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9 *General*

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
12 CIVIL DIVISION
13

14 **KIM RHODE et al.,**

15 Plaintiffs,

16 v.

17
18 **ROB BONTA, in his official capacity**
as Attorney General of the State of
19 **California, et al.,**

20 Defendant.
21

Case No. 3:18-cv-00802-BEN-JLB

**DEFENDANT'S RESPONSE TO
ORDER SETTING HEARING**

Dept: 5A
Judge: Hon. Roger T. Benitez
Date: July 17, 2023
Action Filed: May 17, 2017

22 Defendant Rob Bonta, in his official capacity as Attorney General of the State
23 of California (Defendant), hereby responds to the Court's Order Setting Hearing
24 (Order), entered on June 30, 2023. Dkt. No. 88. The Order requires the parties to
25 be prepared to address certain issues "[a]t or prior to the hearing," including
26 "[w]hether additional discovery is necessary, and if so, the specific discovery
27 needed." Order at 1–2. Without waiving his ability to address any and all issues
28

1 listed in the Order at the hearing, Defendant wishes to inform the Court of two
2 matters prior to the hearing.

3 First, Defendant intends to request at the hearing an opportunity to engage in
4 discovery, which has not yet occurred in this case. *See* Dkt. No. 81 at 9. Defendant
5 will request an opportunity to depose Plaintiffs and declarants, particularly with
6 respect to Article III standing. Defendant will also propose that the parties be
7 afforded an opportunity to engage in expert discovery concerning relevant history
8 to inform the Court's evaluation of Plaintiffs' Second Amendment claim under *New*
9 *York State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111 (2022).¹

10 Second, Defendant may submit additional documentary evidence at the
11 hearing in support of his arguments that the challenged Ammunition Laws, enacted
12 by Proposition 63, as amended by Senate Bill 1235, are constitutional. Defendant
13 intends to mark and introduce any such exhibits at the hearing.

14 Dated: July 13, 2023

Respectfully submitted,

15 ROB BONTA
16 Attorney General of California
17 R. MATTHEW WISE
18 Supervising Deputy Attorney General
19 JOHN D. ECHEVERRIA
20 Deputy Attorney General

21 *s/ Christina R.B. López*

22 CHRISTINA R.B. LÓPEZ
23 Deputy Attorney General
24 *Attorneys for Defendant Rob Bonta,*
25 *in his official capacity as California*
26 *Attorney General*

27 ¹ Entering judgment against Defendant following a trial conducted pursuant
28 to Federal Rule of Civil Procedure 65(a)(2), without sufficient notice, any
discovery, and an opportunity for Defendant to “present material evidence”—
including with respect to Plaintiffs’ standing—would subject Defendant to
substantial prejudice. *Edmo v. Corizon, Inc.*, 935 F.3d 757, 801 (9th Cir. 2019)
(quoting *Michenfelder v. Sumner*, 860 F.2d 328, 337 (9th Cir. 1998)).