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10 Attorneys for Plaintiffs

11 UNITED STATES DISTRICT COURT

12 FOR THE EASTERN DISTRICT OF CALIFORNIA

13 WILLIAM WIESE, et al.,
14
15 Plaintiffs,
16
17 vs.

Case No. 2:17-cv-00903-WBS-KJN

**DECLARATION OF SHERMAN MACASTON IN
SUPPORT OF PLAINTIFFS' MOTION AND
MOTION FOR SUMMARY JUDGMENT**

[FRCP 56]

18
19 ROB BONTA, in his official capacity as
Attorney General of California, et al.,
20
21 Defendants.

Date: None Set
Judge: Hon. William B. Shubb

22 DECLARATION OF SHERMAN MACASTON

23
24 I, Sherman Macaston, declare as follows:

25 1. I am an adult resident of the County of Sonoma, California, and I am a named
26 plaintiff in this matter. I have personal knowledge of the facts stated in this declaration, and if
27 called as a witness, could competently testify thereto.

28 2. This declaration is executed in support of plaintiffs' motion for summary

1 judgment.

2 3. I was born and raised in California, and have been a lifelong resident of this state.

3 I am a law-abiding individual, and I am not prohibited from owning firearms.

4 4. I served my country by serving in the United States Army, and served a combat
5 tour in the Vietnam conflict from 1972 to 1973. I also served in Korea.

6 5. After being honorably discharged from the Army in 1978, I returned to California.
7 At or around that time, I acquired, lawfully, and prior to 2000, large-capacity magazines for a
8 Browning Hi-Power pistol, chambered in 9mm, and also acquired large capacity magazines for a
9 Smith & Wesson Model 59 pistol, also chambered in 9mm. I used and continued to use these
10 pistols (including the magazines) for lawful purposes such as collection, target shooting, and
11 defense of the home.

12 6. As far as I am aware, the magazines that I have for the Smith & Wesson Model 59
13 pistol were the original magazines that were issued with, or sold with, that pistol. On information
14 and belief, no ten-round magazines were ever produced by the original manufacturer (Smith &
15 Wesson) specifically for use with that pistol, before it was apparently discontinued in 1988.
16 Although subsequently-manufactured ten-round magazines may (I am told) be compatible with
17 this particular pistol, I am not sure if this is true and, in any event, I do not wish to ‘part out’ a
18 rare and unique pistol with substitute parts that were not specifically designed for the pistol and
19 may diminish its utility and/or value. I do not have replacement magazines for this pistol. I
20 therefore believe this is a substantial burden on my rights as a gun and property owner.

21 7. I have therefore brought this action on my own behalf, and in a representative
22 capacity on behalf of the class of law-abiding California citizens who have lawfully possessed
23 large-capacity magazines (as that term is defined by statute), since before 2000. Each of these
24 “pre-ban” magazines which I own are inherent operating parts of firearms. Each such firearm
25 containing these “pre-ban” large capacity magazines is lawfully owned by me, as is my right, as
26 guaranteed by the U.S. Constitution.

27 8. I do not wish to remove or sell these pre-ban large-capacity magazines in my
28

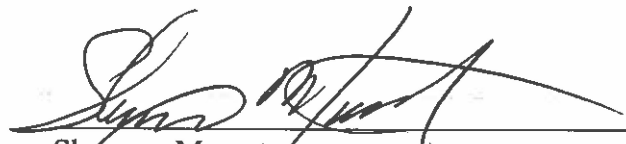
1 possession, as they are literally irreplaceable, given the prohibition on the further purchase,
2 acquisition or manufacture of such items under California law. I am unwilling to destroy or
3 surrender these pre-ban large capacity magazines in my possession.

4 9. Therefore, I believe that these large-capacity magazines in my possession have
5 substantial value, as irreplaceable items. Moreover, it would likely cost me substantial amounts
6 to replace the magazines with functional equivalents, using magazines holding ten or fewer
7 rounds, for which the pistol was not specifically designed. In my view, this deprives me of the
8 beneficial use of the firearm as it was intended to be used, and undermines its utility.

9 10. I am not current or retired peace officer, nor am I a federal firearms licensee
10 (FFL), and therefore, as an ordinary citizen, I do not qualify for the exceptions to the prohibition
11 on the possession of large capacity magazines set forth in Pen. Code sections 32406 or 32410.

12 11. Because of these facts and circumstances, unless the enforcement of Pen. Code §
13 32310(c) is enjoined, I will suffer a permanent physical deprivation of personal property, which
14 happen to be inherent, operating parts of firearms, the ownership of which is protected by the
15 Constitution.

16 I declare under penalty of perjury that the foregoing is true and correct. Executed on
17 February 5 2023.

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20 
21 Sherman Macaston

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