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13 **UNITED STATES DISTRICT COURT**
14 **EASTERN DISTRICT OF CALIFORNIA**

15 MARK BAIRD and
16 RICHARD GALLARDO,

17 Plaintiffs,

18 v.

19 XAVIER BECERRA, in his official
20 capacity as Attorney General of the State of
21 California, and DOES 1-10,

22 Defendants.

Case No. 2:19-CV-00617-KJM-AC

**PLAINTIFFS' NOTICE OF
MOTION AND SECOND MOTION
FOR A PRELIMINARY INJUNCTION**

[Fed. R. Civ. P. 65(a)]

Date: June 18, 2021
Time: 10:00 a.m.
Courtroom: 3
Judge: Hon. Kimberly J. Mueller
Trial Date: None set
Action Filed: April 9, 2019

1 TO DEFENDANT XAVIER BECERRA, in his official capacity as Attorney General for
2 the State of California:

3 PLEASE TAKE NOTICE that on June 18, 2021 at 10:00 a.m., or as soon thereafter as this
4 matter may be heard before the Honorable Kimberly J. Mueller in Courtroom 3 on the 15th Floor
5 of the United States District Court for the Eastern District of California, located at the Robert T.
6 Matsui Federal Courthouse at 501 I Street, Sacramento, California 95814, Plaintiffs Mark Baird
7 and Richard Gallardo will and hereby do move under Rule 65(a) of the Federal Rules of Civil
8 Procedure for an order temporarily enjoining Defendant Attorney General Xavier Becerra and his
9 agents, servants, employees, those working in active concert with him and those who have actual
10 notice of such order (i) from the enforcement of Penal Codes §§ 26350 and 25850 against
11 individuals carrying a handgun open and exposed in public throughout the State of California; (ii)
12 enjoining defendant Becerra from further refusal to perform his ministerial duty to issue a standard
13 application form, process and procedure to the licensing authorities in this State for use by the
14 public to apply for an open carry license under §§ 26150 and 26155, consistent with the Penal Code
15 and the obligations of his office; (iii) the enforcement and implementation of the “may issue”
16 language of Penal Codes §§ 26150 and 26155 pertaining to the issuance of an open carry license;
17 (iv) the enforcement and implementation of the “good cause” language of Penal Codes §§ 26150
18 and 26155 pertaining to the issuance of an open carry license; (v) from the enforcement and
19 implementation of the geographical restrictions on the validity of an open carry handgun license
20 issued under Penal Codes §§ 26150 and 26155 during the pendency of this action.

21 Plaintiffs bring this motion because Penal Codes § 26150 and § 26155 violate the
22 preexisting right to bear arms for self-defense as enumerated in and protected by the plain language
23 of the Second Amendment; Penal Codes § 26350 and § 25850 subject Plaintiffs to criminal
24 prosecution, incarceration, fines, and penalties for lawfully exercising their Second Amendment
25 right to bear arms for self-defense.

26 The aforementioned statutes have caused Plaintiffs irreparable harm and will continue to
27 cause irreparable harm if Plaintiffs’ motion is not granted.

1 This motion is based on the within Notice of Motion and Second Motion for a Preliminary
2 Injunction, the accompanying Memorandum of Points and Authorities filed in support, the
3 supporting declarations of Mark Baird and Richard Gallardo, and the exhibits attached thereto, all
4 pleadings on file in this action, and such other matters as may properly come before the Court.

5
6 In accordance with this Court's standing order, counsel for Plaintiffs and the Attorney
7 General conferred on April 13, 2021 with a view toward resolving the claims that are the subject
8 of this motion. Counsel agreed that these claims remain in dispute and that meet-and-confer
9 efforts have been exhausted.

10 Dated: April 12, 2021

Respectfully submitted,

THE BELLANTONI LAW FIRM, PLLC

/s/ Amy L. Bellantoni

Amy L. Bellantoni, Esq.

Counsel for Plaintiffs

Pro Hac Vice

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