

1 C. D. Michel – SBN 144258  
2 [cmichel@michellawyers.com](mailto:cmichel@michellawyers.com)  
3 Joshua R. Dale – SBN 209942  
4 [jdale@michellawyers.com](mailto:jdale@michellawyers.com)  
5 Konstadinos T. Moros – SBN 306610  
6 [kmoros@michellawyers.com](mailto:kmoros@michellawyers.com)  
7 Alexander A. Frank – SBN 311718  
8 [afrank@michellawyers.com](mailto:afrank@michellawyers.com)  
9 MICHEL & ASSOCIATES, P.C.  
10 180 E. Ocean Blvd., Suite 200  
11 Long Beach, CA 90802  
12 Telephone: (562) 216-4444

13 Donald Kilmer-SBN 179986  
14 Law Offices of Donald Kilmer, APC  
15 14085 Silver Ridge Road  
16 Caldwell, Idaho 83607  
17 Telephone: (408) 264-8489  
18 Email: [Don@DKLawOffice.com](mailto:Don@DKLawOffice.com)

19 Attorneys for Plaintiffs

20 **UNITED STATES DISTRICT COURT**  
21 **CENTRAL DISTRICT OF CALIFORNIA**  
22 **SOUTHERN DIVISION**

23 RENO MAY, an individual; ANTHONY  
24 MIRANDA, an individual; ERIC HANS,  
25 an individual; GARY BRENNAN, an  
26 individual; OSCAR A. BARRETTO, JR.,  
27 an individual; ISABELLE R.  
28 BARRETTO, an individual; BARRY  
BAHRAMI, an 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.; THE  
LIBERAL GUN CLUB, INC.; 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.: 8:23-cv-01696 CJC (ADSx)

**EVIDENTIARY OBJECTIONS OF  
PLAINTIFFS TO DECLARATION  
OF DR. BRENNAN RIVAS FILED  
IN SUPPORT OF DEFENDANT'S  
OPPOSITION TO MOTION FOR  
PRELIMINARY INJUNCTION**

Hearing Date: December 20, 2023  
Hearing Time: 1:30 p.m.  
Courtroom: 9 B  
Judge: Hon. Cormac J.  
Carney

**TO THIS HONORABLE COURT:**

1  
2 Plaintiffs Reno May, Anthony Miranda, Eric Hans, Gary Brennan, Oscar A.  
3 Barretto, Jr., Isabelle R. Barretto, Barry Bahrami, Pete Stephenson, Andrew Harms,  
4 Jose Flores, Dr. Sheldon Hough, DDS, The Second Amendment Foundation, Gun  
5 fnc., and California Rifle & Pistol Association, Incorporated, hereby jointly object,  
6 pursuant to Fed. R. Evid. 401, 402, 403, 601, 702, 703, and 704 to the Declaration  
7 of Dr. Brennan Rivas, lodged by Defendant in support of his Brief in Opposition to  
8 Plaintiffs’ Motion for Preliminary Injunction. These objections are raised on the  
9 following grounds and as to the following matters contained within the declaration:

10 **1. Objection to Paragraphs 15-22:**

11 Relevance. The history of the growth of a single city—Philadelphia—is  
12 not relevant to whether historical analogues regulating firearms existed. This lack  
13 of relevance is evidenced by lack of mention of laws relating to carrying of firearms  
14 in Philadelphia other than a single Colonial era law about not carrying “unlawful”  
15 weapons in the built part of the city. *See New York State Rifle & Pistol Ass’n v.*  
16 *Bruen*, 597 U.S. \_\_\_, 142 S. Ct. 2111, 2133 (Colonial laws), 2143 (outliers), and  
17 2153 (outliers) (2022). And no explanation was provided about the breadth of this  
18 lone law, whether it applied to firearms as “unlawful” weapons, or anything that  
19 would inform the court about the state of historical firearms laws at the Founding  
20 up through Reconstruction even in the one city discussed.

21 **2. Objection to Paragraphs 23-33:**

22 Relevance. The history of buildings in Philadelphia, absent any discussion  
23 of firearms laws or regulations governing those buildings, is not relevant to the  
24 evidence of Founding through Reconstruction historical analogues that  
25 governments must produce to show a history and tradition of firearms regulation.

26 **3. Objection to Paragraph 34:**

27 Relevance. Laws about militias and taverns unrelated to the use or  
28 possession of firearms, and which were inapplicable to the general citizenry in the

1 same taverns, are not relevant to the evidence of Founding through Reconstruction  
2 historical analogues that governments must produce to show a history and tradition  
3 of firearms regulation. Citations to an outlier example is not relevant to the  
4 evidence of Founding through Reconstruction historical analogues that  
5 governments must produce to show a history and tradition of firearms regulation.  
6 *See Bruen* at 2133, 2153.

7 **4. Objection to Paragraph 36:**

8 Foundation. There is no citation to facts or sources provided to support the  
9 opinion expressed by the declarant that “By the Civil War Era, the carrying of  
10 concealed weapons was more common than it had been in the eighteenth century,  
11 and pocket-sized pistols were more readily available to consumers.”

12 **5. Objection to Paragraphs 40-41:**

13 Relevance. Historical concealed carry prohibitions are not relevant to the  
14 sensitive places analysis. The Supreme Court has already determined that carry  
15 cannot be fully prohibited under the Second Amendment. *See Bruen, passim*.

16 **6. Objection to Paragraphs 47-53:**

17 Relevance/Improper Expert Opinion. The declarant makes legal argument  
18 and opines on legal questions that are for the trier of fact to decide and not a proper  
19 subject of expert opinion.

20 **7. Objection to Paragraph 55:**

21 Relevance/Foundation. There is no citation to facts or sources provided to  
22 support the opinion expressed by the declarant that there are analogue local  
23 ordinances supporting sensitive space restrictions, and the declarant admits he’s  
24 speculating about what local ordinances might or might not exist.

25 **8. Objection to Paragraph 56:**

26 Foundation. There is no citation to facts or sources provided to support the  
27 opinions expressed by the declarant other than the declarant’s own publication, the  
28 bases and sources for that publication are not cited or attached, and no other

1 information is provided by the declarant to support the origin of or veracity of the  
2 declarant's opinion.

3 **9. Objection to Paragraph 57:**

4 Foundation. There is no citation or insufficient citations to facts or sources  
5 provided to support the opinion expressed by the declarant, and no other  
6 information is provided by the declarant to support the origin of or veracity of the  
7 declarant's opinion.

8 **10. Objection to Paragraph 59:**

9 Foundation. There is no citation to facts or sources provided to support the  
10 opinion expressed by the declarant that "These are only a small sample of the  
11 travel-related cases that formed the corpus of traveler-exception jurisprudence  
12 associated with nineteenth century concealed weapon laws." No other information  
13 is provided by the declarant to support the origin of or veracity of the declarant's  
14 opinion.

15 **11. Objection to Paragraph 60:**

16 Relevance/Improper Expert Opinion. The declarant makes legal argument  
17 and opines on legal questions that are for the trier of fact to decide and not a proper  
18 subject of expert opinion.

19 **12. Objection to Paragraph 61:**

20 Relevance/Improper Expert Opinion. The declarant makes legal argument  
21 and opines on legal questions that are for the trier of fact to decide and not a proper  
22 subject of expert opinion.

23 Relevance. A Post-Reconstruction era example of a firearms regulation is  
24 manifestly not relevant to the evidence of Founding through Reconstruction  
25 historical analogues that governments must produce to show a history and tradition  
26 of firearms regulation. *Bruen* at 2153-54.

27 **13. Objection to Paragraph 62:**

28 Foundation. There is no citation or insufficient citations to facts or sources

1 provided to support the opinion expressed by the declarant, and no other  
2 information is provided by the declarant to support the origin of or veracity of the  
3 declarant's opinion.

4 Relevance. Post-Reconstruction firearms regulations are manifestly not  
5 relevant to the evidence of Founding through Reconstruction historical analogues  
6 that governments must produce to show a history and tradition of firearms  
7 regulation. *Bruen* at 2153-54.

8 **14. Objection to Paragraph 65:**

9 Foundation. There is no citation or insufficient citations to facts or sources  
10 provided to support the numerous opinions expressed by the declarant regarding the  
11 history of transportation, and no other information is provided by the declarant to  
12 support the origin of or veracity of the declarant's opinion.

13 Relevance. The history of pre-and-post-Reconstruction era crime in the  
14 North and the South, absent a discussion of or citation to firearms regulations  
15 regarding such crime, is not relevant to the evidence of Founding through  
16 Reconstruction historical analogues that governments must produce to show a  
17 history and tradition of firearms regulation.

18 **15. Objection to Paragraph 67:**

19 Foundation. There is no citation provided to support the numerous  
20 opinions expressed by the declarant regarding the purported private railroad  
21 policies regarding carrying of firearms. The lack of citation to or identification of  
22 the policies denies the court the ability to assess the reliability of the representations  
23 about the policies. The lack of foundation for the alleged policies also denies the  
24 court the ability to assess when these policies, even if they are accurately  
25 represented, were adopted in relation to the relevant analogical time period. And no  
26 other information is provided by the declarant to support the origin of or veracity of  
27 the declarant's opinion.

28 Relevance. The purported history of private carrier rules about carry is not

1 relevant evidence of Founding through Reconstruction government restrictions on  
2 the self-defense right that governments must produce to show a history and  
3 tradition of firearms regulation. Although it cannot be determined how many  
4 railroad carriers enforced rules against carry due to the lack of foundation for the  
5 declarant's opinion, if the declarant is relying upon only a few such rules, outlier  
6 examples would not be relevant to show a history and tradition of firearms  
7 regulation.

8 **16. Objection to Paragraph 68:**

9 Foundation. There is no citation to facts or sources provided to support the  
10 opinion expressed by the declarant that "included within this power of conductors  
11 to police aboard their trains was a responsibility to enforce weapon regulations in  
12 effect at the time." No other information is provided by the declarant to support the  
13 origin of or veracity of the declarant's opinion.

14 **17. Objection to Paragraph 69:**

15 Relevance. Whether railroad police were armed or exercised quasi-police  
16 authority on certain carriers is not relevant to the evidence of Founding through  
17 Reconstruction historical analogues that governments must produce to show a  
18 history and tradition of firearms regulation.

19 **18. Objection to Paragraph 70:**

20 Relevance. Whether railroad police were armed or exercised quasi-police  
21 authority on certain carriers is not relevant to the evidence of Founding through  
22 Reconstruction historical analogues that governments must produce to show a  
23 history and tradition of firearms regulation. Early 20th century firearms regulations  
24 are manifestly not relevant to the evidence of Founding through Reconstruction  
25 historical analogues that governments must produce to show a history and tradition  
26 of firearms regulation.

27 Relevance/Improper Expert Opinion. The declarant makes legal argument  
28 and opines on legal questions regarding the effect of court decisions that are for the

trier of fact to interpret and decide and not a proper subject of expert opinion.

1  
2 **19. Objection to Paragraph 75:**

3 Foundation. There is no citation to facts or sources provided to support the  
4 opinion expressed by the declarant regarding what was contained in local records,  
5 the roles of local law enforcement, or the laws and customs they did or did not  
6 enforce. No other information is provided by the declarant to support the origin of  
7 or veracity of the declarant's opinion.

8 **20. Objection to Paragraph 76:**

9 Foundation and Relevance.

10 76-1: Relevance. No relevance of the availability of intracity transportation  
11 in early Philadelphia to the evidence of Founding through Reconstruction  
12 government restrictions on the self-defense right that governments must produce to  
13 show a history and tradition of firearms regulation.

14 76-2: Relevance. No relevance of the lack of public spaces in early  
15 Philadelphia to the evidence of Founding through Reconstruction government  
16 restrictions on the self-defense right that governments must produce to show a  
17 history and tradition of firearms regulation.

18 76-3: Foundation. There is no citation to facts or sources provided to  
19 support the broad conclusions the declarant alleges she is summing up, and the  
20 prior paragraphs provide little to no citation to a history or tradition of such  
21 regulations or laws to support her broad conclusions.

22 76-4: Foundation. There is no citation to facts or sources provided to  
23 support the broad conclusions the declarant alleges she is summing up, and the  
24 prior paragraphs provide little to no citation to a history or tradition of such  
25 regulations or laws to support her broad conclusions.

26 76-5: Foundation. There is no citation to facts or sources provided to  
27 support the broad conclusions the declarant alleges she is summing up, and the  
28 prior paragraphs provide little to no citation to a history or tradition of such

1 regulations or laws to support her broad conclusions.

2 76-6: Foundation. There is no citation to facts or sources provided to  
3 support the broad conclusions the declarant alleges she is summing up, and the  
4 prior paragraphs provide little to no citation to a history or tradition of such  
5 regulations or laws to support her broad conclusions.

6 76-7: Foundation and Relevance. There is no citation to facts or sources,  
7 either in the paragraph or previously, provided to support the broad conclusions the  
8 declarant alleges regarding her inability to gather sources to support her  
9 conclusions. There is also no citation to facts or sources, either in the paragraph or  
10 previously, which support the declarant's suppositions about a history and tradition  
11 of firearms regulation based on what the declarant admits is an incomplete record  
12 and which, when supported by any citation, are based on citations to outliers. The  
13 declarant's inability to identify and cite to historical analogues of the firearms  
14 regulations contained within SB 2 is also not relevant to the issue of the state's  
15 burden to have identified a rich analogical tradition of firearms regulation prior to  
16 passing SB 2.

17 **21. Objection to Paragraph 77 (mislabeled 82):**

18 Foundation. There is no citation to facts or sources provided to support the  
19 broad conclusions the declarant alleges she is summing up, and the prior paragraphs  
20 provide scant citation to a history or tradition of such regulations or laws to support  
21 her broad conclusions.

22 Relevance. The declarant's inability to identify and cite to historical  
23 analogues of the firearms regulations contained within SB 2 is not relevant to the  
24 issue of the state's burden to have identified a rich analogical tradition of firearms  
25 regulation prior to passing SB 2.

26 For the reasons set forth above, the court should strike or disregard the  
27 declaration in its entirety in ruling on Plaintiffs' motion, or, in the alternative, strike  
28 and disregard those identified opinions.



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Dated: November 20, 2023

**MICHEL & ASSOCIATES, P.C.**

/s/ C.D. Michel  
C.D. Michel  
Counsel for Plaintiffs

Dated: November 20, 2023

**LAW OFFICES OF DON KILMER**

/s/ Don Kilmer  
Don Kilmer  
Counsel for Plaintiff The Second Amendment  
Foundation

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**CERTIFICATE OF SERVICE**  
IN THE UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

Case Name: *May, et al. v. Bonta*  
Case No.: 8:23-cv-01696 CJC (ADSx)

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

I am not a party to the above-entitled action. I have caused service of:

**EVIDENTIARY OBJECTIONS OF PLAINTIFFS TO DECLARATION OF  
DR. BRENNAN RIVAS FILED IN SUPPORT OF DEFENDANT'S  
OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION**

on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Robert L. Meyerhoff, Deputy Attorney General  
California Department of Justice  
300 South Spring Street, Suite 1702  
Los Angeles, CA 90013  
Email: [Robert.Meyerhoff@doj.ca.gov](mailto:Robert.Meyerhoff@doj.ca.gov)  
*Attorney for Defendant*

I declare under penalty of perjury that the foregoing is true and correct.

Executed November 20, 2023.

  
Christina Castron