffs' ongoing *B&L Productions* litigation involving local government defendants, Plaintiffs CRPA and Gun Owners of California (as well as Second Amendment Foundation, a Plaintiff in the parallel *Miller II* matter) have recently filed suit against the City of Glendale to challenge its restrictions on gun possession on all city property. See *California Rifle & Pistol Association, Incorporated, et al. v. City of Glendale, et al*., C.D. Cal. Case No. 2:22-cv-07346. If Plaintiffs do not prevail on all claims in that action, Glendale will be able to seek reimbursement of its legal expenses under Section 1021.11.

A District Court in Arizona dealt with a similar question very recently, in which the Attorney General of Arizona promised not to enforce a challenged law at issue. The Court in that case explained:

> Defendants promises that they will not enforce the provision in the upcoming election also do not persuade the Court that Plaintiffs lack standing. The Ninth Circuit has held that a failure to disavow enforcement coupled with self-censorship to avoid enforcement is sufficient to show "a causal connection between the injury and the conduct complained of." *Tingley v. Ferguson*, ___ F.4th ___, 2022 U.S. App. LEXIS 25312, 2022 WL 4076121, at *7 (9th Cir. 2022). The Plaintiffs have shown that they will engage in self-censorship. And the Attorney General cannot disavow enforcement because he cannot bind County Attorneys or future Attorneys General to his interpretation of the statute. Additionally, the third standing requirement "carries 'little weight' when the challenged law is 'relatively new,' and the record contains little information as to enforcement." *California Trucking Ass'n v. Bonta*, 996 F.3d 644 (9th Cir. 2021). The Felony Provision was passed June 8, 2022, and goes into effect on September 24, 2022. So, the statute has never been enforced. This lack of enforcement history, however, is a product of the law's newness, and is not indicative of the State's commitment not to enforce the provision against voter advocacy organizations.

Ariz. All. for Retired Ams., No. CV-22-01374, 2022 U.S. Dist. LEXIS 173622, at *12 n.1 (D. Ariz. Sept. 26, 2022) (emphasis added).

The Attorney General cannot disavow enforcement to moot this case, because he cannot bind Glendale, the District Attorney of Orange County, or any other local officials or entities who would enforce Section 1021.11 against these Plaintiffs in existing cases. Even if made in good faith, the Attorney General's promise cannot provide Plaintiffs the full relief they would receive if they achieved declaratory and injunctive relief in this matter from the Court.[4]

Because the Attorney General does not (and cannot) offer such relief with his promise, standing remains. A case becomes moot "only when it is impossible for a court to grant any effectual relief whatever to the prevailing party." *Campbell-Ewald Co. v. Gomez*, 577 U.S. 153, 161 (2016) (citing *Knox v. SEIU, Local 1000*, 567 U.S. 298, 307 (2012)). "[A] case will only become moot if a party receives all the relief claimed in their complaint." *Dwango, Ltd. v. Spahn*, No. C15-1289RSL, 2016 U.S. Dist. LEXIS 180547, at *12 (W.D. Wash. Feb. 29, 2016).

D. The Attorney General is Currently Benefitting from Section 1021.11, Leveraging it to Gain Concessions from Current Gun Plaintiffs and Through its Chilling Effect on Potential Plaintiffs

The Attorney General asserts that Plaintiffs have suffered no injury in fact. Opp. at 17. Yet they have. In *Lance Boland, et al. v. Robert Bonta*, Case No. 8:22-cv-01421 (C.D. Cal.), a recently-filed case challenging California's Unsafe Handgun Act, the Attorney General has already entered into a stipulation with Plaintiff CRPA to amend the complaint to dismiss a single commerce clause claim in exchange to not seek fees under Section 1021.11 for that dismissed claim, but only if plaintiffs would dismiss the claim *with prejudice*. The Parties signed a stipulation to that effect, and the court signed the parties' proposed order. (*See* Exhibits A & B hereto). This is a highly unusual concession by a plaintiff. But for

[4] Moreover, if this Court finds Section 1021.11 unconstitutional, then Plaintiffs could use its ruling to argue against any claims of qualified immunity on the part of local officials who try to enforce Section 1021.11 after such a ruling. *See DePaul Indus. v. Miller*, 14 F.4th 1021, 1027 (9th Cir. 2021).

Section 1021.11's guarantee of fee recovery to the state, plaintiffs could have dismissed their claim at the pleading stage *without prejudice* and perhaps litigated it another day.

This demonstrates that the Attorney General, who knows and admits Section 1021.11 is unconstitutional, has already leveraged, and will continue to leverage, Section 1021.11's unconstitutional burden on plaintiffs for the benefit of his clients. This injury is "fairly traceable to [this] defendant." Opp. at 17.

The Attorney General, who recognizes the chilling effect of this law (Opp. at 16), also benefits from how it dissuades plaintiffs from filing or joining lawsuits challenging gun laws. Such individuals (not trained in the law) are unlikely to risk the Attorney General's putative promise not to enforce Section 1021.11. *See* Declaration of Bill Ortiz in Support of Motion for Preliminary Injunction at ¶¶ 5-10. This is a chilling effect that Section 1021.11 already has on gun rights litigation.

E. Section 1021.11 Also Interferes Plaintiffs' Collection of Fees

The Attorney General's argument in opposition relies solely on his promise not to collect his own legal expenses. But Section 1021.11 does not only affect the state's ability to collect fees in firearm law challenges, but also affects Plaintiffs' ability to collect their own fees. Under the plain language of Section 1021.11, only government defendants can be the prevailing party. CAL. CIV. PROC. CODE § 1021.11(b) (Deering 2022). *But see* 42 U.S.C. § 1988(b) (2022) ("In any action or proceeding to enforce a provision of section[ ] . . . 1983 . . . of this title . . . the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs. . . .") and *United States ex rel. Chunie v. Ringrose*, 788 F.2d 638, (9th Cir. 1986), *cert. denied*, 479 U.S. 1009 ("Although attorney's fees may be awarded at the appellate as well as the trial level, [ ], a prevailing defendant is entitled to an award of fees only where the plaintiff's action was 'frivolous, unreasonable, or without foundation.' ") (quoting *Hughes v.*

Rowe, 449 U.S. 5, 14 (1980)) (citation omitted).

Contrary to Section 1988, gun law challengers in California must now win all claims or forfeit prevailing party status, and therefore forfeit fees. The Attorney General admits this inequitable standard applies: "Like SB 8, a party is a 'prevailing party' if the court dismisses any claim, regardless of the reason for dismissal, or enters judgment in favor of the party opposing the declaratory or injunctive relief . . . [a]s a result, as in SB 8, the only party that could possibly qualify as the 'prevailing party' is the defendant." Opp. at 13.

Not only does the Attorney General's putative promise to not enforce Section 1021.11 not bar local governments from enforcing the law, but it also does nothing to change or mitigate the fee shifting provisions of Section 1021.11 explicitly designed to ignore and contravene unambiguous federal law regarding civil rights litigation fee awards promulgated under 42 U.S.C. § 1988. Plaintiffs are still harmed by Section 1021.11 regardless of the enforceability of the Attorney General's ethereal promise.

4. CONCLUSION

For these reasons as well as those discussed in Plaintiffs' opening brief, this Court should enjoin enforcement Section 1021.11 against all state actors.

Respectfully Submitted,

Dated: November 7, 2022

MICHEL & ASSOCIATES, P.C.

/s/ C.D. Michel
For Plaintiffs South Bay Rod & Gun Club, Inc. Gary Brennan, Cory Henry, Patrick Lovette, Virginia Duncan, Randy Ricks, Gun Owners of California, Second Amendment Law Center, and California Rifle and Pistol Association, Incorporated

Law Offices of Donald Kilmer, APC

/s/ Don Kilmer
For Plaintiff Citizens Committee for the Right to Keep and Bear Arms

CERTIFICATE OF SERVICE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Case Name: *South Bay Rod & Gun Club, Inc. v. Bonta*
Case No.: 3:22-cv-01461-RBM-WVG

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, declare under penalty of perjury that I am a citizen of the United States over 18 years of age. My business address is 180 East Ocean Boulevard, Suite 200 Long Beach, CA 90802. I am not a party to the above-entitled action.

I have caused service of the following documents, described as:

REPLY TO DEFENDANT'S OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

on the following parties by electronically filing the foregoing on November 7, 2022 with the Clerk of the District Court using its ECF System, which electronically notifies them.

Robert Meyerhoff
Robert.Meyerhoff@doj.ca.gov
Elizabeth Watson
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1300 I Street, Suite 125
Sacramento, CA 95814

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 7, 2022, at Long Beach, CA.

/s/Christina Castron
CHRISTINA CASTRON

EXHIBIT A

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Attorneys for Plaintiffs Lance Boland, Mario Santellan, Reno May, Jerome Schammel, and California Rifle & Pistol Association, Incorporated

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

LANCE BOLAND, an individual; MARIO SANTELLAN, an individual; RENO MAY, an individual; JEROME SCHAMMEL, an individual; and CALIFORNIA RIFLE & PISTOL ASSOCIATION, INCORPORATED, a California corporation,

Plaintiffs,

v.

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

Defendants.

CASE NO.: 8:22-cv-01421-CJC(ADSx)

STIPULATION TO DISMISS SECOND CLAIM FOR RELIEF WITH PREJUDICE

STIPULATION

WHEREAS, Plaintiffs Lance Boland, Mario Santellan, Reno May, Jerome Schammel, and California Rifle & Pistol Association, Incorporated, have agreed with Defendant Robert Bonta to dismiss WITH PREJUDICE the claim for relief in the operative complaint entitled Second Claim for Relief for Unconstitutional Discrimination Against Interstate Commerce, in consideration for Defendant waiving any claim for

attorney's fees and costs of suit under California Code of Civil Procedure section 1021.11 arising from such dismissal; and

WHEREAS, Plaintiffs will effectuate such dismissal by this stipulation and by filing within the time limits allowed under FED R. CIV. P. 15 an amended pleading (as extended by prior stipulation and order) reflecting that such claim has been dismissed;

THEREFORE, the Parties hereby stipulate to such dismissal and request that the Court enter a dismissal with prejudice of Plaintiffs' Second Claim for Relief as to all Defendants.

Respectfully Submitted,

Dated: September 22, 2022

MICHEL & ASSOCIATES, P.C.

/s/ C.D. Michel
C.D. Michel
Counsel for Plaintiffs
e-mail: cmichel@michellawyers.com

Dated: September 22, 2022

ROB BONTA
Attorney General of California
MARK R. BECKINGTON
Supervising Deputy Attorney General

/s/ Robert L. Meyerhoff
ROBERT L. MEYERHOFF
Deputy Attorney General

Attorneys for Rob Bonta in his official capacity as Attorney General for the State of California

CERTIFICATE OF SERVICE

IN THE UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

Case Name: *Boland, et al. v. Bonta*

Case No.: 8:22-cv-01421-CJC(ADSx)

IT IS HEREBY CERTIFIED THAT:

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

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

STIPULATION TO DISMISS SECOND CLAIM FOR RELIEF WITH PREJUDICE

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

Robert L. Meyerhoff, Deputy Attorney General
robert.meyerhoff@doj.ca.gov
300 South Spring Street, Suite 1702
Los Angeles, CA 90013-1230

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

Executed September 22, 2022.

Christina Castron

EXHIBIT B

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

LANCE BOLAND, an individual; MARIO SANTELLAN, an individual; RENO MAY, an individual; JEROME SCHAMMEL, an individual; and CALIFORNIA RIFLE & PISTOL ASSOCIATION, INCORPORATED, a California corporation,

Plaintiffs,

v.

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

Defendants.

CASE NO.: 8:22-cv-01421-CJC(ADSx)

ORDER RE: STIPULATION TO DISMISS SECOND CLAIM FOR RELIEF WITH PREJUDICE

ORDER

The Court, having considered the Parties' Joint Stipulation to Dismiss Plaintiffs' Second Claim for Relief (for unconstitutional discrimination against interstate commerce) with Prejudice, and good cause appearing, hereby ORDERS as follows:

1. Parties agree to dismiss WITH PREJUDICE the claim for relief in the operative complaint entitled Second Claim for Relief for Unconstitutional Discrimination Against Interstate Commerce, in consideration for Defendant waiving any claim for attorney's fees and costs of suit under California Code of Civil Procedure section 1021.11 arising from such dismissal
2. Plaintiffs will effectuate such dismissal by Stipulation filed on September 22, 2022 [Docket No. 16] and by filing within the time limits allowed under FED R. CIV. P. 15 an amended pleading (as extended by prior stipulation and order) reflecting that such claim has been dismissed.
3. Parties hereby stipulate to such dismissal and request that the Court enter a dismissal with prejudice of Plaintiffs' Second Claim for Relief as to all Defendants.

IT IS SO ORDERED.

Dated: September 26, 2022

Hon. Judge Cormac J. Carney
UNITED STATES DISTRICT JUDGE