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18 **UNITED STATES DISTRICT COURT**
19 **CENTRAL DISTRICT OF CALIFORNIA**
20 **SOUTHERN DIVISION**

21 RENO MAY, an individual;
22 ANTHONY MIRANDA, an individual;
23 ERIC HANS, an individual; GARY
24 BRENNAN, an individual; OSCAR A.
25 BARRETTO, JR., an individual;
26 ISABELLE R. BARRETTO, an
27 individual; BARRY BAHRAMI, an
28 individual; PETE STEPHENSON, an
individual; ANDREW HARMS, an
individual; JOSE FLORES, an
individual; DR. SHELDON HOUGH,
DDS, an individual; SECOND
AMENDMENT FOUNDATION; GUN
OWNERS OF AMERICA; GUN
OWNERS FOUNDATION; GUN
OWNERS OF CALIFORNIA, INC.;
LIBERAL GUN OWNERS
ASSOCIATION; and CALIFORNIA
RIFLE & PISTOL ASSOCIATION,
INCORPORATED,

Plaintiffs,

v.

ROBERT BONTA, in his official
capacity as Attorney General of the
State of California, and DOES 1-10,

Defendants.

CASE NO:

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

42 U.S.C. §§ 1983 & 1988

1 NOW COME Plaintiffs Reno May, Anthony Miranda, Eric Hans, Gary
 2 Brennan, Tony Barretto, Isabelle R. Barretto, Barry Bahrami, Pete Stephenson, Jose
 3 Flores, Andrew Harms, Dr. Sheldon Hough, DDS, The Second Amendment
 4 Foundation, Gun Owners of America, Gun Owners Foundation, Gun Owners of
 5 California, Inc., the Liberal Gun Owners Association, and the California Rifle &
 6 Pistol Association, Incorporated (collectively “Plaintiffs”), and through their
 7 respective counsel, bring this action against Defendant Attorney General Robert
 8 Bonta, in his official capacity, and make the following allegations.

9 INTRODUCTION

10 1. In *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. ___, 142 S.
 11 Ct. 2111 (2022), the Supreme Court provided its third statement in recent memory
 12 affirming that the Second Amendment is not a second-class right and reiterating
 13 that firearm regulations must comport with the original meaning of the
 14 amendment’s text as understood in the Founding era. In doing so, *Bruen* put an end
 15 to discretionary firearm licensing regimes and vindicated the natural right to be
 16 armed in public for lawful purposes including self-defense. To be sure, the Court
 17 restated its dicta from *District of Columbia v. Heller*, 554 U.S. 570 (2008),
 18 enumerating a discrete category of so-called “sensitive places” where firearms
 19 presumptively may be prohibited survived, but only as a limited exception to the
 20 general rule that the Second Amendment secures a broad right to be armed in all but
 21 a very few public places. Finally, anticipating sophistry from jurisdictions hostile to
 22 the Second Amendment, the Court explained that “there is no historical basis for
 23 New York to effectively declare the island of Manhattan a ‘sensitive place’ simply
 24 because it is crowded and protected generally by the New York City Police
 25 Department.” *Bruen*, 142 S. Ct. at 2118-19.

26 2. Unsurprisingly, however, the California legislature and governor have
 27 treated the central holding in *Bruen* as, at best, policy preferences rather than
 28 constitutional requirements. To that end, California has enacted policies that

1 eviscerate the very right to be armed in public that the plain language of the Second
 2 Amendment secures and that our forebears uniformly understood to preexist any
 3 constitutional text. California’s newly passed Senate Bill 2 (hereafter “SB 2”) turns
 4 the *Bruen* decision on its head, making nearly every public place in California a
 5 “sensitive place” (in name only), and forbidding firearm carry even after someone
 6 has undertaken the lengthy and expensive process to be issued a concealed handgun
 7 license (“CCW permit”) under state law.¹

8 3. California’s atextual, ahistorical, novel “sensitive places” include
 9 every park and playground, every hospital, all public transportation, any place that
 10 sells alcohol (which, in California, includes most gas stations and convenience and
 11 grocery stores), all land under the control of the Department of Parks and
 12 Recreation or the Department of Fish and Wildlife (with exceptions for hunting),
 13 libraries, churches, banks, and many more. California’s SB 2 even transforms
 14 private businesses into “gun-free zones” by default, imposing an unprecedented
 15 affirmative duty on private business owners to post signage to authorize people
 16 exercising an enumerated constitutional right to enter the property.

17 4. In stark contrast to SB 2, *Bruen* recognized a general right to be armed
 18 in public places, subject only to limited, historically valid exceptions. In defiance of
 19 that holding, California has made the right a rare exception in most public places.
 20 Californians who desire to exercise their enumerated right to carry are essentially

21 _____
 22 ¹ Obtaining a CCW permit in California is already a time-consuming process
 23 involving a lengthy application, police interview, background check with
 24 fingerprints, training course and shooting proficiency exam, psychological exam at
 25 the issuing authority’s discretion, and sometimes more than \$1,000 in fees. Jake
 26 Fogelman, *California City to Charge More Than \$1,000 for Gun Carry Permits*,
 27 The Reload (Mar. 1, 2023, 3:29 PM), <<https://thereload.com/california-city-charges-more-than-1000-for-gun-carry-permits/>> (as of August 14, 2023). Indeed,
 28 while not the subject of this lawsuit, SB 2 also makes the process to get a CCW
 permit even more difficult than it already is, and those portions of the law will also
 likely face legal challenges of their own. This case focuses on the pretextual
 “sensitive places” doctrine of SB 2. Only law-abiding and responsible citizens
 would willingly subject themselves to California’s onerous CCW permit process
 just to exercise a natural right. SB 2 abuses these citizens’ good faith. Criminals
 will continue to carry illegally.

1 limited to some streets and sidewalks (so long as those public places are not
2 adjacent to certain other “sensitive” places), plus a few businesses willing to post a
3 “guns allowed” sign at the risk of potentially losing other customers by doing so.

4 5. And, although not relevant to its constitutional infirmity, it is worth
5 noting that SB 2 does nothing to impede criminals who, of course, will not bother
6 to qualify for and obtain CCW permits and who certainly will not follow the law on
7 “sensitive places” when committing other crimes.

8 6. SB 2 creates a patchwork quilt of locations where Second Amendment
9 rights may and may not be exercised, thus making exercise of the right so
10 impractical and legally risky in practice that ordinary citizens will be deterred from
11 even attempting to exercise their rights in the first place.

12 7. In short, if California must issue ordinary citizens CCW permits after
13 *Bruen*, California has decided that it simply will render these permits effectively
14 useless.

15 8. Just as this complaint was being finalized, news broke that New
16 Mexico Governor Michelle Lujan Grisham had issued an emergency order
17 suspending all carry in Albuquerque and Bernalillo County for thirty days, even
18 with a valid CCW permit. The reaction was immediate, with numerous lawsuits
19 filed, and even some famous gun control advocates acknowledging the Order is
20 unconstitutional.² The New Mexico Attorney General has refused to defend the
21

22
23 ² Adam Sabes, *New Mexico Republican legislators call for Dem Gov.*
24 *Grisham's impeachment after gun order: 'She's rogue'*, Fox News (Sep. 9, 2023), <
25 [https://www.foxnews.com/politics/new-mexico-republican-legislators-call-dem-](https://www.foxnews.com/politics/new-mexico-republican-legislators-call-dem-gov-grishams-impeachment-gun-order-rogue)
26 [gov-grishams-impeachment-gun-order-rogue](https://www.foxnews.com/politics/new-mexico-republican-legislators-call-dem-gov-grishams-impeachment-gun-order-rogue)> (as of September 10, 2023) (“Rep.
27 Ted Lieu, D-Calif., weighed in on Grisham's executive order, saying it's
28 unconstitutional. ‘I support gun safety laws. However, this order from the Governor
of New Mexico violates the U.S. Constitution. No state in the union can suspend
the federal Constitution. There is no such thing as a state public health emergency
exception to the U.S. Constitution,’ Lieu said on X, formerly known as Twitter.
David Hogg, who advocates for stricter gun laws, said on X ‘I support gun safety
but there is no such thing as a state public health emergency exception to the U.S.
Constitution.’”).

Order in court.³ That same consensus is applicable here. SB 2 accomplishes almost the same thing as Governor Grisham’s blatantly unconstitutional Order, except on a permanent, statewide basis. By declaring every relevant place off-limits for carry, the only difference between SB 2 and the Bernalillo County Order is that under SB 2, those with CCW permits may still carry on some streets and sidewalks, as well as a few private businesses that post signs allowing legal carry.

9. Each of the Plaintiffs named in this Complaint, as well as the members and supporters of the associational Plaintiffs, will have their Second Amendment rights to keep *and bear* arms infringed if the challenged provisions of SB 2 are not enjoined.

PARTIES

Plaintiffs

10. The individual Plaintiffs are law-abiding residents of California who (save one) have CCW permits issued under California Penal Code Section 26150.

11. The associational Plaintiffs are non-profit civil rights organizations representing their members who have CCW permits and who are harmed by SB 2. The associational Plaintiffs have standing independently of the individual Plaintiffs because their members have standing to sue in their own right (and indeed, several individual Plaintiffs are also members of the associational Plaintiffs), the right to carry is germane to their mission to protect Second Amendment rights, and the constitutional questions presented here do not strictly require the participation of only individual members. *Int’l Longshore & Warehouse Union v. Nelson*, 599 F.

³ Nicole Maxwell, *AG says he won’t defend Lujan Grisham administration in gun order lawsuits*, NM Political Report (Sep. 12, 2023), < <https://nmpoliticalreport.com/2023/09/12/ag-says-he-wont-defend-lujan-grisham-administration-in-gun-order-lawsuits/> > (as of September 12, 2023) (“Though I recognize my statutory obligation as New Mexico’s chief legal officer to defend state officials when they are sued in their official capacity, my duty to uphold and defend the constitutional rights of every citizen takes precedence,” Torrez’s letter stated. “Simply put, I do not believe that the Emergency Order will have any meaningful impact on public safety but, more importantly, I do not believe it passes constitutional muster.”).

1 App'x 701, 702 (9th Cir. 2015).

2 12. Plaintiffs bring this action to vindicate their Second Amendment rights
3 to publicly bear arms for self-defense.

4 13. All individual Plaintiffs are natural persons and citizens of the United
5 States.

6 14. All individual Plaintiffs are eligible to possess firearms under state and
7 federal law and currently own at least one firearm. All individual Plaintiffs also
8 have valid CCW permits (save for Plaintiff Flores, who has a CCW application
9 pending, and who joins this lawsuit with a First Amendment claim as a business
10 owner). Each desire to carry a firearm in public just as they did prior to SB 2,
11 especially considering the rising crime plaguing California.⁴

12 15. Plaintiff Reno May is a resident of Sonoma County, California and a
13 law-abiding citizen of the United States. Mr. May has a CCW permit issued
14 pursuant to California Penal Code Section 26150 by the Sonoma County Sheriff's
15 Department. Prior to SB 2, Mr. May carried a handgun daily, except when he
16 visited one of the very few places where that carry was prohibited, such as schools
17 or courthouses. SB 2 harms Mr. May in many ways, including but not limited to:

- 18 a) Mr. May is a regular customer at a gun store called Sportsman's Arms,
19 and he normally carries when he visits that business establishment.
20 Sportsman's Arms, however, shares a parking lot with several other
21 businesses, including an establishment that serves alcohol. Because SB 2
22 forbids carrying arms even in the parking lots of establishments that serve
23 liquor, Mr. May cannot carry his sidearm while patronizing Sportsman's
24 Arms.

25
26 ⁴ Will Shuck, *Amid pandemic, California murder rate shows shocking rise*,
27 Capitol Weekly (Dec. 8, 2021), <<https://capitolweekly.net/amid-pandemic-california-murder-rate-shows-shocking-rise/>> (as of June 7, 2023) ("Preliminary
28 numbers from California's biggest cities suggest that 2020's stunning 30-percent increase in the statewide murder rate – the largest since 1960 – has continued to rise this year....").

- 1 b) Furthermore, while Sportsman’s Arms may choose to put up a sign
2 allowing its customers to carry arms in the establishment, most businesses
3 are unlikely to do so, and Mr. May will be barred by the State from
4 carrying while he engages in commerce if he also chooses to exercise his
5 right of self-defense in public.
- 6 c) Under SB 2, Mr. May cannot carry arms when he fills up his car with gas,
7 because every gas station that he patronizes also sells lottery tickets.⁵ If a
8 business sells any out-of-state lottery tickets (i.e., not the California State
9 Lottery), arms bearing is forbidden within that business and its parking
10 lot.
- 11 d) Mr. May also cannot exercise his right to public carry in the Santa Rosa
12 Plaza, because the mall hosts an “athletic facility” which is considered a
13 “sensitive place” under SB 2. He thus cannot carry arms in the mall, in its
14 parking lot, or on any of the adjacent sidewalks.
- 15 e) Mr. May frequently visits the city of San Francisco and the greater Bay
16 Area. When he does, he exercises his right to carrying while using the
17 Bay Area Rapid Transit system (“BART”). But for SB 2 and its
18 prohibition against carrying on public transportation, Mr. May would
19 continue carrying a firearm for personal protection while using BART, as
20 he would on all the other public transportation he currently uses.
- 21 f) While conducting his due diligence research to comply with the post-
22 *Bruen* changes to California law,⁶ Mr. May discovered that there is not a
23

24 ⁵ It is important to note that while SB 2 allows private businesses to post
25 signs affirmatively allowing carry, such signs do not matter if the business serves
26 alcohol or sells lottery tickets (besides the California lottery). Those are separate
27 prohibitions under SB 2.

28 ⁶ Prior to this lawsuit, Mr. May released a video on YouTube in which he
described some of the places where he could no longer carry, despite having his
CCW permit. <<https://youtu.be/ZFW5zU1oEEI>> (as of June 8, 2023). While the
video was about SB 918, it applies just as much to SB 2, as the list of “sensitive
places” is identical.

1 single location he regularly visits, besides some sidewalks, where he
2 could actually carry a firearm under SB 2. From his bank to his favorite
3 restaurants, to his gym, everything is now off-limits. His right to carry a
4 firearm for personal protection will be effectively eliminated once SB 2
5 takes effect, in spite of his record of safe and responsible carry and his
6 valid CCW permit.

7 16. Plaintiff Anthony Miranda is a resident of Kings County, California
8 and a law-abiding citizen of the United States. Mr. Miranda has a CCW permit
9 issued pursuant to California Penal Code Section 26150 by the Kings County
10 Sheriff's Department. The infringements on Mr. Miranda's Second Amendment
11 rights caused by SB 2 include but are not limited to:

- 12 a) Prior to SB 2, Mr. Miranda carried daily, except when he intended to
13 visit one of the very few places where carry was prohibited, such as
14 schools or courthouses. SB 2 changes that status quo and now Mr.
15 Miranda practically cannot carry arms in public once the law takes
16 effect.
- 17 b) For example, most of the restaurants Mr. Miranda frequents serve
18 alcohol, so he is barred by SB 2 from carrying within those
19 establishments even if he is not consuming alcohol. He patronizes
20 Chili's, Applebee's, Buffalo Wild Wings, and other chains of that
21 nature. He also likes to visit local establishments that serve alcohol
22 such as Figaro's and El Tarasco, both in Hanford, and Sal's in Selma.
- 23 c) Mr. Miranda does a lot of his shopping in the Hanford Mall. Mr.
24 Miranda will no longer be able to carry there because some of the
25 businesses inside of it serve alcohol, so he cannot even park his car on
26 the premises. And even if the mall had no businesses that served
27 alcohol, it shares a parking lot with restaurants that serve alcohol, so
28 carry is prohibited in the mall's parking lot and its adjacent sidewalks.

- 1 d) Nor could Mr. Miranda easily stop for gas while publicly carrying
2 arms, given nearly all gas stations in the State sell both California and
3 out-of-state lottery tickets.
- 4 e) Mr. Miranda will also be barred from carrying a firearm for self-
5 defense in his church unless the church chooses to post a sign
6 affirmatively allowing firearms, even though it doesn't currently
7 prohibit those with valid CCW permits from carrying. Given recent
8 attacks in churches that targeted people of faith, Mr. Miranda fears for
9 his life. He knows that SB 2 would disarm him because he intends to
10 comply with the law, but those restrictions will not stop criminals
11 intent on violence from attacking people of faith.
- 12 f) Mr. Miranda cannot carry his licensed sidearm while walking in the
13 community where he lives, because his community has a park in the
14 middle of it. Under SB 2, that park and the streets and sidewalks
15 adjacent to it are now off-limits for Mr. Miranda while he is carrying.
16 For example, prior to SB 2, he regularly carried his firearm as he
17 walked to a mailbox across the street from the park to retrieve his mail.
18 SB 2 now makes that act subject to prosecution under the California
19 Penal Code.
- 20 g) As with Mr. May, these are just a few examples of how SB 2 impacts
21 the right to carry arms in public. Mr. Miranda's right to carry will be
22 infringed by SB 2 once it takes effect, despite his CCW permit.

23 17. Plaintiff Eric Hans is a resident of Riverside County, California and a
24 law-abiding citizen of the United States. Mr. Hans has a CCW permit issued
25 pursuant to California Penal Code Section 26150 by the Riverside County Sheriff's
26 Department. He sometimes travels out of state, and therefore also has an out-of-
27 state permit issued by Arizona, which is also valid and recognized in the State of
28 Nevada.

- 1 a) Prior to SB 2, Mr. Hans carried daily, except when he visited one of
2 the very few places where carry was prohibited, such as schools or
3 courthouses. SB 2's drastic change in the status quo means that Mr.
4 Hans will no longer be able to carry at nearly all of the places he visits.
- 5 b) SB 2 causes even more harm to Mr. Hans than most other people
6 because his employment involves constant travel around Southern
7 California. Mr. Hans carries to defend himself during his regular travel
8 to these unfamiliar areas. Often, he must stop at gas stations in places
9 he has never been before. Being unfamiliar with such areas, he
10 typically has no way to know what types of businesses or facilities
11 exist in any given location, much less will he have advance knowledge
12 of which businesses have taken the step to post signage allowing
13 firearms. Thus, he is at risk of inadvertently violating the law by
14 carrying a firearm during his travels.
- 15 c) As part of his business duties, Mr. Hans carries and must deposit large
16 sums of cash at the bank, and he carries a pistol when he does so for
17 his own safety. His bank does not otherwise prohibit his carrying of a
18 concealed firearm, and yet SB 2 strips away his ability to enter a bank
19 or its parking lot (meaning he cannot even leave his gun secured in his
20 car), despite his CCW permit.
- 21 d) Mr. Hans lives directly across the street from a city park, so now if he
22 happens to need to park his car on the street, he risks being in violation
23 of SB 2. While the new law includes an exception for people who must
24 walk through a park to access their residence, it is not clear if that
25 exception applies to the sidewalks and street adjacent to the park. Even
26 if Mr. Hans is covered by that exception, he frequently goes for walks
27 in that same park while carrying, and but for SB 2, would continue to
28 do so.

1 e) Furthermore, Mr. Hans carries in all of the shopping malls, grocery
2 stores, and restaurants he visits across the state. He also carries at
3 church every Sunday. These places will now be off-limits to him
4 unless these destinations affirmatively post a sign announcing that
5 CCW permit holders are allowed to carry on the property. Of course,
6 those properties also must not otherwise fall under any other SB 2
7 restrictions.

8 f) As with the other individual Plaintiffs listed above, this is merely a
9 sample of the ways Mr. Hans's right to publicly carry arms is harmed,
10 in spite of his compliance with California's existing (pre-SB 2) laws
11 on public carry and its CCW permit process.

12 18. Plaintiff Gary Brennan is a resident of San Diego County, California
13 and a law-abiding citizen of the United States. Mr. Brennan has a CCW permit
14 issued pursuant to California Penal Code Section 26150 by the San Diego County
15 Sheriff's Department. SB 2's harm to Mr. Brennan's right to public carry of arms
16 includes but is not limited to:

17 a) Mr. Brennan carried a firearm daily, except when he intended to visit
18 one of the very few places where carry was prohibited, such as schools
19 or courthouses. Due to the changes made by SB 2 to the status quo,
20 Mr. Brennan will effectively no longer be able to carry at nearly all of
21 the places he frequents once the law takes effect.

22 b) Mr. Brennan is the President of the San Diego County Wildlife
23 Federation. As part of his duties, he regularly visits and hikes through
24 public lands. He frequently carries a firearm while performing his
25 duties. While SB 2 exempts certain areas that allow hunting, Mr.
26 Brennan regularly travels through areas that do not allow hunting. He
27 is harmed by SB 2 in both his role as President of the Federation and
28 his own recreational hobbies.

- 1 c) Mr. Brennan is also a certified CCW firearms instructor/trainer for the
2 San Diego County Sheriff's Department, and frequently instructs
3 students how to safely carry a firearm. SB 2's complexity alone affects
4 his ability to provide certainty and clear guidance to his students, given
5 all of the places where public carry of a firearm is jeopardized by SB
6 2's arbitrary and capricious maze of rules.
- 7 d) Mr. Brennan also cannot carry at church, at his bank, or at private
8 businesses, unless those establishments post the State's required
9 signage. This is particularly troubling to Mr. Brennan, given that he
10 frequents many nice restaurants throughout San Diego County and
11 California generally, and all of them serve alcohol. This is so even if
12 Mr. Brennan is not consuming alcohol.
- 13 e) Mr. Brennan's position as the President of the San Diego County
14 Wildlife Federation frequently requires him to carry large sums of cash
15 to the bank, and he can no longer do so while carrying for self-
16 protection, due to SB 2.
- 17 f) As with the other named Plaintiffs, these are just a few examples of the
18 many ways Mr. Brennan's right to carry will be harmed by SB 2, in
19 spite of his compliance with the CCW permit process.

20 19. Plaintiffs Oscar A. Barretto, Jr. and Isabelle R. Barretto are a married
21 couple who reside in Ventura County, California. They are both law-abiding
22 citizens of the United States. The Barrettos each have CCW permits issued pursuant
23 to California Penal Code Section 26150 by the Ventura County Sheriff's
24 Department.

- 25 a) Prior to SB 2 becoming law, each of them carried daily, except when
26 they intended to go to one of the very few places where carry was
27 prohibited, such as schools or courthouses. Due to the status quo
28

1 changes made by SB 2, the Barrettos are practically unable to carry
2 arms publicly at nearly all of the places they frequent.

- 3 b) The need to be able to effectively defend one's self is especially acute
4 for the Barrettos due to Mr. Barretto's former career as a retired
5 California Bail Fugitive Recovery Agent. His work brought him in
6 contact with many unsavory individuals, some of whom likely still
7 harbor ill will towards him. Indeed, his career is one of the major
8 reasons the Barrettos decided to obtain CCW permits in the first place.
9 Now that SB 2 has rendered those permits largely useless, their lives
10 are in danger as a result of being unable to bear arms for self-defense.
- 11 c) The Barrettos also attend church regularly and teach Sunday school at
12 a church that is located on the Camarillo airport grounds. Prior to SB
13 2, they carried to church in case of a violent attack against people of
14 faith like them. Now, they can no longer do so. Even if their church
15 was willing to post signs allowing them to carry, the church's parking
16 lot is located on government-run airport grounds, and is thus a gun-
17 free zone under SB 2.
- 18 d) Mr. Barretto also needs to regularly attend doctor's appointments for
19 treatment of his diabetes and for physical therapy. SB 2 now prohibits
20 Mr. Barretto from carrying his means of self-defense during, to, and
21 from all of these medical appointments.
- 22 e) Most of the restaurants the Barrettos frequent, as well as parks and
23 other places of recreation, are now off-limits if they want to exercise
24 their right to carry arms.
- 25 f) The Barrettos do not consume alcohol, and yet SB 2 restricts them
26 from some of their favorite restaurants even though there is no risk of
27 them becoming intoxicated.
- 28

1 g) As with the other named individual Plaintiffs, these are just a few
2 examples of how the Barrettos will effectively lose their rights to carry
3 once SB 2 takes effect, despite their CCW permits.

4 20. Plaintiff Barry Bahrami is a resident of San Diego County, California
5 and a law-abiding citizen of the United States. Mr. Bahrami has a CCW permit
6 issued pursuant to California Penal Code Section 26150 by the San Diego County
7 Sheriff's Department.

8 a) Prior to SB 2's enactment, Mr. Bahrami carried a firearm daily, except
9 when he visited one of the very few places where such carry was
10 prohibited, like schools or courthouses. Due to the changes made by
11 SB 2, Mr. Bahrami will no longer be able to carry at nearly all the
12 places he frequents once the law takes effect.

13 b) Mr. Bahrami has two children aged 10 and 9, respectively. He is a very
14 involved father and takes his children on trips throughout the state. His
15 son is a big fan of trains, including freight trains, and so they visit
16 railroads and public transit stations. Mr. Bahrami rides the train with
17 his children too and carries his firearm as allowed by law, including on
18 weekend trips between Oceanside and San Clemente to get ice cream
19 by the pier. Both children love to play in parks and visit the library, so
20 Mr. Bahrami takes them to these places frequently. SB 2 will end all
21 these sorts of trips if Mr. Bahrami insists on exercising his right to be
22 armed in public to protect his children. Thus, one of his primary
23 objectives in obtaining a CCW permit is undone by SB 2.

24 c) As with the other individual Plaintiffs, these are just a few examples of
25 SB 2's impact on law-abiding citizens. Mr. Bahrami's right to carry
26 will be effectively eliminated once SB 2 takes effect.

27 21. Plaintiff Pete Stephenson is a resident of Alameda County, California
28 and a law-abiding citizen of the United States. Mr. Stephenson is a veteran who was

1 honorably discharged in the mid-2000s. Mr. Stephenson has a CCW permit issued
2 pursuant to California Penal Code Section 26150 by the Alameda County Sheriff's
3 Department. The ways in which SB 2 harms Mr. Stephenson include but are not
4 limited to:

- 5 a) Prior to SB 2 becoming law, Mr. Stephenson carried daily, except
6 when he visited one of the very few places where carry was prohibited,
7 such as schools or courthouses. Due to the changes made by SB 2, Mr.
8 Stephenson will effectively no longer be able to carry at nearly all the
9 other places he frequents once the law takes effect.
- 10 b) One example of the way SB 2 harms Mr. Stephenson is that he
11 frequently takes his family to visit public attractions in San Francisco,
12 including Fisherman's Wharf, the city's museums, and parks. While
13 there, he will often visit banks (e.g., to withdraw cash from an ATM),
14 dine in restaurants, go shopping, and otherwise enter typical privately
15 owned businesses that are open to the public like shops, galleries, and
16 so forth. On these regular trips to San Francisco, the easiest way to
17 travel is by BART (Bay Area Rapid Transit), from the
18 Dublin/Pleasanton station near Mr. Stephenson's residence in
19 Livermore, to stations in San Francisco and back. SB 2 will make this
20 impossible if he wants to exercise his right to carry arms in public
21 because SB 2 bans carry on public transportation.
- 22 c) As with the other individual Plaintiffs, these are just a few examples,
23 and many more could be listed at length. Mr. Stephenson's right to
24 carry will be effectively eliminated once SB 2 takes effect, despite his
25 CCW permit.

26 22. Plaintiff Andrew Harms is a resident of Los Angeles County,
27 California and a law-abiding citizen of the United States. Mr. Harms has a CCW
28

1 permit issued pursuant to California Penal Code Section 26155 by the Glendale
2 Police Department.

- 3 a) Prior to SB 2 becoming law, Mr. Harms carried daily, except when he
4 intended to visit one of the very few places where carry was
5 prohibited, such as schools or courthouses. Due to the changes made
6 by SB 2, Mr. Harms will effectively no longer be able to carry at
7 nearly all of the other places he frequently visits.
- 8 b) In particular, Mr. Harms takes his children to various places such as
9 restaurants for a meal, parks and playgrounds so they can play, and
10 libraries so they can check out books. All of those will be off-limits
11 once SB 2 takes effect.
- 12 c) As with the other individual Plaintiffs, these are just a few examples,
13 and many more could be listed at length. Mr. Harms's right to carry
14 will be effectively eliminated once SB 2 takes effect, despite his CCW
15 permit.

16 23. Plaintiff Jose Flores is a resident of Fresno County, California and a
17 law-abiding citizen of the United States. He has never been found by any law
18 enforcement agency, any court, or any other government agency to be irresponsible,
19 unsafe, or negligent with firearms in any manner, and he is not prohibited from
20 owning firearms.

- 21 a) Unlike the other individual Plaintiffs, Mr. Flores has not yet been
22 issued a CCW permit, but he is currently in the process of obtaining
23 one from the Fresno County Sheriff's Department.
- 24 b) Mr. Flores is a first-generation Mexican American, a small business
25 owner, and an advocate for Second Amendment rights. He comes from
26 a family of entrepreneurs who own multiple businesses in Fresno.
27 During his high school years, Mr. Flores witnessed a brutal murder
28 outside his family's restraint where a man was mercilessly stabbed

1 multiple times. It was a transformative experience that reinforced his
2 unwavering belief in the importance of the right to self-defense and the
3 Second Amendment – especially the right to be armed in public places.
4 Since he became eligible to purchase firearms, he has been an avid gun
5 owner with a genuine interest in protecting and preserving the
6 constitutional right to keep and bear arms.

- 7 c) While SB 2 will limit Mr. Flores from carrying nearly everywhere
8 once he gets his CCW permit, the law will affect him in an additional
9 and unique way. Mr. Flores is also the owner and operator of Flores
10 Flooring Solutions, a small business in Fresno which includes a
11 showroom open to the public. Plenty of people in Fresno have CCW
12 permits, and Mr. Flores would welcome such individuals carrying in
13 his showroom.
- 14 d) However, as a business owner, Mr. Flores understands the implications
15 of having signage that concealed carry and possession of firearms on
16 his premises is permitted. SB 2 forces him to publicly take a position
17 on a controversial issue that may needlessly alienate customers who
18 oppose gun rights or who do not understand the law. Moreover,
19 burglary and theft are a frequent concern for any business in
20 California, and Mr. Flores fears putting up a “guns allowed” sign may
21 make his business an even more desirable target for thieves, because
22 they may believe he stores firearms on the premises.
- 23 e) Furthermore, Mr. Flores does not want to be a part of legitimizing
24 California’s unconstitutional, anti-Second Amendment scheme by
25 agreeing to put up such a sign. SB 2’s compelled speech requirements
26 violate Mr. Flores’s First Amendment rights, as well as his Second
27 Amendment rights once he obtains his CCW permit.
- 28

1 24. Plaintiff Sheldon Hough, DDS, is a resident of San Bernardino
2 County, California and a law-abiding citizen of the United States. Dr. Hough has a
3 CCW permit issued pursuant to California Penal Code Section 26150 by the San
4 Bernardino County Sheriff's Department.

5 a) Prior to SB 2's addition to the statute books, Dr. Hough carried arms in
6 public daily, except when he intended to visit any of the few places
7 where carry was prohibited, such as schools or courthouses. Due to the
8 changes made by SB 2, Dr. Hough will effectively no longer be able to
9 carry at nearly all of the places he frequents.

10 b) Dr. Hough and his wife, who have been married since 1970, have both
11 made a commitment never to drink alcoholic beverages. There is
12 therefore no risk of him becoming intoxicated while he carries arms in
13 public. Yet under SB 2, if he wants to go out to dinner with his wife,
14 Dr. Hough cannot do so while carrying, because nearly all the
15 restaurants he patronizes also serve alcohol.

16 c) While Dr. Hough shares many of the issues that all Plaintiffs have in
17 common, the Doctor, like Plaintiff Flores, has an additional and unique
18 concern: the status of his own dental office. Dr. Hough has always
19 welcomed people carrying arms into his dental office and he assumes
20 that many of his customers have CCW permits. He wants his business
21 to continue to be open to all peaceable patrons, including those like
22 him with CCW permits, but he does not want to be compelled to put
23 up a sign saying so. Such a sign may alienate other customers and hurt
24 his business, and he should not be compelled to engage in speech to
25 publicly declare a position on a controversial issue in California. This
26 compelled speech would be a violation of his rights under the First
27 Amendment.
28

1 d) Furthermore, even if Dr. Hough wanted to put up such a sign, SB 2
2 contains a separate prohibition for carrying arms in medical facilities
3 like his dental office (a prohibition which also stops him from carrying
4 in his own office). SB 2 makes Dr. Hough's office off-limits for the
5 public carry of arms for him and his patients.

6 25. Plaintiff Second Amendment Foundation, Inc. ("SAF") is a non-profit
7 membership organization. It is incorporated under the laws of the state of
8 Washington and was founded in 1974. SAF has over 720,000 members and
9 supporters nationwide, including thousands of members in California. SAF is
10 dedicated to promoting a better understanding about our constitutional heritage to
11 privately own, possess, and carry firearms through educational and legal action
12 programs designed to better inform the public about gun control issues. SAF has
13 been a pioneer and innovator in defense of the right to keep and bear arms, through
14 its publications and public education programs like the Gun Rights Policy
15 Conference. SAF also expends significant sums of money sponsoring public
16 interest litigation to defend its own interests to disseminate information to like-
17 minded individuals. SAF members with CCW permits are harmed by SB 2 because
18 it effectively makes their efforts and the permits themselves futile by making nearly
19 every public place a "sensitive place" where firearms are forbidden.

20 26. Plaintiff Gun Owners of America ("GOA") is a California non-stock
21 corporation and a not-for-profit membership organization with its principal place of
22 business in Springfield, Virginia and is organized and operated as a non-profit
23 membership organization that is exempt from federal income taxes under Section
24 501(c)(4) of the U.S. Internal Revenue Code. GOA was formed in 1976 to preserve
25 and defend the Second Amendment rights of gun owners. It has more than 2 million
26 members and supporters across the country, including residents within this judicial
27 district and throughout the State of California. GOA members and supporters with
28 CCW permits are harmed by SB 2 because it effectively makes their permits

1 pointless by making nearly everywhere they go in their daily lives a place where
2 carry is forbidden.

3 27. Plaintiff Gun Owners Foundation (“GOF”) is a Virginia non-stock
4 corporation and a not-for-profit legal defense and educational foundation with its
5 principal place of business in Springfield, Virginia and is organized and operated as
6 a non-profit legal defense and educational foundation that is exempt from federal
7 income taxes under Section 501(c)(3) of the U.S. Internal Revenue Code. GOF was
8 formed in 1983 and is supported by gun owners across the country, within this
9 judicial district, and throughout the State of California who, like the individual
10 Plaintiffs, will be irreparably harmed by the implementation and enforcement of SB
11 2. GOF’s supporters with CCW permits are harmed by SB 2 because it effectively
12 makes their permits pointless by making nearly everywhere they go in their daily
13 lives a place where carry is forbidden.

14 28. Plaintiff Gun Owners of California, Inc. (“GOC”) is a non-profit
15 organization incorporated under the laws of the state of California with
16 headquarters in El Dorado Hills, California. GOC is dedicated to the restoration of
17 the Second Amendment in California. GOC members with CCW permits are
18 harmed by SB 2 because it effectively makes their permits pointless by making
19 nearly everywhere they go in their daily lives a place where carry is forbidden.

20 29. Plaintiff Liberal Gun Owners Association of California (“LGC” and
21 also known as the “Liberal Gun Club of California”) carries a rich tradition in the
22 state. As a nonprofit mutual benefit organization registered in California, LGC
23 promotes training and education, diversity, inclusion, and ownership of modern
24 firearms for self-defense. LGC believes that the new, modern shooter is
25 intentionally gender-neutral, and they represent an important part of the firearm
26 owner community. Their members help to represent the minority voices of gun
27 owners across the state. The mission of the LGC is to provide a pro-Second
28 Amendment voice for left-of-center gun owners in the national conversation on

1 firearms. To achieve its mission, LGC encourages new participation in shooting
2 sports and provides firearm safety and shooting instruction programs as well as
3 providing a forum for civil discourse on Second Amendment issues. LGC's
4 members and supporters with CCW permits are harmed by SB 2 because it
5 effectively makes their permits pointless by making nearly everywhere they go in
6 their daily lives a place where carry is forbidden.

7 30. Plaintiff California Rifle & Pistol Association ("CRPA") is a non-
8 profit membership and donor-supported organization qualified as tax-exempt under
9 26 U.S.C. Section 501(c)(4) with its headquarters in Fullerton, California. Founded
10 in 1875, CRPA seeks to defend the civil rights of all law-abiding individuals,
11 including the enumerated right to bear firearms for lawful purposes like self-
12 defense. CRPA regularly participates as a party or amicus in litigation challenging
13 unlawful restrictions on the right to keep and bear arms. It also provides guidance to
14 California gun owners regarding their legal rights and responsibilities. CRPA
15 members include law enforcement officers, prosecutors, professionals, firearm
16 experts, and the general public. CRPA members with CCW permits are harmed by
17 SB 2 because it effectively makes their permits pointless by making nearly
18 everywhere they go in their daily lives a place where carry is forbidden.

19 31. The individual Plaintiffs, and members and supporters of the
20 associational Plaintiffs, wish to continue to exercise their constitutional rights to
21 carry a firearm in public for self-defense, but they cannot continue to do so without
22 risking criminal charges, because SB 2 makes most places off-limits for carry even
23 for those with valid CCW permits.

24 32. The individual Plaintiffs intend to continue to carry their firearms in all
25 places they did before SB 2 was enacted and only refrain from doing so in order to
26 not be charged with a crime. In other words, but for Defendants' enforcement of
27 statutes and policies that prohibit the individual Plaintiffs and members and
28 supporters of the associational Plaintiffs from lawfully carrying a firearm in public,

1 they would continue carrying a firearm in public for self-defense.

2 **Defendants**

3 33. Defendant Robert Bonta is the Attorney General of California. He is
4 the chief law enforcement officer of California. Defendant Bonta is charged by
5 Article V, Section 13 of the California Constitution with the duty to see that the
6 laws of California are uniformly and adequately enforced. Defendant Bonta also
7 has direct supervision over every district attorney and sheriff in all matters
8 pertaining to the duties of those respective officers. Defendant Bonta's duties also
9 include informing the public, local prosecutors, and law enforcement regarding the
10 meaning of the laws of California, including enforcing the law in places where
11 concealed carry is forbidden as defined by SB 2. He is sued in his official capacity.

12 34. The true names or capacities – whether individual, corporate,
13 associate, or otherwise – of the Defendants named herein as Does 1 through 10 are
14 presently unknown to Plaintiffs and are therefore sued by these fictitious names.
15 Plaintiffs pray for leave to amend this Complaint to show the true names or
16 capacities of these Defendants if and when they have been determined.

17 **JURISDICTION AND VENUE**

18 35. This Court has original jurisdiction over this civil action under 28
19 U.S.C. Section 1331 because the claims arise under the Constitution and laws of the
20 United States, thus raising federal questions.

21 36. This Court also has jurisdiction under 28 U.S.C. Section 1343(a)(3)
22 and 42 U.S.C. Section 1983 because this action seeks to redress the deprivation,
23 under color of the laws, statutes, ordinances, regulations, customs, and usages of
24 the State of California, political subdivisions, and state actors thereof, of the rights,
25 privileges, and/or immunities secured to all persons and citizens by the United
26 States Constitution and by Acts of Congress.

27 37. Plaintiffs' claims for declaratory and injunctive relief are authorized by
28 28 U.S.C. Sections 2201-02, and their claim for attorneys' fees is authorized by 42

1 U.S.C. Section 1988.

2 38. Venue in this judicial district is proper under 28 U.S.C. Section
3 1391(b)(2) because a substantial part of the events or omissions giving rise to the
4 claims occurred in the Central District, Southern Division. All of the associational
5 Plaintiffs have members who live within Orange County, and Plaintiff CRPA is
6 located in Fullerton. Moreover, a related case that shares Plaintiffs with this case
7 (both Reno May and CRPA) is proceeding in the Southern Division, with the
8 Attorney General also listed as the Defendant. *See Lance Boland, et al. v. Robert*
9 *Bonta*, Case No. 8:22-cv-01421-CJC(ADSx).

10 **THE RIGHT TO KEEP AND BEAR ARMS**

11 39. The Second Amendment to the United States Constitution provides:
12 “A well regulated Militia, being necessary to the security of a free State, the right of
13 the people to keep and bear Arms, shall not be infringed.” U.S. CONST. amend. II.

14 40. The Supreme Court has recognized that the Second Amendment right
15 to keep and bear arms is an individual right that contemplates, in part, the right of
16 law-abiding, competent adults to “possess and carry weapons in case of
17 confrontation.” *District of Columbia v. Heller*, 554 U.S. 570, 592 (2008).

18 41. The Supreme Court has also held that the Second Amendment, by way
19 of its incorporation through the Fourteenth Amendment, applies equally to prohibit
20 infringements of that right by state and local governments. *McDonald v. City of*
21 *Chicago*, 561 U.S. 742, 750 (2010).

22 42. *Heller* established a “text, history, and tradition” framework for
23 analyzing Second Amendment challenges. *N.Y. State Rifle & Pistol Ass’n v. Bruen*,
24 142 S. Ct. 2111, 2127-29 (2022) (citing *Heller*, 554 U.S. at 634). The *Heller* Court
25 then assessed the historical evidence to determine the prevailing understanding of
26 the Second Amendment at the time of its ratification in 1791. Based on that
27 assessment, the Court concluded that the District of Columbia statute which
28 prohibited possession of the most common type of firearm in the nation (the

1 handgun) lacked a Revolutionary-era analog, did not comport with the historical
2 understanding of the scope of the right, and therefore violated the Second
3 Amendment. Thus, the District of Columbia’s handgun ban at issue in that case was
4 declared unconstitutional.

5 43. More recently, the Supreme Court confirmed and clarified *Heller*’s
6 historical approach to analyzing the Second Amendment’s scope:

7 We reiterate that the standard for applying the Second Amendment is
8 as follows: When the Second Amendment’s plain text covers an
9 individual’s conduct, the Constitution presumptively protects that
10 conduct. The government must then justify its regulation by
11 demonstrating that it is consistent with the Nation’s historical tradition
12 of firearm regulation. Only then may a court conclude that the
13 individual’s conduct falls outside the Second Amendment’s
14 “unqualified command.”

15 *Bruen*, 142 S. Ct. at 2129-30.

16 44. In correcting the misapplication of *Heller* by the lower courts between
17 2010 and 2022, the *Bruen* Court confirmed “that the Second and Fourteenth
18 Amendments protect an individual’s right to carry a handgun for self-defense
19 outside the home.” *Id.* at 2122.

20 45. The *Bruen* Court retained some dicta from the *Heller* decision and
21 noted that the carrying of arms may be restricted in certain presumptively “sensitive
22 places.” But the Court has also noted that “the historical record yields relatively few
23 18th- and 19th-century ‘sensitive places’ where weapons were altogether
24 prohibited.” *Id.* at 2133.

25 46. The *Bruen* Court issued its own caution about sensitive places,
26 warning state actors that “expanding the category of ‘sensitive places’ simply to all
27 places of public congregation that are not isolated from law enforcement defines the
28 category of ‘sensitive places’ far too broadly [as it] would in effect exempt cities
from the Second Amendment and would eviscerate the general right to publicly
carry arms for self-defense.” *Id.* at 2134.

47. The Supreme Court unequivocally confirmed “that the Second and

1 Fourteenth Amendments protect an individual’s right to carry a handgun for self-
 2 defense outside the home.” *Id.* at 2122. That right extends to any public area that is
 3 not a “sensitive place.” *Heller*, 554 U.S. at 592, 626-27. Attorney General Bonta
 4 has already conceded that this holding means California can no longer require
 5 subjective “good cause” to obtain a permit.⁷

6 48. The Supreme Court’s current universe of “sensitive places” where the
 7 right can be restricted include “legislative assemblies, polling places, and
 8 courthouses.” *Bruen*, 142 S. Ct at 2133.

9 49. Beyond those specific places, the Court has instructed courts to
 10 conduct a historical inquiry to determine whether particular areas were considered
 11 (or would have been considered) “sensitive places” during the Founding era. *Id.* at
 12 2135-36. While the Court noted that there may be “new and analogous sensitive
 13 places” to those historically considered as such, it also noted that the term could not
 14 be so broad as to “include all ‘places where people typically congregate.’” *Id.* at
 15 2133.

16 50. The Second and Fourteenth Amendments thus guarantee to all law-
 17 abiding, competent adults the right to carry firearms and ammunition for self-
 18 defense in all public areas that have *not* historically been considered “sensitive
 19 places” or their modern analogues based on relevant history.

20 [CCW Permit Holders Are Effective First Responders]

21 51. On July 17, 2022, a gunman opened fire at Greenwood Park Mall in
 22 Greenwood, Indiana. Tragically, the assailant managed to kill three people.
 23 Fortunately, his rampage was quickly cut short, thanks to the actions of 22-year-old
 24 Elisjsa Dicken. Dicken, who was legally carrying a concealed handgun, fired on

25
 26 ⁷ Until recently, California law required “good cause” to issue a permit. CAL.
 27 PENAL CODE § 26150(a)(2) (Deering 2022). That requirement fails under *Bruen*, as
 28 the Attorney General of California has already confirmed through a legal alert
 memorandum he sent out directing state and local officials to cease enforcing it. A
 copy of that legal alert can be found here: [https://crpa.org/news/blogs/ag-bonta-
 good-cause-requirement-is-unconstitutional/](https://crpa.org/news/blogs/ag-bonta-good-cause-requirement-is-unconstitutional/) (as of June 7, 2023).

1 the attacker, killing him, and ending the slaughter. Dicken's actions likely saved the
2 lives of his girlfriend, who was there with him, and countless others as well.⁸

3 52. On December 29, 2019, two people were killed in a crowded church in
4 Texas when an attacker opened fire. A congregant, Jack Wilson, killed the assailant
5 with his legally carried concealed handgun, stopping the attack in seconds. Other
6 armed congregants were also present and quickly responded as well.⁹

7 53. On August 4, 2018, 150 children at a back-to-school event in a Florida
8 park were engaging in festivities when a shooter opened fire. Before anyone could
9 be injured or killed, an armed bystander who was legally carrying a handgun
10 stopped the gunman.¹⁰

11 54. On June 23, 2023, a man wearing a helmet and carrying a rifle walked
12 into the Turnberry Towers condominium complex in Las Vegas and fired shots at
13 the front desk. The violent attack was stopped by an armed employee before the
14 man could hurt anyone. A resident who witnessed the incident told reporters the
15 employee was "a hero who deserves recognition for stepping in."¹¹

16
17
18 ⁸ National Review Editors, *A Good Guy with a Gun*, National Review (July
19 20, 2022, 6:30 AM), <<https://www.nationalreview.com/2022/07/a-good-guy-with-a-gun/>> (as of June 7, 2023) ("Just 15 seconds elapsed between the beginning of the
20 shooting at the Greenwood Park Mall and Elisjsha Dicken's intervening. Had
21 Dicken not been there, the three innocent people who were killed would have been
22 joined by many others.").

23 ⁹ Travis Fedschun, *Texas church shooting: Gunman kills 2, 'heroic'*
24 *congregants take down shooter*, Fox News (Dec. 29, 2019, 7:47 PM),
25 <<https://www.foxnews.com/us/texas-church-shooting-texas-injured-active>> (as of
26 June 7, 2023); Fox News Editors, *Texas man who stopped church shooting says he*
27 *'had to take out' gunman because 'evil exists,'* Fox News (Dec. 30, 2019, 2:39 PM),
28 <<https://www.foxnews.com/us/texas-church-shooting-man-take-out-gunman-west-freeway-church>> (as of June 7, 2023).

¹⁰ Kyle Swenson, *Bullets flew at a Florida 'Peace in the City' event for kids.*
An armed bystander was ready., Washington Post (Aug. 7, 2018, 5:00 AM),
<<https://www.washingtonpost.com/news/morning-mix/wp/2018/08/07/bullets-flew-at-a-florida-peace-in-the-city-event-for-kids-an-armed-bystander-was-ready/>> (as
of June 7, 2023).

¹¹ *Man hailed 'hero' for stopping shooter at condo complex in Las Vegas*,
Scripps News Las Vegas (June 25, 2023), <<https://scrippsnews.com/stories/man-hailed-hero-for-stopping-shooter-at-condo-complex-in-las-vegas/>> (as of June 27,
2023).

1 55. Most criminally violent encounters are not as dramatic as mass
2 shooting situations, but they still represent deadly threats. On August 31, 2019, a
3 man in Ohio threatened people in a McDonald's with a knife. A customer inside
4 with a carry permit confronted the man at gunpoint. The man put down his knife
5 and was later arrested by the police without further incident.¹²

6 56. There are countless more examples of legally armed men and women
7 heroically stopping violent attacks and saving lives. Such actions make armed
8 citizens "first responders" of the kind that stop violence in public places, even
9 before the police can arrive.

10 57. One database has recorded over 780 defensive gun-use incidents in
11 2022 alone.¹³ But such databases can only capture incidents reported by the media,
12 leaving out countless defensive gun uses that did not result in casualties and did
13 make the news.

14 58. The five heroic individuals listed above, as well as the thousands more
15 who have defended themselves with their lawfully carried handguns, come from
16 diverse backgrounds and all walks of life. But they would have all been considered
17 *criminals* in California under SB 2, as the people in these examples each carried
18 somewhere that is forbidden under this new law.

19 **[CCW Permit Holders Are Law-Abiding]**

20 59. Punishing good people is apparently a feature and not a bug of SB 2.
21 The law targets perhaps the most law-abiding demographic in the country – citizens
22 with CCW permits. Even before the *Bruen* decision, over 40 states were either
23 "shall issue," where a permit must be issued to all citizens who apply and qualify,
24

25 ¹² NBC4 Staff, *Police: Man with gun stops man with knife in Coshocton*
26 *McDonald's*, NBC4 (Sept. 2, 2019, 11:12 AM),
27 <[https://www.nbc4i.com/news/local-news/police-man-with-gun-stops-man-with-](https://www.nbc4i.com/news/local-news/police-man-with-gun-stops-man-with-knife-in-coshocton-mcdonalds/)
28 <[knife-in-coshocton-mcdonalds/](https://www.nbc4i.com/news/local-news/police-man-with-gun-stops-man-with-knife-in-coshocton-mcdonalds/)> (as of June 7, 2023).

¹³ Heritage Staff, *Defensive Gun Uses in the U.S.*, Heritage (July 26, 2022),
<<https://datavisualizations.heritage.org/firearms/defensive-gun-uses-in-the-us/>> (as
of June 7, 2023).

1 or “constitutional carry,” where anyone who is legally eligible to own a gun may
2 carry a pistol concealed or openly without a permit.

3 60. In California, permit issuance is done at the county level, and most
4 counties in the state were effectively “shall issue” despite the unconstitutional
5 good-cause requirement that was previously codified but now defunct after *Bruen*.
6 For instance, Tehama County Sheriff’s Department stated on its Concealed
7 Weapons Permits website that “Sheriff-Coroner Dave Kain supports the right of
8 law-abiding citizens to keep and bear arms. In this regard, all qualified residents of
9 Tehama County are eligible to apply for a permit to carry concealed weapons.”¹⁴
10 An identical statement existed on the website before the *Bruen* ruling.¹⁵

11 61. Despite most counties in California being effectively “shall issue” for
12 decades before *Bruen*, there have been no crime problems resulting from people
13 issued CCW permits in those counties. In fact, last year’s failed SB 918 was
14 opposed by the California State Sheriffs’ Association – in part – because people
15 with CCW permits almost never commit crimes and are not a problem for law
16 enforcement. The Association stated in a letter to all members of the California
17 State Assembly that SB 918 “greatly restricts when and where licensees may carry
18 concealed and could severely restrict the exercising of the right [to bear arms]. . . .
19 [I]ndividuals who go through the process to carry concealed legally are
20 exceedingly unlikely to violate the law, yet SB 918 turns much of the state into ‘no-
21 carry’ zones that will do nothing to foster public safety.”¹⁶

22 62. The evidence available from other states also establishes how
23 overwhelmingly peaceable and law-abiding people with CCW permits are. For
24 example, in 2020, Texas had 1,626,242 active concealed-carry weapon license

25
26 ¹⁴ <<https://tehamaso.org/concealed-weapons/>> (as of June 8, 2023).

27 ¹⁵ <<https://web.archive.org/web/20210918103718/https://tehamaso.org/administration/licenses-permits/concealed-weapons/>> (archived snapshot as of Sept. 18, 2021).

28 ¹⁶ <<https://www.cocosherriff.org/home/showpublisheddocument/496/637973844465821905>> (emphasis added) (as of Sept. 4, 2023).

holders.¹⁷ That made people with such licenses 5.7% of Texas’s population, yet according to the Texas Department of Public Safety, they only committed 0.4334% of the state’s serious crimes, being responsible for just 114 out of a total of 26,304 convictions. Even among those few convictions, only some of the crimes involved a gun at all. And of the ones that did, license holders were responsible for an even smaller proportion of them. For example, there were 1,441 convictions for aggravated assault with a deadly weapon in 2020, but people with a valid concealed weapon license were just 4 of those, or 0.2776% of the total, which is below their per-capita 5.7% share of the population as a whole.

63. The State of Florida confirms this phenomenon. As of May 31, 2023, the state had issued a total of 5,764,684 concealed weapon licenses since October 1, 1987, of which 2,598,330 are currently active.¹⁸ In that nearly 26-year timespan, only 18,290 permits have been revoked (for any reason) without being subsequently reinstated. This is roughly 0.3% of the total permits issued.

64. Florida was the state where the modern right-to-carry movement originally gathered steam (though a handful of states had liberal permit-issuance policies before then). The state’s enactment of shall-issue permitting was met with breathless predictions of wild west-style violence and “blood in the streets,” but none of that happened. Indeed, at least one prominent opponent admitted his error. Florida Representative Ronald A. Silver stated in 1990 that “[t]here are lots of people, including myself, who thought things would be a lot worse as far as that particular situation [carry reform] is concerned. I’m happy to say they’re not.” Clayton E. Cramer & David B. Kopel, “*Shall Issue*”: *The New Wave of Concealed Handgun Permit Laws*, 62 Tenn. L. Rev. 679, 692-93 (1995). John Fuller, general

¹⁷ All data for Texas is from the Texas Department of Public Safety and can be found at <<https://www.dps.texas.gov/section/handgun-licensing/demographic-reports-fiscal-year-2020>> (as of August 14, 2022).

¹⁸ All data for Florida is from the Florida Division of Licensing and can be found at <<https://www.fdacs.gov/Divisions-Offices/Licensing/Statistical-Reports>> (as of June 7, 2023).

1 counsel for the Florida Sheriffs Association, added: “I haven’t seen where we have
2 had any instance of persons with permits causing violent crimes, and I’m constantly
3 on the lookout.” *Id.* The Metro Dade Police Department originally kept detailed
4 records of every incident involving concealed weapon licensees from enactment of
5 the new law in 1987 until August 31, 1992. They stopped doing so because the
6 rarity of such incidents made the effort a waste of time. *Id.*

7 65. There are more states with similar data, but Plaintiffs believe these
8 examples, along with the California State Sheriffs’ Association’s letter, make the
9 point: Even if Defendants could use “public safety” as a reason to curtail the right
10 to carry in places that are not truly sensitive (and Defendants cannot, because *Bruen*
11 forbids such interest balancing), people with carry permits are dramatically more
12 law-abiding than the population as a whole and are thus unlikely to ever pose a
13 threat that can be addressed by SB 2’s draconian policies. Fear of CCW permit
14 holders is irrational, given these statistics. Worse yet, SB 2 dissuades good people
15 from exercising their rights to carry in most places, where people otherwise would
16 have a chance to stop or mitigate criminal attacks. SB 2’s ultimate effect is the
17 continuation of California’s regressive slide into urban anarchy, while law-abiding
18 citizens are left powerless to defend themselves.

19 66. Recently, after Hawaii passed a law very similar to SB 2, some of the
20 Plaintiffs in this action filed an amicus brief. *See Wolford v. Lopez*, No. CV 23-
21 00265 LEK-WRP, 2023 WL 5043805, at *1 (D. Haw. Aug. 8, 2023). Some of the
22 statistical evidence presented here was presented to that court. The *Wolford* court
23 relied in part on this evidence to conclude that there is indeed little threat from
24 people with CCW permits:

25 Although it is possible post-*Bruen* that more conceal carry
26 permits are eventually issued in Hawai’i, that alone does not
27 negate Plaintiffs’ position that the vast majority of conceal carry
28 permit holders are law-abiding. *See, e.g.*, GOA Amicus Brief at
21-22 (stating that Texas in 2020 had [1,441] convictions for
aggravated assault with a deadly weapon but only four of those

convictions were people with valid concealed carry permits – roughly 0.278% of the total).

Id. at *91-92.

The Legislative Response to *Bruen* and Subsequent Legal Challenges

67. Following *Bruen*, New York moved quickly to undermine the Supreme Court’s ruling by passing a law that would: (a) make acquiring a permit more difficult and (b) make most places off-limits for carry. Given how much SB 2 mimics what New York enacted, there is no doubt that it was either inspired by the New York law or inspired by the same anti-Second Amendment sentiment.

68. Federal district courts that have examined New York’s law have all ruled mostly against it as contrary to *Bruen*. See *Antonyuk v. Hochul*, No. 1:22-CV-0986 (GTS/CFH), 2022 U.S. Dist. LEXIS 201944 (N.D.N.Y. Nov. 7, 2022);¹⁹ *Hardaway v. Nigrelli*, No. 22-CV-771 (JLS), 2022 U.S. Dist. LEXIS 200813 (W.D.N.Y. Nov. 3, 2022); *Christian v. Nigrelli*, No. 22-CV-695 (JLS), 2022 U.S. Dist. LEXIS 211652 (W.D.N.Y. Nov. 22, 2022); *Spencer v. Nigrelli*, No. 22-CV-6486 (JLS), 2022 U.S. Dist. LEXIS 233341 (W.D.N.Y. Dec. 29, 2022). Each of these rulings went into tremendous detail about why New York’s “sensitive places” laws (which California now copies with SB 2) are unconstitutional under either the First or Second Amendments.

69. New Jersey followed New York in its post-*Bruen* response, passing a very similar law likewise turning most places into “sensitive places” to nullify the

¹⁹ While the Supreme Court denied emergency relief to lift the Second Circuit’s stay on Judge Suddaby’s ruling in *Antonyuk*, Justices Alito and Thomas referred to that ruling as “thorough” and encouraged the plaintiffs in that matter to file again for emergency relief if the Second Circuit failed to move reasonably quickly in hearing the appeal. *Antonyuk v. Nigrelli*, 143 S. Ct. 481, 481 (2023) (Alito, J., and Thomas, J., concurring) (“The District Court found, in a thorough opinion, that the applicants were likely to succeed on a number of their claims, and it issued a preliminary injunction as to twelve provisions of the challenged law...I understand the Court’s denial today to reflect respect for the Second Circuit’s procedures in managing its own docket, rather than expressing any view on the merits of the case. Applicants should not be deterred by today’s order from again seeking relief if the Second Circuit does not, within a reasonable time, provide an explanation for its stay order or expedite consideration of the appeal.”).

1 right to carry arms in public for self-defense. Predictably, just like the New York
 2 laws, New Jersey's *Bruen*-response laws have been struck down in federal court.
 3 *See Koons v. Reynolds*, No. 22-7464 (RMB/EAP), 2023 U.S. Dist. LEXIS 3293
 4 (D.N.J. Jan. 9, 2023); *Siegel v. Platkin*, No. 22-7464 (RMB/AMD), 2023 U.S. Dist.
 5 LEXIS 15096 (D.N.J. Jan. 30, 2023); *Koons v. Platkin*, No. CV 22-7463
 6 (RMB/AMD), 2023 WL 3478604 (D.N.J. May 16, 2023).

7 70. Most recently, Hawaii followed in the footsteps of New York and New
 8 Jersey and was likewise met with failure at the district court level. *See Wolford*,
 9 2023 WL 5043805, at *1.

10 BACKGROUND ON THE PASSAGE OF SB 2

11 71. California politicians (including Attorney General Bonta), angry at the
 12 Supreme Court for striking down the subjective "good cause" standard under which
 13 thousands were wrongly denied their constitutional rights to carry, responded in
 14 kind.

15 72. First, only a short time after the Court's ruling, the California
 16 Department of Justice leaked the names and private confidential individual
 17 addresses of hundreds of thousands of individuals with CCW permits, including
 18 hundreds of judges and other public officials, exposing them to danger.²⁰

19 73. Then, in 2022, the legislature tried but failed to pass SB 918. While SB
 20 918 would have changed numerous penal codes and made *obtaining* a permit much
 21 more difficult (in ways that are unconstitutional just as SB 2 does), its most
 22 nefarious goal was to make almost every place imaginable a "sensitive place"
 23 where carrying arms is forbidden, even with a CCW permit. The bill included a
 24

25 ²⁰ Katy Grimes, *Assemblyman Patterson Makes Audit Request of Calif. DOJ*
 26 *Over Leaked Gun Owners List*, The California Globe (July 19, 2022, 12:07 PM),
 27 <[https://californiaglobe.com/fr/assemblyman-patterson-makes-audit-request-of-](https://californiaglobe.com/fr/assemblyman-patterson-makes-audit-request-of-calif-doj-over-leaked-gun-owners-list/)
 28 [calif-doj-over-leaked-gun-owners-list/](https://californiaglobe.com/fr/assemblyman-patterson-makes-audit-request-of-calif-doj-over-leaked-gun-owners-list/)> (as of June 7, 2023) ("The DOJ is
 supposed to keep Californians safe. This dump of information does the opposite,'
 Patterson said. 'The Attorney General and Department of Justice should not
 investigate themselves,' Patterson said. 'I don't trust them.'").

1 “vampire provision” which declared that all private businesses are *per se* “sensitive
2 places” unless the business owners place a sign on their door stating that firearms
3 are permitted on the premises.

4 74. The “sensitive places” in SB 2 are identical to those listed in SB 918,
5 including the vampire provision.

6 75. SB 918 failed last year in part because even law enforcement officers
7 and their agencies opposed it. The California State Sheriffs’ Association wrote in a
8 letter to all members of the California State Assembly that “the bill greatly restricts
9 when and where licensees may carry concealed and could severely restrict the
10 exercising of the right. Again, individuals who go through the process to carry
11 concealed legally are exceedingly unlikely to violate the law, yet SB 918 turns
12 much of the state into ‘no-carry’ zones that will do nothing to foster public
13 safety.”²¹

14 76. Notably, even after SB 918 failed to pass, there was no flood of violent
15 crime from people who had only just received CCW permits for the first time. This
16 is common sense – people who go through a costly and time-consuming application
17 process so they can carry firearms legally are simply not likely to break the law.
18 Violent criminals don’t bother with CCW permits and simply carry illegally. This
19 was just as true before *Bruen* as it is now.

20 77. Unfortunately, SB 918 was resurrected in 2023 in the form of SB 2.
21 Politicians lined up with their supporting interest groups for a press conference to
22 announce the bill on February 1, 2023.²²

23 78. If there were any doubt that the point of SB 2 is to repudiate and
24 nullify the *Bruen* ruling, the speakers at the press conference erased that doubt. A
25 speaker from the Giffords organization complained about the “radical *Bruen* ruling”
26 and lamented the fact that there was a “flood of applicants” now seeking to exercise
27

28 ²¹ *Supra* note 15.

²² <<https://twitter.com/i/broadcasts/1vAxRAXgXRVJl>> (as of June 7, 2023).

1 their constitutional rights. A speaker from a similar organization, Brady, said the
2 bill would help with the “disastrous effect of the *Bruen* decision.”²³

3 79. At that same press conference, Governor Newsom used air quotes
4 when discussing the “right” to carry firearms outside the home, making his
5 contempt for the Constitution clear. He also praised the dissent in *Bruen* and
6 complained about judges who issued rulings upholding Second Amendment rights.
7 When a member of the press asked if there was any known issue of people with
8 CCW permits committing crimes, the Governor dodged the question twice and
9 instead complained again about the judges he dislikes. He also called *Bruen* a “very
10 bad ruling.” Of course, Governor Newsom’s security team is not hampered by SB
11 2’s vast “sensitive place” definitions. Rather, he is protected wherever he travels in
12 California.

13 80. The legislative history of SB 2 is replete with vocal opposition from
14 law enforcement groups such as the Peace Officers Research Association of
15 California (PORAC), the largest law enforcement organization in California.
16 PORAC intends to submit a declaration in support of Plaintiffs’ motion for
17 preliminary injunction in this matter.

18 81. The California State Sheriffs’ Association also opposed SB 2, just as it
19 opposed SB 918. In its argument to the State Senate in opposition to SB 2, the
20 Association reiterated that “[t]he circumstance of a CCW holder committing a
21 crime is exceedingly rare yet this bill imposes overreaching provisions that will
22 likely be challenged in court, leaving uncertainty in issuance procedures. Instead of
23 focusing on a law-abiding population, efforts should address preventing gun crimes
24 committed by those who disobey the law and holding them accountable.”

25 82. Other law enforcement groups in opposition to SB 2 include:
26 Arcadia Police Officers’ Association
27

28 ²³ *Id.*

1 Burbank Police Officers' Association
2 California Coalition of School Safety Professionals
3 Claremont Police Officers Association
4 Corona Police Officers Association
5 Culver City Police Officers' Association
6 Deputy Sheriffs' Association of Monterey County
7 Fullerton Police Officers' Association
8 Los Angeles School Police Officers Association
9 Murrieta Police Officers' Association
10 Newport Beach Police Association
11 Orange County Sheriff's Department
12 Palos Verdes Police Officers Association
13 Placer County Deputy Sheriffs Association
14 Pomona Police Officers' Association
15 Riverside County Sheriff's Office
16 Riverside Police Officers Association
17 Riverside Sheriffs' Association
18 San Bernardino County Sheriff's Department
19 Santa Ana Police Officers Association
20 Upland Police Officers Association

21 83. Aside from ignoring the widespread opposition from law enforcement,
22 the legislature simply ignored the several different district court rulings that struck
23 down large portions of similar laws passed by New York and New Jersey while
24 drafting SB 2. Undaunted, the California legislature acted on Governor Newsom's
25 instructions and passed SB 2.

26 84. In the legislative findings for SB 2, the authors wrote that, "when it
27 comes to restrictions on carrying firearms in public, the United States Supreme
28 Court has recognized three times that states may restrict the carrying of firearms in

1 ‘sensitive places.’” The findings predictably omit the Court’s warnings against
 2 making effectively every place a “sensitive place,” including its admonition that
 3 “there is no historical basis for New York to effectively declare the island of
 4 Manhattan a ‘sensitive place’ simply because it is crowded and protected generally
 5 by the New York City Police Department.” *Bruen*, 142 S. Ct. at 2118-19.

6 85. In other legislative findings, the authors attempted to place blame on
 7 people with CCW permits for criminal violence, stating that “[b]roadly allowing
 8 individuals to carry firearms in most public areas increases the number of people
 9 wounded and killed by gun violence.” Yet the data from other states is clear; people
 10 with CCW permits very rarely commit crimes. Indeed, the legislative findings
 11 contain **no evidence** that *people with CCW permits* commit a large share of crime
 12 because no such evidence exists. Nor is there evidence to suggest that the majority
 13 of California counties, which were “shall issue” in practice before *Bruen*, had any
 14 significant number of crimes committed by people exercising their rights pursuant
 15 to California’s then-existing CCW policies. SB 2 is not a response to any public
 16 safety crisis. It is a response to a political crisis by a legislature and governor who
 17 believe they can score points with their voters by restricting the constitutionally
 18 enumerated rights of others.

19 86. While many of the changes and additions SB 2 makes to the Penal
 20 Code are unconstitutional and likely will face legal challenges in other cases, this
 21 Complaint is focused on how SB 2 makes nearly everywhere in California off-
 22 limits for licensed firearm carry, even for those with a valid CCW permit.

23 **How SB 2 Changes Existing Law on the Public Carry of Arms**

24 87. SB 2 adds Section 26230 to the Penal Code, which reads in pertinent
 25 part as follows:

26 (a) A person granted a license to carry a pistol, revolver, or other
 27 firearm capable of being concealed upon the person pursuant to
 28 Section 26150, 26155, or 26170 shall not carry a firearm on or into any
 of the following:

1 (1) A place prohibited by Section 626.9.

2 (2) A building, real property, or parking area under the control of a
3 preschool or childcare facility, including a room or portion of a
4 building under the control of a preschool or childcare facility. Nothing
5 in this paragraph shall prevent the operator of a childcare facility in a
6 family home from owning or possessing a firearm in the home if no
7 child under child care at the home is present in the home or the firearm
8 in the home is unloaded, stored in a locked container, and stored
9 separately from ammunition when a child under child care at the home
10 is present in the home so long as the childcare provider notifies clients
11 that there is a firearm in the home.

12 (3) A building, parking area, or portion of a building under the control
13 of an officer of the executive or legislative branch of the state
14 government, except as allowed pursuant to paragraph (2) of
15 subdivision (b) of Section 171c.

16 (4) A building designated for a court proceeding, including matters
17 before a superior court, district court of appeal, or the California
18 Supreme Court, parking area under the control of the owner or
19 operator of that building, or a building or portion of a building under
20 the control of the Supreme Court, unless the person is a justice, judge,
21 or commissioner of that court.

22 (5) A building, parking area, or portion of a building under the control
23 of a unit of local government, unless the firearm is being carried for
24 purposes of training pursuant to Section 26165.

25 (6) A building, real property, and parking area under the control of an
26 adult or juvenile detention or correctional institution, prison, or jail.

27 (7) A building, real property, and parking area under the control of a
28 public or private hospital or hospital affiliate, mental health facility,
nursing home, medical office, urgent care facility, or other place at
which medical services are customarily provided.

(8) A bus, train, or other form of transportation paid for in whole or in
part with public funds, and a building, real property, or parking area
under the control of a transportation authority supported in whole or in
part with public funds.

(9) A building, real property, and parking area under the control of a
vendor or an establishment where intoxicating liquor is sold for
consumption on the premises.

(10) A public gathering or special event conducted on property open to
the public that requires the issuance of a permit from a federal, state, or
local government and sidewalk or street immediately adjacent to the
public gathering or special event but is not more than 1,000 feet from
the event or gathering, provided this prohibition shall not apply to a
licensee who must walk through a public gathering in order to access
their residence, place of business, or vehicle.

(11) A playground or public or private youth center, as defined in
Section 626.95, and a street or sidewalk immediately adjacent to the

1 playground or youth center.

2 (12) A park, athletic area, or athletic facility that is open to the public
3 and a street or sidewalk immediately adjacent to those areas, provided
4 this prohibition shall not apply to a licensee who must walk through
5 such a place in order to access their residence, place of business, or
6 vehicle.

7 (13) Real property under the control of the Department of Parks and
8 Recreation or Department of Fish and Wildlife, except those areas
9 designated for hunting pursuant to Section 5003.1 of the Public
10 Resources Code, Section 4501 of Title 14 of the California Code of
11 Regulations, or any other designated public hunting area, public
12 shooting ground, or building where firearm possession is permitted by
13 applicable law.

14 (14) Any area under the control of a public or private community
15 college, college, or university, including, but not limited to, buildings,
16 classrooms, laboratories, medical clinics, hospitals, artistic venues,
17 athletic fields or venues, entertainment venues, officially recognized
18 university-related organization properties, whether owned or leased,
19 and any real property, including parking areas, sidewalks, and
20 common areas.

21 (15) A building, real property, or parking area that is or would be used
22 for gambling or gaming of any kind whatsoever, including, but not
23 limited to, casinos, gambling establishments, gaming clubs, bingo
24 operations, facilities licensed by the California Horse Racing Board, or
25 a facility wherein banked or percentage games, any form of gambling
26 device, or lotteries, other than the California State Lottery, are or will
27 be played.

28 (16) A stadium, arena, or the real property or parking area under the
control of a stadium, arena, or a collegiate or professional sporting or
eSporting event.

(17) A building, real property, or parking area under the control of a
public library.

(18) A building, real property, or parking area under the control of an
airport or passenger vessel terminal, as those terms are defined in
subdivision (a) of Section 171.5.

(19) A building, real property, or parking area under the control of an
amusement park.

(20) A building, real property, or parking area under the control of a
zoo or museum.

(21) A street, driveway, parking area, property, building, or facility,
owned, leased, controlled, or used by a nuclear energy, storage,
weapons, or development site or facility regulated by the federal
Nuclear Regulatory Commission.

(22) A church, synagogue, mosque, or other place of worship,
including in any parking area immediately adjacent thereto, unless the

operator of the place of worship clearly and conspicuously posts a sign at the entrance of the building or on the premises indicating that licenseholders are permitted to carry firearms on the property. Signs shall be of a uniform design as prescribed by the Department of Justice and shall be at least four inches by six inches in size.

(23) A financial institution or parking area under the control of a financial institution.

(24) A police, sheriff, or highway patrol station or parking area under control of a law enforcement agency.

(25) A polling place, voting center, precinct, or other area or location where votes are being cast or cast ballots are being returned or counted, or the streets or sidewalks immediately adjacent to any of these places.

(26) Any other privately owned commercial establishment that is open to the public, unless the operator of the establishment clearly and conspicuously posts a sign at the entrance of the building or on the premises indicating that licenseholders are permitted to carry firearms on the property. Signs shall be of a uniform design as prescribed by the Department of Justice and shall be at least four inches by six inches in size.

(27) Any other place or area prohibited by other provisions of state law.

(28) Any other place or area prohibited by federal law.

(29) Any other place or area prohibited by local law.

CAL. PENAL CODE § 26230(a) (Deering 2022).

GENERAL ALLEGATIONS

[SB 2's Designation of Sensitive Places Violates the Second Amendment]

88. This case does not involve a challenge to any of the presumptively “sensitive places” currently identified by the U.S. Supreme Court. Rather, the focus of this suit is the radical expansion of so-called “sensitive places” made by SB 2.

89. SB 2 leaves Plaintiffs with few, if any, places they can carry arms for self-defense. For example:

a) If Plaintiffs have to pick up a child from daycare, they cannot carry a weapon for self-defense and/or the defense of their child.

b) If they are going into any building (or adjacent parking lot) under the

1 control of an officer of the State’s legislative or executive branch, or of
2 a local government, they cannot carry there, even in the absence of any
3 posted signage and even if they are not aware of who controls the
4 building or the parking lot.

5 c) Plaintiffs are forbidden to exercise their rights where a municipality
6 provides city-owned public parking in a downtown area or shopping
7 center to allow for commerce to be conducted. CCW holders cannot
8 park in those areas, notwithstanding that the CCW holder is present in
9 that parking lot to transact business wholly unrelated to any
10 government function or agency, e.g., to make purchases at a mall,
11 deposit cash at a bank, etc. Under SB 2, every municipally owned
12 parking lot is now a no-go “gun free zone” for concealed carry permit
13 holders exercising their rights to public carry of arms. Plaintiffs may
14 have no idea they are even violating the law if it is not clear who owns
15 the building or parking lot they have entered.

16 d) Plaintiffs cannot carry arms into a building where medical services are
17 provided, even if those services are only provided in some rooms in
18 the building and they are not aware of it, as this would violate SB 2.

19 e) SB 2 makes all public transportation off-limits for carry, effectively
20 nullifying a constitutional right when Plaintiffs (or other people with
21 CCW permits) must rely on public transportation to conduct their daily
22 activities, including going to and from work, grocery shopping, and
23 other common activities. SB 2 thus creates a means-test (access to
24 private transportation) for the exercise of a constitutionally enumerated
25 right that shall not be infringed.

26 f) If Plaintiffs (or other permit holders) park in a parking lot of an
27 establishment where alcohol is served while they are carrying, even if
28 they do not enter that establishment, they are in violation of SB 2.

- 1 g) All major “public gatherings” are also off-limits, as are playgrounds,
2 athletic areas and facilities, and parks, as well as the streets and
3 sidewalks adjacent to them. Since public gatherings often involve the
4 exercise of other constitutional rights (speech, assembly, petition,
5 religious exercise), Plaintiffs are required to trade one constitutional
6 right for another.
- 7 h) The public carry of arms is now forbidden even on land operated by
8 the Department of Parks and Recreation or Department of Fish and
9 Wildlife, except those areas that allow hunting or recreational
10 shooting.
- 11 i) Plaintiffs also would be forbidden to carry in casinos or their parking
12 lots, as well as almost anywhere lottery tickets are sold. Because
13 almost all businesses that sell California lottery tickets also sell multi-
14 state lottery tickets (like Powerball), SB 2 eliminates just about every
15 convenience store, gas station, and grocery store from being a place
16 where a person can carry arms to protect themselves. Thus, even if
17 those businesses put up a sign affirmatively allowing their patrons to
18 carry arms on the premises to undo SB 2’s unprecedented vampire
19 provision, other SB 2 provisions independently make customers’ carry
20 illegal.
- 21 j) Plaintiffs who wish to exercise their rights to carry are also excluded
22 from stadiums, arenas, public libraries, airports, amusement parks,
23 zoos, museums, all places of worship that do not affirmatively post
24 signs allowing firearms, and financial institutions. Additionally, the
25 parking lots of all such places are also considered “sensitive places”
26 Under SB 2.
- 27 k) Perhaps most egregiously of all, SB 2 adds a “vampire clause” for
28 private businesses. While some states with “shall issue” permitting

1 systems allow private businesses to put up signs that forbid carrying
2 arms into the business, SB 2 inverts that policy. If a business wants to
3 welcome people with carry permits, it is compelled to put a sign on its
4 door saying so. In the parts of California hostile to Second
5 Amendment rights, most businesses will opt not to post such a sign
6 (politically unpopular speech) for fear of public backlash, further
7 ostracizing Plaintiffs. There is no historical basis for this kind of
8 compelled speech on businesses that wish to *allow* constitutionally
9 permissible activity on their privately owned places of public
10 accommodation. Whether or not a business is actually sensitive, of
11 course, is not determined by the desires of the State, or even of that
12 business. It is either categorically justified pursuant to *Bruen*'s
13 exacting historical test, or it isn't. It cannot be made sensitive based on
14 the subjective desires of the State or a business's owners.

15 l) On top of all of that, SB 2 also allows local governments unfettered
16 and open-ended discretion to create additional places where carry is
17 forbidden, though it is difficult to imagine what is left to restrict.

18 90. SB 2 has unintended (or perhaps intended) consequences that are
19 counterproductive to public safety. Even if Plaintiffs park somewhere else and
20 leave their firearms in a locked box in their cars to avoid violating SB 2, they
21 expose those firearms to theft. Firearm theft and loss is a problem California law
22 already tries to avoid. *See, e.g.*, California Penal Code Section 25250 (requiring
23 prompt reporting of lost or stolen firearms). By making nearly everywhere off-
24 limits for the right to carry arms in public, for any CCW permit holder who is still
25 willing to attempt the feat, SB 2 will force them to leave their firearms unattended
26 in their cars and risk having them stolen. This is especially a risk in cities like San
27 Francisco, where car windows and trunks are frequently left open by their owners
28

1 because otherwise, criminals will shatter them to steal whatever is inside.²⁴ If one
 2 of these criminals gets their hands on a firearm someone was forced to leave in their
 3 vehicle due to overbearing SB 2 restrictions, disaster may result.

4 91. This predicament will only encourage firearm theft, and SB 2 likely
 5 will be a great boon to the black-market gun trade. It is not hard to imagine would-
 6 be thieves waiting near parking lots to see signs of someone unholstering and
 7 securing their gun in a car before entering a SB 2 “sensitive place.” The safer place
 8 for a firearm is concealed on one’s person, not stored in an unoccupied vehicle that
 9 can be broken into (even if the firearm is secured, because an entire lockbox can be
 10 taken away and pried open elsewhere).

11 92. In essence, Plaintiffs are left with some streets, some sidewalks, a few
 12 parking lots, and a handful of private businesses that are willing to put up signs
 13 allowing carry (so long as those businesses are not restricted under another SB 2
 14 provision) as places where they can exercise their rights to carry arms for self-
 15 defense in public. Plaintiffs practically cannot carry arms for self-defense at all if
 16 they use public transportation for their daily affairs, and even those who own their
 17 own vehicles risk having to constantly leave their firearm in their car, exposing it to
 18 theft.

19 93. SB 2 infringes the right of self-defense of the law-abiding while
 20 empowering violent predators with the knowledge that they are unlikely to
 21 encounter armed resistance at nearly any public place. Indeed, criminals will have
 22
 23

24 ²⁴ Marjorie Hernandez, *Brazen Bay-area burglars in a Lexus filmed breaking*
 25 *into line of cars one after the other in broad daylight*, New York Post (August 17,
 26 2023, 5:09 PM), <[https://nypost.com/2023/08/17/lexus-driving-san-francisco-](https://nypost.com/2023/08/17/lexus-driving-san-francisco-burglar-breaks-into-line-of-cars/)
 27 [burglar-breaks-into-line-of-cars/](https://nypost.com/2023/08/17/lexus-driving-san-francisco-burglar-breaks-into-line-of-cars/)> (as of September 8, 2023); see also Meghan
 28 Roos, *Bay Area Car Owners Leaving Trunks Open While Parked Amid Wave of*
Car Break-ins, Newsweek, (December 16, 2021, 12:29 PM),
 <[https://www.newsweek.com/bay-area-car-owners-leaving-trunks-open-while-](https://www.newsweek.com/bay-area-car-owners-leaving-trunks-open-while-parked-amid-wave-car-break-ins-1660185)
 <[parked-amid-wave-car-break-ins-1660185](https://www.newsweek.com/bay-area-car-owners-leaving-trunks-open-while-parked-amid-wave-car-break-ins-1660185)> (as of September 8, 2023).

1 even greater freedom to act with impunity after SB 2's effective date, as even prior
2 existing permit holders are now almost entirely prohibited from carrying in public.

3 94. SB 2 makes obtaining a CCW permit a futile exercise. Plaintiffs now
4 have far fewer places to exercise the right to carry than they did before SB 2 and
5 even before *Bruen*. They effectively have to map out their entire day ahead of time
6 (including consulting property records) if they want to try and exercise their right to
7 carry arms in public to ensure they do not inadvertently stray into a prohibited
8 place.

9 95. The State bears the burden to prove that all areas included in SB 2 are
10 supported by a broad and enduring early American tradition of identical or
11 relevantly similar regulation. *Bruen*, 142 S. Ct at 2129-30 (explaining that the
12 government must "justify its regulation by demonstrating that it is consistent with
13 the Nation's historical tradition of firearm regulation"). The State cannot meet that
14 burden. No similar historical analogues exist (let alone evidencing a tradition broad
15 enough to survive review) for restricting arms in the places that SB 2 transmutes
16 into a "sensitive place."

17 96. Accordingly, Plaintiffs seek declaratory relief that (1) the State's
18 expansive list of "sensitive places" fails the *Heller-Bruen* test and (2) as written, SB
19 2's restriction on CCW permit holders possessing a firearm or ammunition in
20 places that are not historically sensitive violates the Second and Fourteenth
21 Amendments.

22 97. Plaintiffs also seek preliminary and permanent injunctive relief to halt
23 the enforcement of SB 2, now codified as Penal Code Section 26230, except for
24 those places where carry would have been illegal before the passage of SB 2.

25 **[SB 2 Violates Due Process]**

26 98. SB 2 also violates Plaintiffs' due process rights through lack of notice.
27 By inverting the rule that governments and private business owners must provide
28 signage where public carry is forbidden, SB 2 requires signage where enumerated

rights are permitted. In light of the Second Amendment’s default rule that public carry is permitted unless historically prohibited, SB 2 introduces a defective *mens rea* element should any CCW permit holder be prosecuted under this new law. Individual Plaintiffs as well as members and supporters of the associational Plaintiffs may have no idea a particular place is off-limits for public carry of arms (e.g., when they are not aware that a parking lot they entered is shared with a business that serves alcohol, is owned by a municipality, or is associated with an athletic facility or a doctor’s office, etc.).

99. The general maxim that ignorance of the law is no excuse is limited by the due process requirement of notice. “Ingrained in our concept of due process is the requirement of notice. Notice is sometimes essential so that the citizen has the chance to avoid charges. Notice is required before property interests are disturbed, before assessments are made, before penalties are assessed.” *See Lambert v. California*, 355 U.S. 225, 228 (1957).

[SB 2 Compels Speech in Violation of the First Amendment]

100. As business owners, Plaintiffs Flores and Dr. Hough are compelled to put up a sign if they want to welcome people with CCW permits to carry into their places of business.²⁵ They are forced to choose between supporting their customers’ rights to carry and taking a very public stance on what is a controversial issue in California, which may alienate other customers. SB 2 compels them to speak if they want to continue to allow customers with CCW permits to carry in their businesses.

101. This compelled-speech requirement before a business owner can invite customers into a business while exercising their constitutional rights is

²⁵ As noted before, Dr. Hough’s place of business is also a “sensitive place” in which he is prohibited from carrying because, as a dental office, it qualifies as a “medical facility sensitive place” under SB 2. Although Dr. Hough’s practice may actually be at a higher risk for targeting by thieves because it contains medications coveted for sale on the black market, Dr. Hough cannot even carry a firearm in his own office to mitigate that higher risk. Thus, Dr. Hough is doubly harmed by SB 2 through its compelled speech policy and its preventing him from carrying for self-defense at his own privately owned business.

1 unconstitutional. “Just as the First Amendment may prevent the government from
2 prohibiting speech, the Amendment may prevent the government from compelling
3 individuals to express certain views.” *United States v. United Foods*, 533 U.S. 405,
4 410 (2001). And because the signage requirement has both ministerial and pure
5 political speech elements by requiring Plaintiffs to take a position on a controversial
6 issue, it is subject to strict scrutiny, with the government bearing the burden of
7 proof and the burden of persuasion.

8 102. In sum, but for SB 2 prohibiting the carrying of firearms in obviously
9 non-sensitive places, the individual Plaintiffs and members and supporters of the
10 associational Plaintiffs with CCW permits would carry firearms and ammunition in
11 places that do not – in fact or by law – meet the *Bruen* definition of a “sensitive
12 place.” They refrain from exercising a constitutional right out of legitimate fear of
13 criminal prosecution. This fear stems from the likelihood of violating the new law
14 due to lack of notice, and through this lack of notice they may inadvertently carry
15 their licensed handguns in places forbidden by SB 2.

16 103. The business-owning individual Plaintiffs share the same concerns,
17 and also contend that SB 2 unconstitutionally compels speech in violation of the
18 First Amendment.

19 104. SB 2 contradicts the *Bruen* holding. The Supreme Court held that
20 some places may be “sensitive” but that the historical record supports the existence
21 of “relatively few” such places. *Bruen*, 142 S. Ct. at 2133. Yet while making nearly
22 every public place a sensitive place, the State has eviscerated the right to bear arms
23 and acts in open defiance of the Supreme Court. All but one of the Plaintiffs had a
24 CCW permit prior to *Bruen*. Their rights are now diminished by SB 2 after *Bruen*.
25 Defendant Bonta and his officers and agents must not be allowed to enforce SB 2.

26 105. Crucially, and fatal to SB 2, the burden to establish that *each* of the
27 places listed in Section 26230 are actually sensitive lies with the Defendant(s).
28 Given the Supreme Court’s “sensitive places” doctrine announced in *Bruen*, that is

1 a burden they cannot meet.

2 **DECLARATORY RELIEF ALLEGATIONS**

3 106. There is an actual and present controversy between the parties.
4 Plaintiffs contend that SB 2 is unconstitutional, both facially and as applied to
5 them, because it precludes Plaintiffs and other law-abiding individuals from
6 exercising their enumerated rights to publicly bear arms in *non*-sensitive places.
7 Plaintiffs anticipate that Defendants will deny and dispute this contention.
8 Plaintiffs desire a judicial declaration of their rights and of the duties of the State on
9 this question.

10 107. Plaintiffs also allege that SB 2 violates their rights to due process, both
11 facially and as applied to them. SB 2's lack of notice violates principles of
12 fundamental fairness because Plaintiffs frequently will not have notice as to
13 whether a place prohibits carrying arms on that property. Plaintiffs anticipate that
14 Defendants will deny and dispute this allegation. Plaintiffs desire a judicial
15 declaration of their rights and of the duties of the State on this question.

16 108. Plaintiffs Flores and Dr. Hough own businesses and allege that SB 2
17 imposes unconstitutional compelled-speech requirements on them by forcing them
18 to post signage if they want to welcome people with CCW permits. This is a facial
19 and as-applied challenge under the First Amendment. Plaintiffs desire a judicial
20 declaration of their rights and of the duties of the State on this question.

21 **INJUNCTIVE RELIEF ALLEGATIONS**

22 109. Injunctive relief is necessary to prevent the State from enforcing SB 2
23 against people with CCW permits who carry firearms in public. Specifically,
24 Plaintiffs will request that this Court enjoin – statewide – the enforcement of
25 California Penal Code Section 26230(a).

26 110. If the California legislature follows standard practices, SB 2 will take
27 effect January 1, 2024. Plaintiffs intend to seek an injunction that takes before that
28 time. Should SB 2 take effect, Plaintiffs will be irreparably injured insofar as its

1 provisions preclude Plaintiffs from exercising rights guaranteed by the Second and
2 Fourteenth Amendments. Defendants' enforcement of SB 2 would deny Plaintiffs
3 the right to possess firearms or ammunition in places where they are
4 constitutionally entitled to do so without subjecting themselves to risk of criminal
5 prosecution, including for the lawful purpose of carrying those arms for self-
6 defense.

7 111. SB 2 also contains no signage requirement for places where carry is
8 forbidden, so Plaintiffs have no notice of whether they are violating the law at many
9 of the places they would like to carry. This violates Plaintiffs' due process rights
10 guaranteed by the Fourteenth Amendment.

11 112. SB 2 also unconstitutionally compels speech for Plaintiffs Flores and
12 Dr. Hough who wish to continue to welcome people with CCW permits to carry in
13 their businesses.

14 113. If not enjoined by this Court, Defendants (and law enforcement
15 agencies throughout the state) may enforce SB 2 in violation of Plaintiffs' Second
16 and Fourteenth Amendment rights. Plaintiffs have no plain, speedy, and adequate
17 remedy at law. Damages are indeterminate and unascertainable and would not fully
18 redress any harm suffered by Plaintiffs to engage in activity protected by the
19 Second and Fourteenth Amendments.

20 114. The injunctive relief sought would eliminate that irreparable harm and
21 allow Plaintiffs to exercise their rights to possess a firearm and ammunition in *non*-
22 sensitive public places, including for self-defense. Accordingly, injunctive relief is
23 appropriate.

**FIRST CLAIM FOR DECLARATORY AND INJUNCTIVE RELIEF
U.S. CONST. AMEND. II, XIV
RIGHT TO BEAR ARMS
42 U.S.C. § 1983
AGAINST ALL DEFENDANTS**

115. Plaintiffs hereby reallege and incorporate by reference the allegations in the foregoing paragraphs as if set forth fully herein.

116. SB 2 prohibits Plaintiffs (and similarly situated people) with CCW permits from carrying firearms in public for lawful purposes, including self-defense, in violation of the Constitution.

117. Plaintiffs are prohibited from possessing a firearm or ammunition in places listed in the new Penal Code Section 26230; which includes areas that are manifestly *not* “sensitive places” under Supreme Court precedents interpreting the original meaning of the Second Amendment.

118. By prohibiting law-abiding adults, like Plaintiffs, from bearing arms for self-defense in places where the Second and Fourteenth Amendments guarantee their rights to do so, SB 2 violates those Amendments.

119. Defendants are thus propagating customs, policies, and practices that deprive California residents, including Plaintiffs, of their constitutional rights to bear arms for self-defense in *non*-sensitive public places, as guaranteed by the Second and Fourteenth Amendments.

120. Defendants cannot satisfy their burden to justify these customs, policies, and practices that preclude Plaintiffs from exercising those enumerated rights.

121. Plaintiffs are thus entitled to declaratory and injunctive relief against such unconstitutional customs, policies, and practices.

SECOND CLAIM FOR DECLARATORY AND INJUNCTIVE RELIEF
U.S. CONST. AMEND. XIV
RIGHT TO DUE PROCESS (NOTICE)
42 U.S.C. § 1983
AGAINST ALL DEFENDANTS

122. Plaintiffs hereby reallege and incorporate by reference the allegations in the foregoing paragraphs as if set forth fully herein.

123. SB 2 prohibits Plaintiffs with CCW permits from carrying arms in a multitude of non-sensitive public places, in violation of the Constitution. The areas that SB 2 covers include areas that are not even remotely like the “sensitive places” the Supreme Court has presumptively identified, nor are they historically analogous to such places.

124. As a result, Plaintiffs are prohibited from possessing a firearm or ammunition in any of the places listed in the new California Penal Code Section 26230, which includes areas that markedly are not “sensitive places.”

125. Penal Code Section 26230, however, contains no requirement that signage be posted at all these newly forbidden places, notifying Plaintiffs that carry is prohibited. Plaintiffs thus risk inadvertently entering a place where carry is prohibited despite possessing valid CCW permits, putting them in serious legal jeopardy.

126. In this way, Penal Code Section 26230 violates Plaintiffs’ due process rights by failing to provide them sufficient notice.

127. Defendants are thus propagating customs, policies, and practices that deprive California residents, including Plaintiffs, of their constitutional right to due process, as guaranteed by the Fourteenth Amendment.

128. Defendants cannot satisfy their burden to justify these customs, policies, and practices that violate due process.

129. Plaintiffs are thus entitled to declaratory and injunctive relief against such unconstitutional customs, policies, and practices.

THIRD CLAIM FOR DECLARATORY AND INJUNCTIVE RELIEF
U.S. CONST. AMEND. I
RIGHT TO FREE SPEECH
42 U.S.C. § 1983
PLAINTIFFS FLORES AND DR. HOUGH AGAINST ALL DEFENDANTS

130. Plaintiffs hereby reallege and incorporate by reference the allegations in the foregoing paragraphs as if set forth fully herein.

131. SB 2 prohibits Plaintiffs with CCW permits from carrying in several non-sensitive places, in violation of the Constitution. The areas that SB 2 covers include areas that are not even remotely like the “sensitive places” the Supreme Court has presumptively identified, nor are they historically analogous to such places.

132. Relevant to business owners, SB 2 implements California Penal Code Section 26230(a)(26), which prohibits carry at all privately owned commercial establishments that are open to the public, “unless the operator of the establishment clearly and conspicuously posts a sign at the entrance of the building or on the premises indicating that license holders are permitted to carry firearms on the property.”

133. Prior to SB 2, Plaintiffs Flores and Dr. Hough welcomed customers and patients with valid CCW permits, as they were permitted to carry on their respective business premises. Now, Plaintiffs must post conspicuous signage affirmatively allowing people to carry on their premises. Plaintiffs object to this compelled speech as it forces them to take a public stance on an issue that is controversial in California.

134. Defendants are thus propagating customs, policies, and practices that deprive California residents, including Plaintiffs, of their constitutional rights to free speech by compelling government mandated speech if Plaintiffs wish to continue to allow their customers and patients to exercise their rights to bear arms on their properties. The First Amendment forbids this.

135. Defendants cannot satisfy their burden to justify these customs,

1 policies, and practices that violate free speech.

2 136. Plaintiffs are thus entitled to declaratory and injunctive relief against
3 such unconstitutional customs, policies, and practices.

4 **PRAYER**

5 WHEREFORE, Plaintiffs request that judgment be entered in their favor and
6 against Defendants as follows:

7 1. A declaration that SB 2 and California Penal Code Section 26230(a),
8 which it enacts into law, include areas that are not “sensitive places” where
9 restrictions on firearm and ammunition possession have traditionally been tolerated
10 under the Second Amendment;

11 2. A declaration that California Penal Code Section 26230(a) violates the
12 Second and Fourteenth Amendments facially and as applied to Plaintiffs, inasmuch
13 as it precludes law-abiding citizens from possessing a firearm or ammunition in
14 public areas that are not “sensitive places.”

15 3. A declaration that California Penal Code Section 26230(a) violates due
16 process by not requiring signage or any other form of notice in all places that are
17 off-limits for carry, thus robbing Plaintiffs of fair notice regarding whether or not
18 they are violating the law;

19 4. A declaration that California Penal Code Section 26230(a) violates the
20 First Amendment by compelling speech on the part of business owners if they want
21 to allow carry on their property;

22 5. An order preliminarily and permanently enjoining Defendants and all
23 other officers, agents, servants, employees, and persons under the authority of the
24 State, from enforcing California Penal Code Section 26230(a);

25 6. Costs of suit, including attorney’s fees and costs pursuant to 42 U.S.C.
26 Section 1988; and

27 7. All other relief the court deems appropriate.
28

1 Respectfully Submitted,

2 Dated: September 12, 2023

MICHEL & ASSOCIATES, P.C.

3
4 /s/Konstadinos T. Moros

Konstadinos T. Moros
Counsel for Plaintiffs

6 Dated: September 12, 2023

LAW OFFICES OF DON KILMER

7
8 /s/ Don Kilmer

Don Kilmer
Counsel for Plaintiff The Second Amendment
Foundation

10
11 **ATTESTATION OF E-FILED SIGNATURES**

12 I, Konstadinos T. Moros, am the ECF User whose ID and password are being
13 used to file this COMPLAINT FOR DECLARATORY AND INJUNCTIVE
14 RELIEF. In compliance with Central District of California L.R. 5-4.3.4, I attest that
15 all signatories are registered CM/ECF filers and have concurred in this filing.

16
17 Dated: September 12, 2023

/s/Konstadinos T. Moros

Konstadinos T. Moros