

1 Raymond M. DiGuiseppe  
2 The DiGuiseppe Law Firm, P.C.  
3 4320 Southport-Supply Road, Suite 300  
4 Southport, NC 28461  
5 P: 910-713-8804  
6 E: law.rmd@gmail.com

Michael P. Sousa  
Law Offices of Michael P. Sousa, APC  
3232 Governor Dr., Suite A  
San Diego, CA 92122  
P: 858-453-6122  
E: msousa@msousalaw.com

Bradley A. Benbrook  
Stephen M. Duvernay  
Benbrook Law Group, PC  
701 University Avenue, Suite 106  
Sacramento, CA 95825  
P: 916-447-4900  
E: brad@benbrooklawgroup.com

William A. Sack  
Firearms Policy Coalition  
426 Campbell Avenue  
Havertown, PA 19083  
P: 916-596-3492  
E: Wsack@fpclaw.org

11 Attorneys for Plaintiffs

12 **UNITED STATES DISTRICT COURT**  
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 Lana Rae Renna; Danielle Jaymes; Laura  
15 Schwartz; Michael Schwartz; Robert  
16 Macomber; Clint Freeman; John Klier;  
17 Justin Smith; John Phillips; Cheryl  
18 Prince; Darin Prince; Ryan Peterson;  
19 PWGG, L.P.; North County Shooting  
20 Center, Inc.; Gunfighter Tactical, LLC;  
21 Firearms Policy Coalition, Inc.; San  
22 Diego County Gun Owners PAC;  
23 Citizens Committee for the Right to  
24 Keep and Bear Arms; and Second  
25 Amendment Foundation,

Plaintiffs,

v.

Robert Bonta, Attorney General of  
California; and Allison Mendoza,  
Director of the California Department of  
Justice Bureau of Firearms,

Defendants.

Case No.: 20-cv-2190-DMS-DEB

**SEPARATE STATEMENT OF  
UNDISPUTED MATERIAL FACTS  
IN SUPPORT OF PLAINTIFFS'  
MOTION FOR PRELIMINARY  
INJUNCTION OR  
ALTERNATIVELY, MOTION FOR  
SUMMARY JUDGMENT**

Date: February 10, 2023  
Time: 1:30 p.m.  
Courtroom 13A (13th Floor)  
Hon. Dana M. Sabraw

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Plaintiffs submit this Separate Statement of Undisputed Material Facts to the extent the Court elects to treat this motion as a Motion for Summary Judgment:

Undisputed Fact	Supporting Citations
1. California’s Unsafe Handgun Act (“UHA”) prohibits the retail sale of any handgun that falls within the statutory definition of an “unsafe handgun.”	<ul style="list-style-type: none"> <li>• Cal. Penal Code §§ 32000, 31910.</li> <li>• Defendants’ Answer to TAC ¶¶ 69, 70</li> </ul>
2. The UHA mandates that DOJ maintain “a roster listing all of the handguns that have been tested by a certified testing laboratory, have been determined not to be unsafe handguns, and may be sold” in California, commonly known as the “Roster of Certified Handguns Certified for Sale.”	<ul style="list-style-type: none"> <li>• Cal. Penal Code §§ 32015(a)</li> <li>• State of California Department of Justice, <i>Handguns Certified for Sale</i>, <a href="https://oag.ca.gov/firearms/certified-handguns/search">https://oag.ca.gov/firearms/certified-handguns/search</a>.</li> <li>• Defendants’ Answer to TAC ¶¶ 69, 70</li> </ul>
3. Pursuant to the UHA, licensed firearm dealers may only sell at retail those handguns that appear on the Roster of Handguns Certified for Sale.	<ul style="list-style-type: none"> <li>• Cal. Penal Code § 32000(a).</li> <li>• Defendants’ Answer to TAC ¶¶ 69, 70</li> <li>• Defendants’ Answer to TAC ¶ 71 (admitting “the Roster contains less than all of the handgun makes and models commercially available throughout the United States”)</li> </ul>

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Undisputed Fact	Supporting Citations
4. As of October 24, 2022, the Roster included 815 models of handgun.	<ul style="list-style-type: none"> <li>• Defendants’ Answer to TAC ¶ 73</li> </ul>
5. As of November 9, 2022, the Bureau of Firearm’s online list of de-certified handgun models showed that hundreds of models have been decertified since December 31, 2001, and that 33 models have been de-certified in 2022.	<ul style="list-style-type: none"> <li>• State of California Department of Justice, <i>De-Certified Handgun Models</i>, <a href="https://oag.ca.gov/firearms/de-certified-handguns">https://oag.ca.gov/firearms/de-certified-handguns</a></li> <li>• Defendants’ Answer to TAC ¶ 78</li> </ul>
6. Individual Plaintiffs are law-abiding, responsible citizens who may lawfully possess firearms.	<ul style="list-style-type: none"> <li>• ECF No. 13-14, C. Prince Decl., ¶ 3</li> <li>• ECF No. 13-15, Jaymes Decl., ¶ 3</li> <li>• ECF No. 13-16, D. Prince Decl., ¶ 3</li> <li>• ECF No. 13-17, Spousta Decl., ¶ 3</li> <li>• ECF No. 13-18, Klier Decl., ¶ 3</li> <li>• ECF No. 13-19, Phillips Decl., ¶ 3</li> <li>• ECF No. 13-20, Smith Decl., ¶ 3</li> <li>• ECF No. 13-21, L. Schwartz Decl., ¶ 3</li> <li>• ECF No. 13-22, M. Schwartz Decl., ¶ 3</li> <li>• ECF No. 13-23, Bailey Decl., ¶ 3</li> <li>• ECF No. 13-25, R. Peterson Decl., ¶ 3</li> </ul>

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Undisputed Fact	Supporting Citations
<p>7. The individual Plaintiffs want to purchase handguns that are not on the Roster of Certified Handguns Certified for Sale (<i>i.e.</i>, “off-Roster handguns”) for lawful purposes that are protected by the Second Amendment. Individual Plaintiffs would purchase these off-Roster handguns but for the UHA’s restriction on their sale.</p>	<ul style="list-style-type: none"> <li>• ECF No. 13-14, C. Prince Decl., ¶¶ 6–8</li> <li>• ECF No. 13-15, Jaymes Decl., ¶¶ 7–11</li> <li>• ECF No. 13-16, D. Prince Decl., ¶¶ 8–10</li> <li>• ECF No. 13-17, Spousta Decl., ¶¶ 6–8</li> <li>• ECF No. 13-18, Klier Decl., ¶¶ 7–10</li> <li>• ECF No. 13-19, Phillips Decl., ¶¶ 10–15</li> <li>• ECF No. 13-20, Smith Decl., ¶¶ 5–10</li> <li>• ECF No. 13-21, L. Schwartz Decl., ¶¶ 6–10</li> <li>• ECF No. 13-22, M. Schwartz Decl., ¶¶ 7–12</li> <li>• ECF No. 13-23, Bailey Decl., ¶¶ 6–8</li> <li>• ECF No. 13-25, R. Peterson Decl., ¶¶ 8–16</li> </ul>
<p>8. The retailer Plaintiffs have customers who are interested in purchasing off-Roster handguns and, but for the UHA, these firearms dealers would sell off-Roster handguns to eligible customers</p>	<ul style="list-style-type: none"> <li>• ECF No. 13-16, D. Prince Decl., ¶ 11</li> <li>• ECF No. 13-19, Phillips Decl., ¶ 16</li> <li>• ECF No. 13-25, R. Peterson Decl., ¶ 17</li> <li>• Phillips Decl. ISO Prelim. Inj., ¶¶ 19–20</li> </ul>

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Undisputed Fact	Supporting Citations
consistent with state and federal law.	
<p>9. The individual Plaintiffs and retailer Plaintiffs are members of each of the organizational Plaintiffs. The organizational Plaintiffs’ members desire to purchase (or, in the case of retailers, sell) constitutionally protected arms for self-defense or other lawful purposes are not currently on, or are not eligible to be added to, the Roster.</p>	<ul style="list-style-type: none"> <li>• ECF No. 13-14, C. Prince Decl., ¶ 4</li> <li>• ECF No. 13-15, Jaymes Decl., ¶ 5</li> <li>• ECF No. 13-16, D. Prince Decl., ¶¶ 4–5</li> <li>• ECF No. 13-17, Spousta Decl., ¶ 5</li> <li>• ECF No. 13-18, Klier Decl., ¶ 6</li> <li>• ECF No. 13-19, Phillips Decl., ¶¶ 4, 6</li> <li>• ECF No. 13-20, Smith Decl., ¶ 4</li> <li>• ECF No. 13-21, L. Schwartz Decl., ¶ 5</li> <li>• ECF No. 13-22, M. Schwartz Decl., ¶ 6</li> <li>• ECF No. 13-23, Bailey Decl., ¶ 5</li> <li>• ECF No. 13-25, R. Peterson Decl., ¶¶ 4–5</li> <li>• Phillips Decl. ISO Prelim. Inj., ¶¶ 19–20</li> <li>• Combs Decl. ISO Prelim. Inj., ¶ 5</li> <li>• Gottlieb Decl. ISO Prelim. Inj., ¶¶ 3–4</li> <li>• M. Schwartz Decl. ISO Prelim. Inj., ¶ 4</li> </ul>

Undisputed Fact	Supporting Citations
<p>10. The off-Roster handguns that the individual Plaintiffs want to purchase and that the retailer Plaintiffs wish to sell are in common use for lawful purposes in the United States outside of California.</p>	<ul style="list-style-type: none"> <li>• ECF No. 13-12, Ostini Decl., pp. 1–9</li> <li>• ECF No. 13-13, Ostini Decl., Ex. 1</li> <li>• Phillips Decl. ISO Prelim. Inj., ¶¶ 3–15</li> <li>• This factual allegation is not subject to genuine or reasonable dispute. <i>Far Out Productions, Inc. v. Oskar</i>, 247 F.3d 986, 992 (9th Cir. 2001) (citing <i>Anderson v. Liberty Lobby, Inc.</i>, 477 U.S. 242, 248-49 (1986) (“An issue is ‘genuine’ only if there is sufficient evidence for a reasonable fact finder to find for the non-moving party”).</li> </ul>

Dated: December 22, 2022

The DiGuiseppe Law Firm, P.C.

Benbrook Law Group, PC

By s/ Raymond M. DiGuiseppe  
 Raymond M. DiGuiseppe  
 Attorneys for Plaintiffs

By s/ Bradley A. Benbrook  
 Bradley A. Benbrook  
 Attorneys for Plaintiffs