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11 *Pro Hac Vice*

12 Attorneys for Plaintiffs

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

15 MARK BAIRD and
16 RICHARD GALLARDO,
17 Plaintiffs,

18 v.

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

22 Defendants.

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

**DECLARATION OF MARK BAIRD
IN SUPPORT OF THIRD MOTION
FOR PRELIMINARY INJUNCTION**

Date: October 21, 2022

Time: 10:00 a.m.

Room: 3

Judge: Hon. Kimberly J. Mueller

DECLARATION OF MARK BAIRD

1
2 1. I, Mark Baird, am a plaintiff in the above-captioned matter. I submit this
3 Declaration in support of the plaintiffs’ motion for a preliminary injunction to enjoin California
4 Penal Codes §§ 25850 and 26350 and their enforcement by Defendant Bonta, his officers, agents,
5 servants, employees, and all persons acting in concert with him who receive actual notice of the
6 injunction. I make this declaration of my own personal knowledge and, if called as a witness, I
7 could and would testify competently to the truth of the matters set forth herein.
8

9 2. I am over the age of 18 and a resident of Siskiyou County, California, located in
10 the Eastern District of California.

11 3. I am not prohibited from possessing, purchasing, receiving, or transferring
12 firearms under state or federal law.

13 4. I possess firearms in my home for self-defense, conduct which is not prohibited
14 under the California Penal Code.

15 5. I intend to carry a firearm open and exposed on my person, loaded, or unloaded,
16 for self-defense outside of my home and throughout California. While the right to carry a
17 handgun for self-defense is presumptively protected by the Second and Fourteenth Amendments,
18 under Penal Codes §§25850 and 26350, I will still face arrest, prosecution, incarceration, fines,
19 and other criminal penalties simply for exercising the rights protected by the Second Amendment.
20

21 6. I do not hold a license to carry a firearm in California and I do not fall within any
22 of the exemptions to those sections of the California Penal Code that criminalize the possession of
23 firearms, whether loaded or unloaded, under Penal Codes §§ 26350 and 25850.
24

25 7. There is no avenue for obtaining an open carry license in California, no open carry
26 license has been issued since 2012, and even if there were an avenue to obtain an open carry
27

1 license and the Siskiyou Sheriff would issue one (which all indications reveal he will not)
2 requiring an ordinary citizen, like myself, to apply for and obtain a license *before* I can legally
3 carry a firearm open and exposed for self-defense violates the plain text of the Second
4 Amendment, which states that the right protected thereunder “shall not be infringed.”

5
6 8. I am suffering and continue to suffer irreparable harm by the ongoing deprivation
7 of my preexisting and guaranteed individual right to bear arms for self-defense, the exercise of
8 which will subject me to criminal penalties under Penal Codes §§ 26350 and 25850.

9 9. Based on the continuing violation of my right to bear arms in public for self-
10 defense, I request that (i) defendant Bonta, his officers, agents, servants, employees, and all
11 persons acting in concert with him who receive actual notice of the injunction, from enforcing
12 Penal Codes §§ 25850 and 26350 against individuals carrying a handgun open and exposed for
13 self-defense in public throughout the State of California for the pendency of this matter.
14

15 I declare under penalty of perjury under the laws of the United States of America that the
16 foregoing is true and correct.

17
18 Dated: August 7, 2022

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Mark Baird

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Plaintiffs,

v.

ROB BONTA, in his official capacity as
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DECLARATION OF MARK BAIRD

1. I, Mark Baird, am a plaintiff in the above-captioned matter. I submit this Declaration in support of the plaintiffs' motion for a preliminary injunction to enjoin California Penal Codes §§ 25850 and 26350 and their enforcement by Defendant Bonta, his officers, agents, servants, employees, and all persons acting in concert with him who receive actual notice of the injunction. I make this declaration of my own personal knowledge and, if called as a witness, I could and would testify competently to the truth of the matters set forth herein.

2. I am over the age of 18 and a resident of Siskiyou County, California, located in the Eastern District of California.

3. I am not prohibited from possessing, purchasing, receiving, or transferring firearms under state or federal law.

4. I possess firearms in my home for self-defense, conduct which is not prohibited under the California Penal Code.

5. I intend to carry a firearm open and exposed on my person, loaded, or unloaded, for self-defense outside of my home and throughout California. While the right to carry a handgun for self-defense is presumptively protected by the Second and Fourteenth Amendments, under Penal Codes §§25850 and 26350, I will still face arrest, prosecution, incarceration, fines, and other criminal penalties simply for exercising the rights protected by the Second Amendment.

6. I do not hold a license to carry a firearm in California and I do not fall within any of the exemptions to those sections of the California Penal Code that criminalize the possession of firearms, whether loaded or unloaded, under Penal Codes §§ 26350 and 25850.

7. There is no avenue for obtaining an open carry license in California, no open

carry license has been issued since 2012, and even if there were an avenue to obtain an open carry

license and the Siskiyou Sheriff would issue one (which all indications reveal he will not) requiring an ordinary citizen, like myself, to apply for and obtain a license *before* I can legally carry a firearm open and exposed for self-defense violates the plain text of the Second Amendment, which states that the right protected thereunder “shall not be infringed.”

8. I am suffering and continue to suffer irreparable harm by the ongoing deprivation of my preexisting and guaranteed individual right to bear arms for self-defense, the exercise of which will subject me to criminal penalties under Penal Codes §§ 26350 and 25850.

9. Based on the continuing violation of my right to bear arms in public for self-defense, I request that (i) defendant Bonta, his officers, agents, servants, employees, and all persons acting in concert with him who receive actual notice of the injunction, from enforcing Penal Codes §§ 25850 and 26350 against individuals carrying a handgun open and exposed for self-defense in public throughout the State of California for the pendency of this matter.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



Mark Baird

Dated: August 7, 2022

2

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THIRD MOTION FOR PRELIMINARY INJUNCTION