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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 JOSHUA SALZMANN 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

1 **TO THIS HONORABLE COURT:**

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 Owners of America, Inc., Gun Owners of California, Inc., The Liberal Gun Club,
6 Inc., and California Rifle & Pistol Association, Incorporated, hereby jointly object,
7 pursuant to Fed. R. Evid. 401, 402, 403, 601, 702, 703, and 704 to the Declaration
8 of Joshua Salzman, lodged by Defendant in support of his Brief in Opposition to
9 Plaintiffs' Motion for Preliminary Injunction. These objections are raised on the
10 following grounds and as to the following matters contained within the declaration:

11 **1. Objection to Paragraphs 10-25:**

12 Relevance. Opinions about Colonial and Founding era layout of cities and
13 the quality of roadways in them are not relevant to the issues of whether the
14 carrying of arms was prohibited in or on them and whether such laws existed to the
15 extent to evidence a history and tradition of regulation. This lack of relevance is
16 evidenced by lack of mention of or citation to any laws or regulations relating to
17 carrying of firearms in cities or on roadways. *See New York State Rifle & Pistol*
18 *Ass'n v. Bruen*, 597 U.S. ___, 142 S. Ct. 2111, 2137, 2153-54 (2022).

19 **2. Objection to Paragraphs 26-31:**

20 Relevance. Opinions about the history of wagon travel are not relevant to
21 the issues of whether the carrying of arms was prohibited in them and whether such
22 laws existed to the extent to evidence a history and tradition of regulation. This lack
23 of relevance is evidenced by lack of mention of or citation to any laws or
24 regulations relating to carrying of firearms in wagons.

25 **3. Objection to Paragraphs 32-36:**

26 Relevance. Opinions about the history of ferries, ships, and lighthouses
27 are not relevant to the issues of whether the carrying of arms was prohibited on or
28 in them and whether such laws existed to the extent to evidence a history and

1 tradition of regulation. This lack of relevance is evidenced by lack of mention of or
2 citation to any laws or regulations relating to carrying of firearms on ferries and
3 ships or in lighthouses.

4 **4. Objection to Paragraphs 37-46:**

5 Relevance. Opinions about the history of canals and steamboats are not
6 relevant to the issues of whether the carrying of arms was prohibited on them and
7 whether such laws existed to the extent to evidence a history and tradition of
8 regulation. This lack of relevance is evidenced by lack of mention of or citation to
9 any laws or regulations relating to carrying of firearms while travelling upon a
10 canal or on a steamboat.

11 **5. Objection to Paragraphs 47-56:**

12 Relevance. Opinions about the history of railroads are not relevant to the
13 issues of whether the carrying of arms was prohibited on or in them and whether
14 such laws existed to the extent to evidence a history and tradition of regulation.
15 This lack of relevance is evidenced by lack of mention of or citation to any laws or
16 regulations relating to carrying of firearms on railroads.

17 **6. Objection to Paragraphs 57-60:**

18 Relevance. Opinions about the history of the construction of streets and
19 sidewalks, and the proliferation of omnibuses on them, are not relevant to the issues
20 of whether the carrying of arms was prohibited on or in them and whether such
21 laws existed to the extent to evidence a history and tradition of regulation. This lack
22 of relevance is evidenced by lack of mention of or citation to any laws or
23 regulations relating to carrying of firearms on streets or sidewalks or inside
24 omnibuses.

25 **7. Objection to Paragraphs 61-67:**

26 Relevance. Opinions about the history of horse cars, cable cars, and
27 streetcars, are not relevant to the issues of whether the carrying of arms was
28 prohibited on or in them and whether such laws existed to the extent to evidence a

1 history and tradition of regulation. This lack of relevance is evidenced by lack of
2 mention of or citation to any laws or regulations relating to carrying of firearms on
3 horse cars, cable cars, and streetcars. Further, irrespective of the lack of any
4 evidence of a tradition of firearms regulation on such vehicles, any historical
5 discussion of such vehicles in the Post-Reconstruction era is manifestly not relevant
6 to the evidence of Founding through Reconstruction historical analogues that
7 governments must produce to show a history and tradition of firearms regulation.
8 *Bruen* at 2153-54.

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

10 Relevance. Opinions about the history of subways and elevated trains are
11 not relevant to the issues of whether the carrying of arms was prohibited on or in
12 them and whether such laws existed to the extent to evidence a history and tradition
13 of regulation. This lack of relevance is evidenced by lack of mention of or citation
14 to any laws or regulations relating to carrying of firearms on subways or elevated
15 trains. Further, irrespective of the lack of any evidence of a tradition of firearms
16 regulation on such vehicles, any historical discussion of such vehicles in the Post-
17 Reconstruction era is manifestly not relevant to the evidence of Founding through
18 Reconstruction historical analogues that governments must produce to show a
19 history and tradition of firearms regulation.

20 **9. Objection to Paragraphs 69-70:**

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

1 the declarant's opinion.

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

10 **10. Objection to Paragraphs 71-76:**

11 Relevance. Whether privately-owned carriers imposed rules on passengers
 12 is not relevant to the evidence of Founding through Reconstruction *government*
 13 laws and regulations that governments must produce to show a history and tradition
 14 of firearms regulation. Post-Reconstruction era and early 20th century firearms
 15 regulations—even if privately-owned railroad rules of any period could be deemed
 16 to have evidentiary value—are manifestly not relevant to the evidence of Founding
 17 through Reconstruction historical analogues that governments must produce to
 18 show a history and tradition of firearms regulation.

19 **11. Objection to Paragraph 77:**

20 Foundation. There is no citation or insufficient citations to facts or sources
 21 in the paragraph or in the prior paragraphs provided to support the opinion
 22 expressed by the declarant. The prior citation to only eleven such policies, with no
 23 context as to the size of the population such eleven policies applied, or how that
 24 compares to total rail travel, does not allow the court to assess how many railroad
 25 carriers enforced rules against carry, and, if the declarant is relying upon only
 26 relatively few such rules, such outlier examples would not be relevant to show a
 27 history and tradition of firearms regulation. *See Bruen* at 2133, 2153.

28 Relevance. Whether privately-owned carriers imposed rules on passengers

1 is not relevant to the evidence of Founding through Reconstruction *government*
2 laws and regulations that governments must produce to show a history and tradition
3 of firearms regulation. Post-Reconstruction era and early 20th century firearms
4 regulations—even if privately-owned railroad rules of any period could be deemed
5 to have evidentiary value—are manifestly not relevant to the evidence of Founding
6 through Reconstruction historical analogues that governments must produce to
7 show a history and tradition of firearms regulation.

8 **12. Objection to Paragraph 78:**

9 Foundation. There is no citation to authority that state or municipal laws
10 on firearms carry would apply to interstate railroad travelers or were understood to
11 apply to such travelers. There is also insufficient citation to such state and
12 municipal laws supporting the opinion, with only one Post-Reconstruction era
13 municipal law cited.

14 Relevance. A single municipal law against concealed carry enacted in the
15 Post-Reconstruction era is not sufficient evidence of a history or tradition of
16 regulating firearms. An opinion formed based on a Post-Reconstruction era law is
17 manifestly not evidence of Founding through Reconstruction historical analogues
18 that governments must produce to show a history and tradition of firearms
19 regulation. Further, opinions based on laws enacting a total ban on carry are not
20 relevant to the sensitive places analysis. The Supreme Court has already determined
21 that carry cannot be fully prohibited under the Second Amendment. *See Bruen,*
22 *passim.*

23 **13. Objection to Paragraph 79:**

24 Foundation. There is no citation to authority that state or municipal laws
25 on firearms carry would apply to interstate railroad travelers or were understood to
26 apply to such travelers.

27 Relevance. A single municipal law against concealed carry enacted in the
28 Post-Reconstruction era is not sufficient evidence of a history or tradition of

1 regulating firearms. An opinion formed based on a Post-Reconstruction era law is
2 manifestly not relevant evidence of Founding through Reconstruction historical
3 analogues that governments must produce to show a history and tradition of
4 firearms regulation. Further, opinions based on laws enacting a total ban on carry
5 are not relevant to the sensitive places analysis. The Supreme Court has already
6 determined that carry cannot be fully prohibited under the Second Amendment. *See*
7 *Bruen, passim*.

8 **14. Objection to Paragraphs 80-83:**

9 Relevance. Opinions about the history of various modes of transportation
10 during the analogical period, without citation to laws regulating firearms on such
11 modes of transportation, are not evidence of a history and tradition of firearms
12 regulation.

13 **15. Objection to Paragraph 84:**

14 Relevance. Opinions about history during the analogical period, without
15 citation to or reference to any laws regulating firearms during that period, are not
16 relevant evidence of Founding through Reconstruction historical analogues that
17 governments must produce to show a history and tradition of firearms regulation.

18 Relevance/Improper Expert Opinion. The declarant opines on a legal
19 question and makes legal argument regarding the proper analogical inquiry that is
20 for the trier of fact to decide and not a proper subject of expert opinion. The
21 declarant is improperly arguing that the court should apply a standard for assessing
22 the evidence other than the analogical inquiry standard set forth in *Bruen*. *See*
23 *Bruen* at 2132.

24 **16. Objection to Paragraph 85:**

25 Foundation. There is no citation to facts or sources, either in the paragraph
26 or previously, provided to support the broad conclusions the declarant alleges
27 regarding his inability to gather sources to support his conclusions. There is also no
28 citation to facts or sources, either in the paragraph or previously, which support the

1 declarant’s opinion “that there were prohibitions against carrying concealed
2 weapons on trains and other forms of transit common in urban America.”

3 Relevance. Opinions formed based on a single municipal code section
4 adopted in the Post-Reconstruction era, and which was a total ban on carry of the
5 kind rejected in Bruen, are not relevant evidence of Founding through
6 Reconstruction historical analogues that governments must produce to show a
7 history and tradition of firearms regulation. The declarant’s inability to identify and
8 cite to historical analogues of the firearms regulations contained within SB 2 is also
9 not relevant to the issue of the state’s burden to have identified a rich analogical
10 tradition of firearms regulation prior to passing SB 2.

11 For the reasons set forth above, the court should strike or disregard the
12 declaration in its entirety in ruling on Plaintiffs’ motion, or, in the alternative, strike
13 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
JOSHUA SALZMANN 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
Attorney for Defendant

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

Executed November 20, 2023.


Christina Castron