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8	UNITED STATES DISTRICT COURT		
9	FOR THE EASTERN DISTRICT OF CALIFORNIA		
10			
11	Mark Baird and Richard Gallardo,	No. 2:19-cv-00	617-KJM-AC
12	Plaintiffs,	ORDER	
13	V.		
14	Rob Bonda, et al.,		
15	Defendants.		
16		J	
17	At hearing on the pending motion for a preliminary injunction, the court issued a further		
18	Rule 16 scheduling order from the bench. Mins., ECF No. 77. The court reopened discovery on		
19	its own motion, setting a new deadline for fact discovery in May 2023, expert disclosures and		
20	depositions between June and August 2023, and dispositive motion hearings in September 2023.		
21	Id. The court permitted objections within fourteen days. Id. Plaintiffs filed objections; the state		
22	did not. See Objs., ECF No. 81. In general, plaintiffs argue a revised schedule is unnecessary		
23	and prejudicial because the relevant circumstances and law have not changed since the previous		
24	expert discovery deadline passed in November 2021. See generally id.; see also Stip. & Order,		
25	ECF No. 55.		
26	Since November 2021, however, plaintiffs further amended their complaint, refocusing		
27	their claims on two sections of the California Penal Code. ECF No. 68. The Supreme Court also		
28	issued its decision in New York State Rifle & Pisto	ol Association, Inc.	v. Bruen, 142 S. Ct. 2111,

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1 2132 (2022). In *Bruen*, the Supreme Court "decline[d] to adopt [the] two-part approach" the 2 federal courts of appeals, including the Ninth Circuit, had been using. Id. at 2126. The Court 3 adopted a new test based on "historical tradition." Id. Under this new test, district courts must 4 "assess whether modern firearms regulations are consistent with the Second Amendment's text 5 and historical understanding." See id. at 2131. The Court did not "provide an exhaustive survey 6 of the features that render regulations relevantly similar under the Second Amendment," but it 7 offered some guidance for the "analogical" exercise it outlined for the first time in that case. Id. 8 at 2132–34.

9 The court declines to confine the parties to the factual record and expert opinions they 10 assembled while working with a different complaint and a different legal test. If plaintiffs believe 11 all relevant facts are undisputed and they are entitled to judgment as a matter of law, the 12 scheduling order does not bar them from seeking summary judgment before the September 2023 13 hearing deadline. If the state pursues "unreasonably cumulative or duplicative" discovery, 14 plaintiffs may seek an order from the assigned Magistrate Judge under Federal Rule of Civil 15 Procedure 26(b)(2)(C)(i); see also E.D. Cal. L.R. 302(c)(1) (referring discovery motions to 16 magistrate judges). And under Rule 65, plaintiffs may move for a preliminary injunction to avoid 17 irreparable harms while the case is pending, as they have already done. The court will issue its 18 order in response to that motion as soon as possible now.

- 19 The objections at ECF No. 81 are **overruled**.
- 20 IT IS SO ORDERED.
- 21 DATED: November 22, 2022.

ISTRICT JUDGE