

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 7. Mediation Questionnaire

Instructions for this form: <https://www.ca9.uscourts.gov/forms/form07instructions.pdf>

9th Cir. Case Number(s)

Case Name

Counsel submitting this form

Represented party/parties

Briefly describe the dispute that gave rise to this lawsuit.

Plaintiff-Appellant B&L Productions has operated safe, legal, and family-friendly gun shows throughout California for over 30 years, including at the Del Mar Fairgrounds. B&L's events bring together like-minded individuals to engage in speech and commerce related to, and necessary for, the lawful and regulated exercise of Second Amendment rights. The remaining Plaintiffs-Appellants are individuals, vendors, and organizations that attend B&L gun shows at the Fairgrounds to engage in First Amendment activities that are both necessary and essential to the lawful exercise of their Second Amendment rights.

Defendants-Appellees are government actors responsible for the adoption and enforcement of California Food & Agricultural Code § 4158, which prohibits the sale of firearms, ammunition, and firearm precursor parts at the Fairgrounds. The law's intention and effect is the shuttering of gun shows at the Fairgrounds altogether. Enforcing § 4158, the government has engaged in and continues to engage in conduct that violates Plaintiffs-Appellants' rights to free speech, assembly, and equal protection, as well as their Second Amendment right to buy, sell, and acquire firearms, ammunition, and firearm parts. Defendants-Appellees' conduct also constitutes an unlawful prior restraint, as well as an intentional and negligent interference with prospective economic advantage and an intentional interference with Plaintiffs-Appellants' ability to contract.

This action seeks declaratory and injunctive relief for violation of the United States Constitution. It also seeks damages for lost profits, lost opportunities, and diminished marketing value.

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Briefly describe the result below and the main issues on appeal.

The Southern District granted the Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint, dismissing the First and Fourteenth Amendment claims without leave to amend and dismissing the Second Amendment claim with leave to amend. The court also dismissed the individual-capacity tort claims against Defendants Newsom, Bonta, and Ross.

Because the district court's reasons for dismissing the Second Amendment claim left Plaintiffs-Appellants with no reasonable avenue for amending to cure the deficiencies perceived by the court, Plaintiffs-Appellants filed a notice of intention not to amend. And the district court entered judgment for Defendants-Appellees, dismissing the entire First Amended Complaint as to all defendants.

The issues on appeal are (1) whether § 4158 violates Appellants' First Amendment rights to free speech and assembly; (2) whether § 4158 violates Appellants' Fourteenth Amendment right to equal protection under the law; (3) whether § 4158 violates Appellants' Second Amendment right to buy, sell, and acquire firearms, ammunition, and firearm parts; and (4) whether Appellants sufficiently alleged individual-capacity claims against state officials Newsom, Bonta, and/or Ross to survive a motion to dismiss.

Describe any proceedings remaining below or any related proceedings in other tribunals.

There are no proceedings remaining in this matter in the court below. There is, however, a motion for preliminary injunction submitted and awaiting decision in the Central District of California in the related matter, B&L Productions, Inc., et al., v. Gavin Newsom, et al., Case No. 8:22-cv-01518 JWH (JDEx).

That case raises similar First Amendment, Second Amendment, and Fourteenth Amendment challenges to California Penal Code sections 27573 and 27575, which bar sales of firearms, ammunition, and firearm precursor parts on the property that makes up the Orange County Fair & Event Center and on all state-owned properties, respectively.

Signature

Date

(use "s/[typed name]" to sign electronically-filed documents)