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Case No. 23-3793

In the United States Court of Appeals for the Ninth Circuit

GAVIN NEWSOM, in his official capacity as Governor of the State of California and in his personal capacity, et al., *Defendants-Appellants*,

v.

B & L PRODUCTIONS, INC., et al., *Plaintiffs-Appellees.*

On Appeal from the United States District Court for the Central District of California Case No. 8:22-cv-01518 JWH (JDEx) Honorable John W. Holcomb

APPELLEES' SUPPLEMENTAL EXCERPTS OF RECORD VOLUME II OF II

C.D. Michel Anna M. Barvir Tiffany D. Cheuvront MICHEL & ASSOCIATES, P.C. 180 E. Ocean Blvd., Suite 200 Long Beach, CA 90802 (562) 216-4444 cmichel@michellawyers.com

Donald Kilmer Law Offices of Donald Kilmer, APC 14085 Silver Ridge Rd. Caldwell, Idaho 83607 (408) 264-8489 don@dklawoffice.com

Attorneys for Plaintiffs-Appellees

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Case 8:22-cv-01518-JWH-JDE Document 21-3 Filed 11/16/22 Page 1 of 108 Page ID #:1246 1 C.D. Michel-SBN 144258 Anna M. Barvir-SBN 268728 Tiffany D. Cheuvront-SBN 317144 MICHEL & ASSOCIATES, P.C. 2 180 East Ocean Blvd., Suite 200 Long Beach, CA 90802 Telephone: (562) 216-4444 Email: <u>cmichel@michellawyers.com</u> 3 4 5 Attorneys for Plaintiffs B&L Productions, Inc., California Rifle & Pistol Association, Incorporated, Gerald Clark, Eric Johnson, Chad Littrell, Jan Steven Merson, Asian Pacific American Gun Owner Association, Second Amendment Law Center, Inc. 6 7 Donald Kilmer-SBN 179986 Law Offices of Donald Kilmer, APC 8 14085 Silver Ridge Road Caldwell, Idaho 83607 Telephone: (408) 264-8489 9 Email: Don@DKLawOffice.com 10 Attorney for Plaintiff Second Amendment Foundation 11 IN THE UNITED STATES DISTRICT COURT 12 FOR THE CENTRAL DISTRICT OF CALIFORNIA 13 B&L PRODUCTIONS, INC., d/b/a CROSSROADS OF THE WEST; CASE NO.: 8:22-cv-01518 JWH (JDEx) 14 DECLARATION OF ANNA M. BARVIR IN SUPPORT OF PLAINTIFFS' MOTION FOR GERALD CLARK; ERIC JOHNSON; CHAD LITTRELL; JAN STEVEN 15 MERSON; CALIFORNIA RIFLE & PISTOAL ASSOCIATION, PRELIMINARY INJUNCTION 16 INCORPORATED; ASIAN PACIFIC AMERICAN GUN OWNERS January 6, 2023 Hearing Date: 17 ASSOCIATION; SECOND AMENDMENT LAW CENTER, INC.; Hearing Time: 9:00 a.m. 9D Courtroom: 18 and SECOND AMENDMENT FOUNDATION, John W. Holcomb Judge: 19 Plaintiffs, Action Filed: August 12, 2022 20 v. 21 GAVIN NEWSOM, in his official 22 capacity as Governor of the State of California; ROB BONTA, in his official California; ROB BONTA, in his official capacity as Attorney General of the State of California; KAREN ROSS, in her official capacity as Secretary of California Department of Food & Agriculture and in his personal capacity; TODD SPITZER, in his official capacity as District Attorney of Orange County; 32nd DISTRICT AGRICULTURAL ASSOCIATION; DOES 1-10; 23 24 25 26 27 Defendants. 28 1 DECLARATION OF ANNA M. BARVIR

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1	DECLARATION OF ANNA M. BARVIR							
2	1. I am an attorney at the law firm Michel & Associates, P.C., attorneys of							
3	record for Plaintiffs in this action. I am licensed to practice law before the United							
4	States District Court for the Central District of California. I am also admitted to							
5	practice before the courts of the state of California, the Eastern, Southern, and							
6	Northern Districts of California, the D.C., Fourth, Ninth, and Tenth Circuit Courts of							
7	Appeals, and the Supreme Court of the United States. I have personal knowledge of							
8	the facts set forth herein and, if called and sworn as a witness, could and would							
9	testify competently thereto.							
10	2. On or about November 14, 2022, I visited							
11	https://sd37.senate.ca.gov/news/senator-dave-mins-gun-violence-prevention-bill-							
12	advances-assembly-public-safety-committee. From there, I viewed, saved, and							
13	 printed the Press Release, Senator Dave Min's Gun Violence Prevention Bill Advances from Assembly Public Safety Committee (July 13, 2021). A true and 							
14								
15	correct copy is attached as Exhibit 26.							
16	3. On or about November 14, 2022, I visited							
17	https://sd37.senate.ca.gov/news/california-becomes-first-state-ban-gun-shows-state-							
18	property-builds-orange-county-fairgrounds. From there, I viewed, saved, and printed							
19	the Press Release, California Becomes the First State to Ban Gun Shows on State							
20	Property, Builds on Orange County Fairgrounds Ban (July 21, 2022). A true and							
21	correct copy is attached as Exhibit 27.							
22	4. On or about November 14, 2022, I visited <u>www.ocfair.com/about-us/</u> , a							
23	website copyrighted and operated by the OC Fair & Event Center, 32 nd District							
24	Agricultural Association. From there, I viewed, saved, and printed the site's landing							
25	page titled "About Us." A true and correct copy of the OC Fair & Event Center							
26	website "About Us" page is attached as Exhibit 28.							
27	5. On or about November 14, 2022, I visited <u>www.ocfair.com/venue-</u>							
28								
	DECLARATION OF ANNA M. BARVIR							

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1 <u>rentals</u>, a website copyrighted and operated by the OC Fair & Event Center, 32nd 2 District Agricultural Association. From there, I viewed, saved, and printed a 3 brochure entitled "Event Space Sales." A true and correct copy of the OC Fair & 4 Event Center brochure entitled "Event Space Sales" is attached as Exhibit 29. 5 On or about September 17, 2018, my office sent a Public Records Act 6. 6 Request to Donna O'Leary with the 22nd District Agricultural Association. In 7 response to the September 17, 2018, PRAR, Ms. O'Leary sent my office emails 8 dated October 4, 2018, and October 12, 2018, each with documents attached. In the 9 ordinary course of business, my administrative assistant would have immediately 10 saved the PRAR responses in our firm's electronic document management system, 11 IMANAGE. On or about November 14, 2022, I viewed, pulled, and printed from 12 IMANAGE various pages from the documents attached to Ms. O'Leary's email 13 communications, including a copy of an April 23, 2018, letter from then-Lieutenant-14 Governor Gavin Newsom to the 22nd District Agricultural Association. A true and 15 correct copy of Newsom's April 23, 2018, letter is attached as Exhibit 30. 16 7. In September 2021, my office became aware of a letter drafted by 17 Senator Min and sent to the Board of Directors for the 32nd District Agricultural 18 Association. My office sent a PRAR to the Orange County Fair Board to request a 19 copy of Senator Min's letter. On or about September 13, 2021, my office received a 20 copy of Senator Min's letter in response to that request. In the ordinary course of 21 business, my administrative assistant would have immediately saved the document 22 in our firm's electronic document management system, IMANAGE. On or about 23 November 14, 2022, I viewed, pulled, and printed Senator's Min's letter from 24 IMANAGE. A true and correct copy of Min's September 2021 letter is attached as 25 Exhibit 31. 26 8. On or about September 11, 2018, my office received a copy of a report 27 from Patrick J. Kerins, Public Safety Director, as part of the handouts package 28

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prepared by 22nd District Agricultural Association staff for the September 11, 2018,
board meeting of the 22nd District Agricultural Association District. In the ordinary
course of business, my administrative assistant would have immediately saved the
document in our firm's electronic document management system, IMANAGE. On
or about November 14, 2022, I viewed, pulled, and printed Mr. Kerins' report from
IMANAGE. A true and correct copy is attached as Exhibit 32.

7 9. On or about September 17, 2018, my office sent a Public Records Act 8 Request to Donna O'Leary with the 22nd District Agricultural Association. In 9 response to the September 17, 2018, PRAR, Ms. O'Leary sent my office emails 10 dated October 4, 2018, and October 12, 2018, each with documents attached. In the 11 ordinary course of business, my administrative assistant would have immediately 12 saved the PRAR responses in our firm's electronic document management system, 13 IMANAGE. On or about November 14, 2022, I viewed, pulled, and printed from 14 IMANAGE various pages from the documents attached to Ms. O'Leary's email 15 communications, including a copy of a September 10, 2018, letter from Senator 16 Todd Gloria to the 22nd District Agricultural Association. A true and correct copy 17 of Senator Gloria's September 10, 2018, letter is attached as Exhibit 33. 18 10. On or about November 11, 2022, I visited

19 https://health.ucdavis.edu/vprp/pdf/IGS/IGScoverprefweb.pdf, a website of

20 University of California Davis Health From there I viewed saved and printed

University of California Davis Health. From there, I viewed, saved, and printed
Garen Wintemute's report entitled, *Inside Gun Shows: What Goes On When*

Everybody Thinks Nobody's Watching (Violence Policy Research Program 2009). A
true and correct copy of *Inside Gun Shows: What Goes On When Everybody Thinks*

- 24 *Nobody's Watching* is attached as **Exhibit 34**.
- 25
- 26
- 27 ///
- 28 ///

DECLARATION OF ANNA M. BARVIR

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1	I declare under penalty of perjury that the foregoing is true and correct.							
2	Executed within the United States on November 15, 2022.							
3	Que in							
4	Anna M. Barvir							
5	Declarant							
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	5 DECLARATION OF ANNA M. BARVIR							
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Case 8:22-cv-01518-JWH-JDE Document 21-3 Filed 11/16/22 Page 6 of 108 Page ID #:1251

EXHIBIT 26

11/14/22, 5:08 PM

Case 8:22-cv-Octobald Balle Winks De Evio Doce Bioventito 2011-Bava Ridea do to 14/2 Evidence of the Barger De Min #:1252

PRESS RELEASE

Senator Dave Min's Gun Violence Prevention Bill Advances From Assembly Public Safety Committee

JULY 13, 2021

Senator Dave Min's Gun Violence Prevention Bill Advances from Assembly Public Safety Committee

SB 264 prohibits the sale of ammunition, guns and ghost guns on state property

SACRAMENTO, CA – Senator Dave Min (D-Irvine) announced his Senate Bill (SB) 264, which would end the sale of ammunition, guns and ghost guns on state-owned property, passed out of the Assembly Public Safety Committee today. If signed into law, SB 264 would effectively put a stop to most gun shows on county fairgrounds.

"I'm proud our gun violence prevention bill passed out of the Assembly Public Safety Committee today," Min said. "Study after study shows more guns in our communities lead to more gun violence. Gun shows not only increase the presence of guns in our communities but also circumvent gun safety laws and encourage the sale of ghost guns – gun precursor parts that are virtually untraceable for law enforcement.

"We are facing tragic and unacceptable levels of gun violence in our state. These are not just statistics, and we cannot simply accept the status quo as normal. California must get out of the business of perpetuating gun violence. I thank our partners who helped us get this bill one step closer to the Governor's office."

Min represents Costa Mesa, where the Orange County Fairgrounds are located. The site hosts multiple Crossroads of the West gun shows every year.

Steve Lindley, Program Manager for the Brady Campaign and Center to Prevent Gun Violence, and Charles Blek, president of the Orange County chapter of the Brady Campaign to Prevent Gun Violence, provided testimony during the hearing.

The bill heads to the Assembly Appropriations Committee next.

https://sd37.senate.ca.gov/news/senator-dave-mins-gun-violence-prevention-bill-advances-assembly-public-safety-committee



Case 8:22-cv-01518-JWH-JDE Document 21-3 Filed 11/16/22 Page 8 of 108 Page ID #:1253

EXHIBIT 27

Case 8:22altorn@Becobles Welffirs Bate to Bac con ontw2 in State Proverly 12/10/6/22Orange groupty Fail for Bang estator Dave Min #:1254

PRESS RELEASE

California Becomes The First State To Ban Gun Shows On State Property, Builds On Orange County Fairgrounds Ban

JULY 21, 2022

SACRAMENTO, CA – Senator Dave Min (D-Irvine), Senator Monique Limón (D-Santa Barbara), and Assemblymember Steve Bennet (D-Ventura) announced that Governor Gavin Newsom has signed Senate Bill (SB) 915 in to law. This legislation bans the sale of firearms, ammunition, and precursor parts on all property owned and operated by the state. This builds on SB 264 from last year that brought an end to gun shows held at the Orange County Fair & Event Center. SB 915 comes at a moment where gunrelated deaths in the United States have swelled to crisis levels, with increased fatalities in 2020 and 2021 according to the Gun Violence Archive.

"I'm proud to announce that the State of California will no longer profit off of the sale of firearms on its property," said Min. "Last year, we laid the foundation for this moment with a ban on gun shows at the Orange County Fairgrounds. Today, I am proud to announce that California will become the first in the nation to enact a total ban statewide. This is a clear and decisive step to address the persistent threat of gun violence that has surged since the start of the COVID-19 pandemic. For too long, gun shows have become synonymous with underage sales, cash-and-carry transactions, and the sale of unserialized ghost guns. At a time when the specter of gun violence looms everywhere, even in churches in communities like Laguna Woods, we must say that enough is enough. Our communities and our state will be safer because of this new law, and I would like to thank Governor Newsom and my legislative colleagues for their support in passing this landmark legislation."

"I am pleased to see the Governor sign this crucial bill which will enhance gun safety in our communities," said Senator Limón (D-Santa Barbara). "As a co-author, I am glad to see the prohibition of gun sales on state property be applied statewide."

"It's good to see California continuing to take steps both large and small to counter the influence of the gun lobby," said Assemblymember Steve Bennett (D-Ventura).

#

https://sd37.senate.ca.gov/news/california-becomes-first-state-ban-gun-shows-state-property-builds-orange-county-fairgrounds



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EXHIBIT 28

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Home » About Us

About Us

Facebook Twitter

More

MORE AT OCFEC



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NEWSLETTERS

EMPLOYMENT

FAQ

Contact us – we're happy to hear from you.

Maps and directions to OC Fair & Event Center, 88 Fair Drive, Costa Mesa, CA 92626

OUR STORY From Santa Ana Army Air Base to "Farm Fresh Fun" – we're the heart of Orange County	WHAT'S NEW Discover the stories behind the scenes and find out what's happening
MEDIA CENTER	EMPLOYMENT
Press releases, media information,	We're looking for people to help our
contact information and more	customers make memories

MAPS & DIRECTIONS

MEDIA CENTER



https://ocfair.com/about-us/

CONTACT US

STAFF

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Economic Impact

We are proud to contribute to the economic vitality of Orange County and the city of Costa Mesa. OC Fair & Event Center generates about \$300 million in positive economic impact each year and provides the equivalent of 2,500 jobs, equaling some \$100 million in labor income.

This information is from the California Fairgrounds 2015 Economic Impact Study by the California Department of Food & Agriculture Fairs & Expositions Branch:

Local fairgrounds attendees' spending snapshot by the dollar Beyond the Orange County Fair & Event Center's traditional offering of cultural, educational and agricultural activities, it also generates a wealth of tangible benefits:

• The fairgrounds generated approximately \$299,567,000 in spending activity alone in 2015,

b ing the local economy and creating a ripple effect of economic benefits for California.



https://ocfair.com/about-us/



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NEWSLETTERS

EMPLOYMENT

STAFF

CONTACT US

FAO

fairgrounds, its support businesses and its attendees.

• In 2015, the labor income generated by these additional jobs was approximately \$99,897,000. The Orange County Fair & Event Center also generates business tax revenue through the collection of state and local sales taxes, transient occupancy taxes, possessory interest taxes and other taxes and fees. These revenues stimulate further economic activity by providing for programs that benefit the local community.

More about OC Fair & Event Center

MEDIA CENTER

This multi-use venue features 150 acres of diverse, flexible space ideal for the annual fair along with a year-round calendar of events and activities.

The Orange County Fair & Event Center is also home to several permanent educational installations including Centennial Farm, a three-acre working/demonstration farm that provides school children and the general public with an up-close opportunity to learn about

MAPS & DIRECTIONS



0176 4/7

and our nemage. They provide educational inspiration for our youths and wholesome, family-oriented entertainment for all ages. Livestock and 4-H programs support California's vibrant agricultural sector. And people from all walks of life enter their artwork, baked goods, photography and other handmade crafts in pursuit of bragging rights and blue ribbons.

Fairs provide many nonprofit and charity-based organizations with the opportunity to raise substantial portions of their annual budgets through fundraising booths and activities. Fairgrounds are even used as staging sites and rescue locations during forest fires, floods, earthquakes and other emergencies.

Fairs are also a large financial contributor to both local and state economies. In 2015, overall spending by all participants at fairtime and during interim events resulted in a total economic impact on California of upwards of \$3.9 billion. The income impact from attendee, fair organization and fair-related business spending in 2015 exceeded \$1.2 billion. In addition, jobs created by fairs through direct employment and multiplier impacts reached 30,000.



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Support of OC Fair & Event Center provides year-round educational opportunities and helps fund community give-back programs.



0178 _{6/7}

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11/14/22, 6:52 PM Case 8:22-cv-01518-JWH-JDE Doc sum epst-20c Bair & Headt & dant&G/2&Sta MeageA17 of 108 Page ID #:1262 Image: Control of the second									
Pacific Amphitheatre OC Fair	Farm & Garden Classes On the Farm Educational Materials Pig Cam Photos & Videos Centennial Farm Foundation	Veterans Foundation Educational Materials Virtual Museum Photos & Videos	Venue Videos Food & Beverage – OVG Hospitality Lodging & Camping	Requests Public Meetings Board of Directors Equal Access Information Facilities Information Bid Opportunities	Media Center Maps & Directions FAQs Newsletters Employment Staff Contact Us Equestrian Center Community Programs	οροπουτο	Q		

Copyright 32nd District Agricultural Association dba OC Fair & Event Center – All Rights Reserved.



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EXHIBIT 29

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OC Fair & Event Center is a 150-acre event venue that hosts over 150 events and attracts approximately 4.3 million visitors annually. Our versatile multi-use property can be transformed to fit a variety of events from small private events to large-scale trade shows and festivals. Our full-service capabilities cover concessions, security, audio/visual, on-site camping and more.

In addition to great year-round weather in sunny Southern California, we are also conveniently located nearby numerous lodging options, restaurants, shopping, major freeways (55 and 405) and John Wayne Airport.





Contact sales@ocfair.com or (714) 708-1834 for inquiries or to schedule a tour. **OC Fair & Event Center is a GBAC STAR facility.**





0182 SER-0245

2

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PROPERTY MAP



0183 SER-0246

4

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EVENT SPACE

East Main Mall

Anaheim Building

OC Promenade

OVERVIEW

WEST MAIN MALL



HUNTINGTON BEACH 19,572 Square Feet Climate-Controlled Exhibit Hall SANTA ANA PAVILION 16,325 Square Feet

COSTA MESA 34,025 Square Feet Climate-Controlled Exhibit Hall

FLOOR:

COSTA MESA 120' x 300' Hi-Gloss Concrete

SANTA ANA PAVILION 55' x 305' Concrete

HUNTINGTON BEACH 87' x 240' Hi-Gloss Concrete

COURTYARD Finished Concrete

ROLL-UP ENTRY DOOR: COSTA MESA - 14' 6" x 14'

ROLLING GATE WIDTH:

SANTA ANA PAVILION - 15' 6"

ROLL-UP ENTRY DOOR: HUNTINGTON BEACH - 17' 6" x 15' 6"

BOOTH SPACES (10' X 10'):

COSTA MESA SANTA ANA PAVILION HUNTINGTON BEACH THE COURTYARD

Options available, inquire for details.

ASSEMBLY*:

COSTA MESA Standing Space: 6,805 Seated Space: 4,860

SANTA ANA PAVILION Standing Space: 3,265 Seated Space: 2,332

HUNTINGTON BEACH Standing Space: 3,914 Seated Space: 2,796



CEILING HEIGHT:

COSTA MESA - 16' 3" to 30' 10" SANTA ANA PAVILION - 22' 4" to 25' 9" HUNTINGTON BEACH - 15' to 17' 5" THE COURTYARD - 19' x 10'

TRADESHOW / BANOUET CAPACITY*:

COSTA MESA - 2,268 SANTA ANA PAVILION - 1,088 HUNTINGTON BEACH - 1,304 THE COURTYARD - 00 TOTAL - 4,660

*Pending Fire Marshal approval.

6 0184 **SER-0247**

EXHIBIT HALLS

West Main Mall

- · Costa Mesa Building
- Santa Ana Pavilion
- Huntington Beach Building

INDOOR SPACES

- Baja Blues Bar & Restaurant
- Millennium Barn
- Plaza Pacifica Lobby

OUTDOOR SPACES

- Action Sports Arena
- Campground
- Country Meadows
- Crafters Village
- Festival Fields (Asphalt)
- Festival Fields (Grass)
- Park Plaza Plaza Pacifica

• Parking Lots B-I

• Main Mall



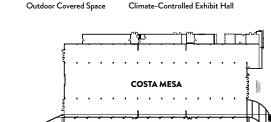


• Heroes Hall Courtyard

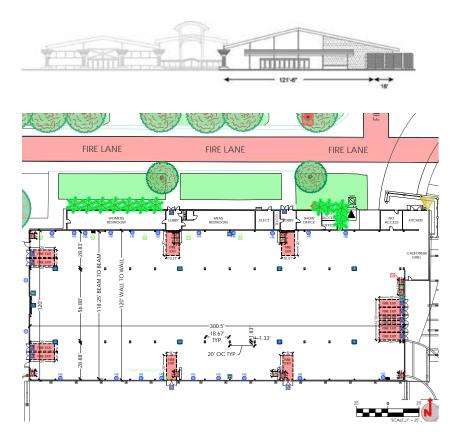
• Pacific Amphitheatre

Los Alamitos Building

The Hangar



COSTAMESA BUILDING



34,025 Square Feet

Floor: 120' x 300' Hi-Gloss Concrete Ceiling Height: 16' 3" to 30' 10" Rolling Entry Door: 14' 6" x 14' Climate Control: Y Covered: Y

7

Tradeshow / Banquet Capacity: 2,268 Assembly Standing Space: 6,805 Seated Space: 4,860

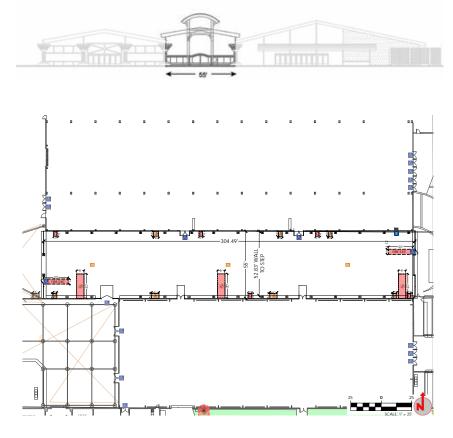




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SANTA ANA PAVILION



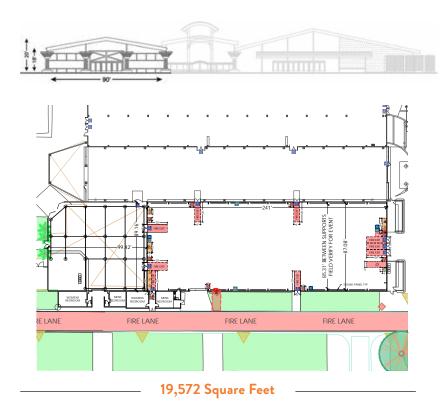
16,325 Square Feet

- Floor: 55' x 305' Concrete Ceiling Height: 22' 4" to 25' 9" Rolling Gate Width: 15' 6" Climate Control: N Covered: Y
- Tradeshow / Banquet Capacity: 1,088 Assembly Standing Space: 3,265 Seated Space: 2,332





HUNTING TON BEACH #:1270 Filed 11/16/22 Page 25 of 108 Page ID BUILDING



Floor: 87' x 240' Hi-Gloss Concrete Ceiling Height: 15' to 17' 5" Rolling Entry Door: 17' 6" x 15' 6" Climate Control: Y Covered: Y Tradeshow / Banquet Capacity: 1,304 Assembly Standing Space: 3,914 Seated Space: 2,796





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EAST MAIN MALL



ANAHEIM 12,636 Square Feet Climate-Controlled Exhibit Hall
 OC PROMENADE
 LOS ALAMITOS

 18,035 Square Feet
 16,640 Square Feet

 Outdoor Covered Space
 Climate-Controlled Exhibit Hall

TOTAL: 50,660 Square Feet

FLOOR:

ANAHEIM 70' x 201' Hi-Gloss Concrete

OC PROMENADE 94' x 199.5' Concrete

LOS ALAMITOS 86.5' x 200.9' Hi-Gloss Concrete

ROLL-UP ENTRY DOOR: ANAHEIM - 12' X 14'

ROLLING GATE WIDTH: OC PROMENADE - 16' 6"

ROLL-UP ENTRY DOOR: LOS ALAMITOS - 12' x 14'

BOOTH SPACES (10' X 10)': ANAHEIM OC PROMENADE

LOS ALAMITOS

Options available, inquire for details.

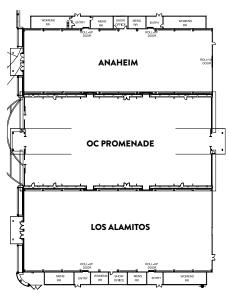
ASSEMBLY*:

ANAHEIM Standing Space: 2,527 Seated Space: 1,805

OC PROMENADE Standing Space: 3,607 Seated Space: 2,576

LOS ALAMITOS Standing Space: 3,292 Seated Space: 2,351

*Pending Fire Marshal approval.



CEILING HEIGHT:

ANAHEIM - 16' to 17' 4" OC PROMENADE - 24' - 30' LOS ALAMITOS - 14' 10" to 17' 3"

TRADESHOW / BANQUET CAPACITY*:

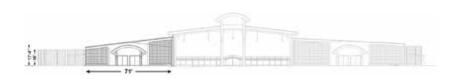
ANAHEIM - 842 OC PROMENADE - 1,202 LOS ALAMITOS - 1,097 TOTAL - 3,141

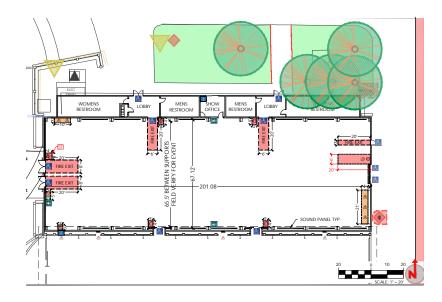
*Pending Fire Marshal approval.

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ANAHEIM BUILDING





12,636 Square Feet

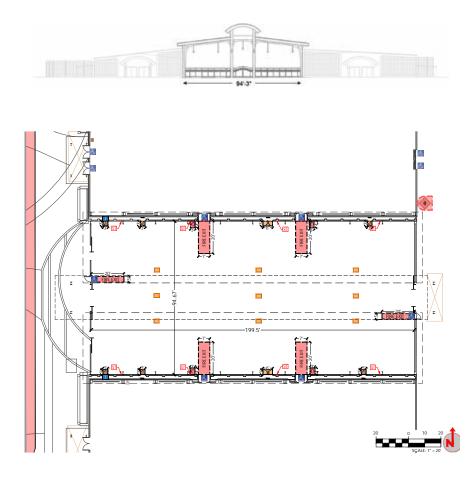
Floor: 70' x 201' Hi-Gloss Concrete Ceiling Height: 16' to 17' 4" Roll-Up Entry Door: 12' x 14' Climate Control: Y Covered: Y Tradeshow / Banquet Capacity: 842 Assembly Standing Space: 2,527 Seated Space: 1,805





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OC PROMENADE



18,035 Square Feet

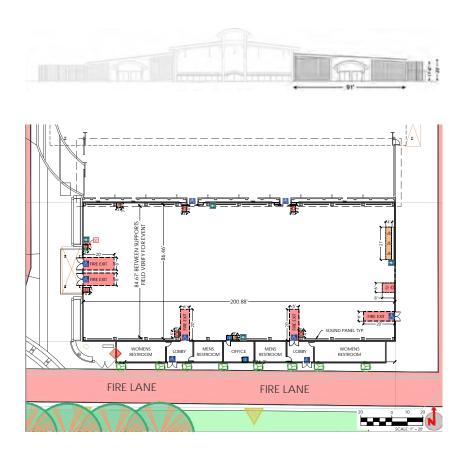
Floor: 94' x 199.5' Concrete Ceiling Height: 24' - 30' Rolling Gate: 16' x 6" Climate Control: N Climate Control: Y Tradeshow / Banquet Capacity: 1,202 Assembly Standing Space: 3,607 Seated Space: 2,576





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LOS ALAMITOS Document 21-3 Filed 11/16/22 Page 29 of 108 Page ID #:1274 BUILDING



16,640 Square Feet

Floor: 86.5' x 200.9' Hi-Gloss Concrete Ceiling Height: 14' 10" to 17' 3" Roll-Up Entry Door: 12' x 14" Climate Control: Y Covered: Y Banquet Table/Chairs: 1,097 Assembly Standing Space: 3,292 Seated Space: 2,351

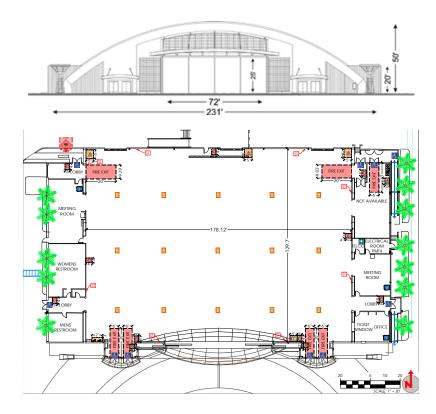




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THE HANGAR



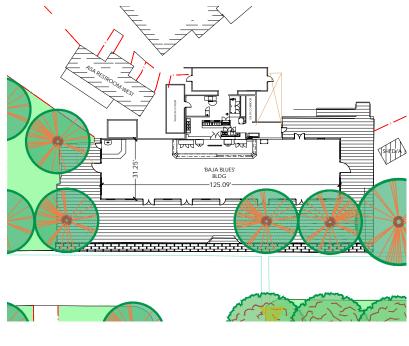
22,245 Square Feet

Floor: 129' x 178' Hi-Gloss Concrete Ceiling Height: 15' to 43' Rolling Entry Door: 72' Climate Control: Y Covered: Y Tradeshow / Banquet Capacity: 1,483 Assembly Standing Space: 4,449 Seated Space: 3,177





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9,200 Square Feet

3,900 Square Feet (Interior) 5,300 Square Feet (Exterior)

Climate Control: Y Covered: Y Assembly: 240 Capacity (Interior): 120 Capacity (Exterior): 120

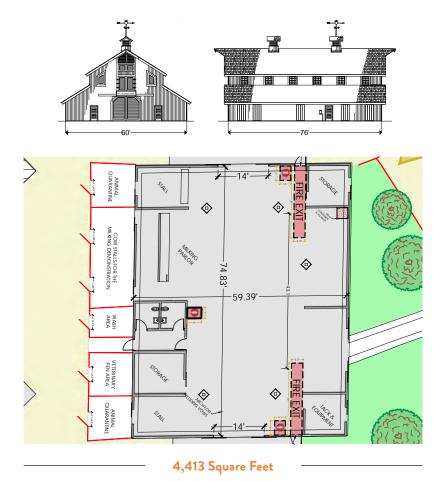




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MILLENNIUM BARN



Climate Control: N

Covered: Y





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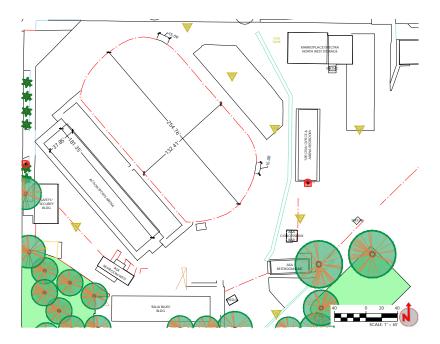
ÞX 2,400 Square Feet

Climate Control: N Covered: Y



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48,023 Square Feet

Building Dimensions:

East to West 37.85' North to South 181.35' Total sq. ft. 6,978

Seats: 1,888 **ADA Seats:** 164

Track Dimensions:

East to West 132.41' North to South 254.76' Total sq. ft. 30,960

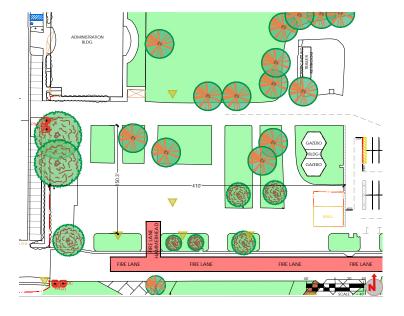




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CAMPGROUND



62,349 Square Feet

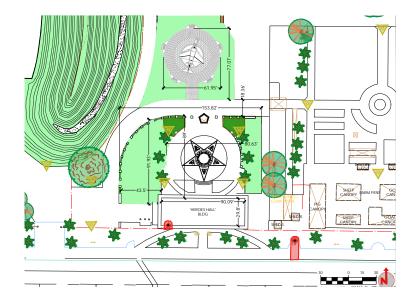
Lot Dimensions: East to West 410' North to South 150.3'





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5,506 Square Feet

Building Dimensions: East to West 90.09' North to South 29.8'

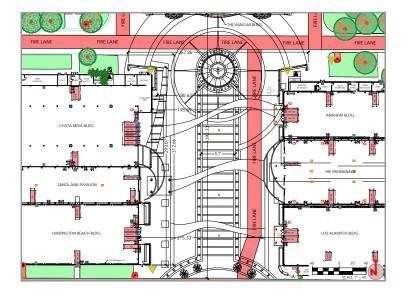




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MAIN MALL



77,813 Square Feet

Lot Dimensions:

East to West 215.33' North to South 392.33'

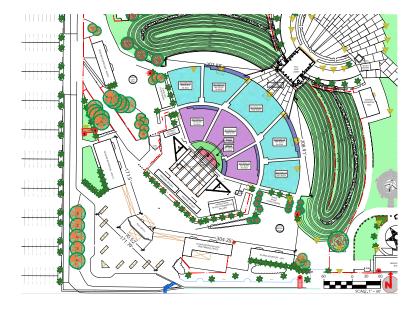




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PACIFIC AMPHITHEATRE



150,091 Square Feet

Seats: 8,233 ADA Seats: 127

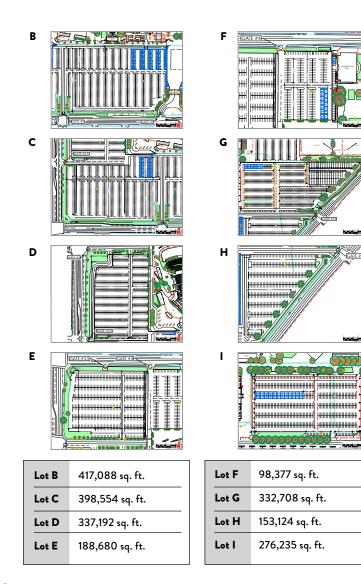




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PARKING LOTS



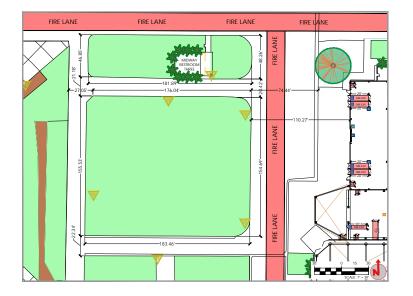




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PARK PLAZA



28,307 Square Feet 🛛 —

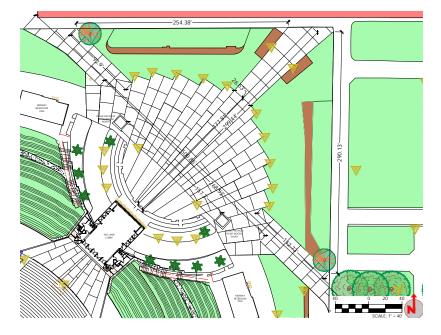
Lot Dimensions: East to West 176.04' North to South 155.53'



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PLAZA PACIFICA



81,247 Square Feet

Lot Dimensions:

N.W. to S.E. 500.86' S.W. to N.E. 299.44'





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88 Fair Drive Costa Mesa, CA 92626 sales@ocfair.com ocfair.com

0204

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GAVIN NEWSOM LIEUTENANT GOVERNOR

ATTN: Board of Directors 22nd District Agricultural Association 2260 Jimmy Durante Blvd. Del Mar, CA 92014

RE: Gun shows on the Del Mar Fairgrounds

April 23, 2018

Dear Members of the Board,

I write to urge that the Board of Directors ban gun shows at the Del Mar Fairgrounds, a publicowned land, and invite the Board of Directors to discuss the issue at its next hearing and facilitate a productive conversation with public input.

In the wake of recent mass shootings, the public has demonstrated outpouring support for gun reform. Permitting the sale of firearms and ammunition on state-owned property only perpetuates America's gun culture at a time when 73% of Californians support gun reform measures and 73% of Californians cite concern about the threat of mass shootings in our schools, according to a recent poll conducted by the Public Policy Institute of California.

There is widespread support for this ban within immediate communities; the neighboring cities of the Del Mar Fairgrounds—Del Mar, Solana Beach, and Encinitas—have adopted resolutions supporting the ban of gun shows at the Fairgrounds. As Mayor of San Francisco, I pressed to end gun shows in neighboring Daly City because the impact of gun violence isn't hindered by municipal boundaries.

The public is demanding action from government, evident in the significant participation in recent protests and walkouts. It is imperative that we answer their call to action and make meaningful strides toward ending gun violence. If California continues to permit the sale of firearms and ammunition on state-owned property, we are sending a signal that we value the sale of firearms above the lives of Americans.

Sincerely,

Gavin Newsom . Lieutenant Governor of California STATE CAPITOL BOOLLILLA, SACRAMENTO, CALS DENSA 95814 • PHONE (916)-845-8904 WWW (16:54:60)

0206

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Natalie Rubalcava-Garcia, Board Chair 32nd District Agricultural Association OC Fair and Event Center 88 Fair Drive Costa Mesa, CA 92626

Dear Chair Rubalcava-Garcia,

I write to you today in regards to Senate Bill 264, which I have authored and which has been sent to Governor Gavin Newsom's desk for his signature. As you know, SB 264 would prohibit the sale of firearms, firearm precursor parts, or ammunition at the OC Fair and Event Center. I understand that you are meeting today to discuss two agenda items related to SB 264. Under Item 6A, the Board will "discuss the status of SB264 and whether or not to send a letter to the Governor respectfully requesting he veto SB264 because it exclusively targets the 32nd DAA." Under Item 6B, the Board will consider a request from the Crossroads of the West Gun Shows to "pre-approv[e]" gun shows for the 2022 year, prior to SB 264's effective date of January 1, 2022. As I explain below, I believe both of these items are inappropriate for the Board to pursue and that if approved, they would represent bad faith action on the part of the Board and its members.

Item 6A: "Discuss and Vote on Communication to the Governor's Office Regarding Amendment to SB 264 Banning Gun Shows Solely at OC Fair & Event Center"

I admit I am surprised that the Board is considering taking a position on SB 264 and lobbying the Governor's office. During the formative stages of SB 264, when my office and I were researching and developing this bill, I was repeatedly advised by staff and Board members from the 32nd DAA that the Board was not a political entity and therefore could not respond to the preferences of the local community, no matter how strong those sentiments might be. I was told that the Board's role was simply that of a fiscal steward and that as long as gun shows were legal, no matter how much they might lead to harm in our community and no matter how strong the local opposition, the Board had a fiduciary duty to enter into contracts with the operators of these gun shows. For the Board to take what is in effect a political position on this issue is not only contrary to these assertions, but would also seem clearly ultra vires of its stated mission and

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duties, as expressed in the California Code and in the California Department of Food and Agriculture's Board of Directors Handbook.

As you know, CDFA has its own Legislative Coordinator responsible for developing technical analysis and recommended positions on legislative activity affecting the 54 DAAs across the state of California. My understanding is that an individual DAA developing its own political position on a bill and lobbying the Governor to this effect is highly unusual and arguably prohibited. Indeed, in its 2008 Handbook for Board Directors, CDFA specifically states that "DAAs are not authorized to take independent positions on legislation or to provide testimony at legislative hearing regarding bills on which the Governor's Office has not issued an approved position."

Furthermore, the substantive merits of any such communication to the Governor are dubious. While Item 6A expresses a concern that SB 264 "exclusively targets the 32nd DAA," such action to ban gun shows at a single fairground site has recent precedent. In 2019, Gov. Newsom signed Assembly Bill 893 (Gloria) into law, ending the sale of firearms and ammunition at the Del Mar Fairgrounds, operated by the 22nd District Agricultural Association. In 2020, Sen. Scott Wiener authored SB 281, which would have ended the sale of firearms and ammunition at the Cow Palace. SB 281 passed out of the Senate with a large supermajority of votes, but was pulled by Sen. Wiener after the Cow Palace Board enacted a ban on all future gun shows.

Given the clear linkage between firearms sales and gun violence, and also given that Orange County has been the site of several recent high-profile shootings, including the mass shooting in Orange and the murder of young Aidan Leos on the 55 Freeway earlier this year, there is ample reason to support a ban on gun shows at the OC Fair and Event Center.

Finally, it is worth noting that there is strong local support for SB 264. In addition to the many Orange County residents and groups who have contacted you in support of this bill, it has also enjoyed strong support from local legislators. SB 264 passed out of the Senate and Assembly with overwhelming majorities, including support from myself and Assemblymember Cottie Petrie-Norris (AD-74). As you know, Asm. Petrie-Norris and I are the two legislators who represent the OC Fair and Event Center. Most of the other legislators who represent Orange County also supported this bill, including Senators Bob Archuleta (SD-32), Josh Newman (SD-29), and Tom Umberg (SD-34), and Assemblymembers Tasha Boerner Horvath (AD-76), Tom Daly (AD-69), and Sharon Quirk-Silva (AD-65).

Item 6B: Discuss and Vote on Whether or Not to Approve 2022 Rental Agreements with Crossroads of the West Gun Show to Exclude Sale of Firearm Precursor Parts

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I also understand that the Board is considering whether or not to "pre-approve" contracts with the Crossroads of the West Gun Show for 2022 and possibly beyond. Item 6B is predicated on SB 264's exclusion of firearms, firearm precursor parts, or ammunition sold pursuant to a contract entered into before January 1, 2022. For a number of reasons, I believe that any such "pre-approvals" of contracts, undertaken immediately after the passage of SB 264 from the Legislature, would be void for opposing public policy.

Some context here might be appropriate. In drafting SB 264, we considered whether or not to simply make the effective date January 1, 2022, with no exceptions. But to try to be fair to those who might have entered into contracts in good faith that extended beyond January 1, 2022, we crafted a narrow exception to this rule, allowing for contracts entered into before January 1, 2022 to also be excluded from the scope of SB 264.

However, with the bill now at the Governor's desk ready for his signature, I believe that any such contracts entered into by the Board at this point would prima facie appear to be made in bad faith, with the specific intent of evading and opposing the purpose of SB 264. Moreover, the context of this meeting—a special meeting, described by one local news publication as an attempt to "rush to pre-approve the contracts for its annual gun shows," in contravention of past established practices and procedures by this Board—gives further credence to the idea that the Board would be acting with the specific intent to thwart public policy if it pre-approved these contracts.

Let me be clear. Should the Board vote to approve Item 6B and "pre-approve" a long-term contract with Crossroads of the West or any other gun show operator, I would explore litigation and legislation seeking to void these contracts. I also believe that any such action by the Board would potentially expose its members to personal liability, since they would be acting specifically with clear intent to subvert and evade the purpose of a statute they believed was likely to take effect, in opposition to clearly established public policy.

I am grateful for your public service, and appreciate your close consideration of these matters. I am hopeful that you will fulfill your statutory and fiduciary duties and reject both of these Items presented to you today. My staff and I are available for further questions, and I encourage you to reach out to us for further dialogue on this and other matters.

Very truly yours,

Senator Dave Min (SD-37)

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cc: Michele Richards, CEO Doug La Belle, Board Vice Chair Ashleigh Aitken, Board Member Barbara Bagneris, Board Member Sandra Cervantes, Board Member Nick Kovacevich, Board Member Newton Pham, Board Member Robert Ruiz, Board Member Case 8:22-cv-01518-JWH-JDE Document 21-3 Filed 11/16/22 Page 50 of 108 Page ID #:1295

EXHIBIT 32

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То:	Board of Directors 22 nd District Agricultural Association	2016
From:	Patrick J. Kerins, Public Safety Director 22nd District Agricultural Association	
Via:	Mr. Timothy Fennell, General Manager 22nd District Agricultural Association	

Subject: Laws and Regulations pertaining to California Gun Shows

In preparation for your Board meeting on November 15, 2016 reference the letter from Mr. Wayne Derntz relative to the Crossroads of the West Gun Show, I am providing you the following historical information relative to the Crossroads of the West Gun Show and the California rules, regulations and laws that govern gun shows. As you will note in the report, I communicated with law enforcement to see if any of the information had to be up-dated but according to the San Diego Sheriff's Department that regulates the gun show I was advised that all the applicable rules, regulations and laws are as applicable today as they were in 1999.

With that said, in 1999, then Director Louis Wolfsheimer requested that a staff report be prepared to answer two questions he had regarding the gun show held at the Fairgrounds.

Mr. Wolfsheimer's major concerns were:

- can a patron attending a gun show on District property purchase a firearm without any checks or waiting periods that are required by law when guns are purchased from retail dealers off fairground property?

- secondly, does the District have in place proper internal oversight and mechanisms requiring the promoter and the vendors to comply with all applicable laws that regulate the sale and transfer of firearms?

In order to address Director Wolfsheimer's concerns as to whether firearms being sold or transfer on District property are in compliance with applicable federal, state and local laws, I contacted the Commander of the Encinitas Sheriff's station who has primary law enforcement jurisdiction pertaining to any such matters on District property. I was subsequently directed to the San Diego County Sheriff's Department Licensing Division. The San Diego County Sheriff's Department has regulatory jurisdiction in licensing and enforcement of gun shows. At the time, I was directed to Detective Tom Morton who was a licensing specialist who had considerable expertise in the area of statutory regulations and compliance for gun shows.

After reviewing Director Wolfsheimer's letter at my request, Detective Morton made an unsolicited statement that the Crossroads of the West Gun Show is one of the best gun

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shows for compliance with all state and federal regulatory statutes that apply to the sale and transfer of firearms. Detective Morton said, in his opinion, The Crossroads of the West Gun Show was more a sports show. He based that on the fact that the show appears to have just as many vendors selling hunting equipment, clothes and accessories as firearms. In fact, he said the promoter should call it the "CROSSROADS OF THE WEST SPORTS SHOW" instead of gun show.

Detective Morton said that any firearm sold or transferred at the Crossroads of the West Gun Show must meet the same requirements as if the firearm was purchased from an offsite licensed vendor. All sales and transfers are subject to compliance with Penal Code sections 12071 and 12072 that regulate Gun Shows. In essence, those particular statutes requires the purchaser and seller to:

- produce valid identification and a firearms safety certificate
- prepare a CA. Dept. of Justice dealer record of sale
- prepare a Bureau of Alcohol, Tobacco and Firearms form 4473 (federal record of sale form)
- wait the required ten day waiting period for both the state and federal authorities to do a background check to determine if the person is qualified to own a firearm. This applies to any transaction whether from a vendor or via private parties.

The only exception to the above requirements is for firearms made prior to 1898 and are classified as antiques.

As for the promoter of the Crossroads of the West Gun Show, Mr. Bob Templeton, Detective Morton said he was in full compliance with the requirements set-forth in Penal Code section 12071 which regulate gun shows. Those requirements are:

- that he possess a Certificate of Eligibility issued by the California Department of Justice. This certificate is issued after a thorough background check is completed on the applicant.
- that he produce a list of all vendors that sell firearms (35 of the 265 gun show vendors)
 72 hours prior to the event. Detective Morton and the California Department of Justice validates that they are all licensed vendors.

As for actual vendors, Detective Morton said that all vendors that participate in the gun show are in compliance with all the state and federal regulations. They all possess the following documents:

- Federal Firearms License issued by the Bureau of Alcohol, Tobacco and Firearms.
- · Certificate of Eligibility issued by the California Department of Justice.
- · sellers permit issued by the State Board of Equalization.
- California Firearms Dealer (CFD) number issued by the California Department of Justice. This certificate validates that the vendor is a fully licensed California gun dealer. Participating in a gun show is an extension of the dealer's retail business. In

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essence, selling and transfer of a firearm must meet the same legal requirements as if the firearm was purchased at a licensed retail shop.

• any firearm purchased must be retained by the dealer for ten days before being transferred to the purchaser. This allows the state and federal government to do a thorough background check. In the case of private party transactions, a licensed vendor must facilitate the transaction and retain possession of the firearm for the ten days. A fee is charge to the purchaser to off-set any administrative overhead incurred by the vendor.

In order to ensure compliance with the aforementioned regulatory statutes and in accordance with section 12071.1(8) (i) Gun Show Security plan, Detective Morton, in cooperation and support with District Security, conducts both an overt and covert inspection of all our gun shows. Each gun show is policed by four uniformed San Diego County Deputy Sheriffs and a team of undercover Detectives from the Sheriff's Licensing and Explosive Ordnance Unit. Their mission is to:

- observe firearm transactions and compliance with all appropriate state and federal statutes.
- monitor private party transactions
- look for any illegal weapons
- monitor the crowd for any parole violators or any other person prohibited from owning a firearm

It should also be noted that Agents from the California Department of Justice and the Bureau of Alcohol, Tobacco and Firearms do site inspections as well.

Detective Morton, at the time, stated that the Crossroads of the West Gun Show was in full compliance with local, state and federal regulatory statutes. In his tenure of monitoring the Gun Show nominal violations had been recorded. In addition to Detective Morton's assessment of the Crossroads of the West Gun Show, the Criminal Justice Information Services Division of the State Attorney General's Office also stated that the Crossroads of the West Gun Show was in full compliance with all applicable laws of the state and federal government. Detective Morton said that most of the publicity in reference to gun show loopholes was associated with states that do not have regulatory statutes pertaining to the possession, sale and transfer of weapons at gun shows.

Detective Morton also addressed the issue of firearms that meet the definition of an assault weapon. Detective Morton said that the California Assault Weapons Control Act includes a list of semiautomatic firearms which are identified "assault weapons". Accordingly, those firearms which are specified in Penal Code section 12276 are assault weapons and are illegal to possess, sell or transfer by any means. Fully automatic weapons are illegal and CANNOT be obtained at gun shows.

As to the recent passage of Proposition 63, the sales of ammunition at the gun show will have to meet all the legal requirements of the State ballot measure. In regards to the sale of ammunition, purchasers will be required to obtain a permit from the California

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Department of Justice. In reference to firearm safety, prior to purchasing and taking possession of a firearm, the purchaser must take a firearms safety course and upon successfully passing the test will be issued a Firearms Safety Certificate which is required to purchase a firearm.

As Chief of Security for the 22nd DAA, I routinely inspect the gun show and on a regular basis communicate with the San Diego Sheriff's Department re: compliance with all the applicable laws and regulations and the Security Plan required by the California Department of Justice Firearms Division. I recently spoke to Detective Jaime Rodriguez of the Sheriff's North Coastal Station who supervises the four Deputies assigned to the gun show security detail and Detective Stacey Smith who is assigned to the Sheriff's Licensing Division. Both Detectives said the Crossroads of the West Gun Show is in complete compliance with all the local, State and Federal laws that govern gun shows and that there have not been any violations of law. Both Detectives had high praise for the show promoters and the 22nd DAA staff.

In addition, the District is in full compliance with the Division of Fairs and Expositions rules and regulations that mandates that all District Agricultural Associations include specific language and terms into all contracts for shows and events where participants display, possess or sell firearms or other weapons.

The CROSSROADS OF THE WEST GUN SHOW has been affiliated with the District for approximately 30 years. Robert R. Templeton is the president of the show and produces fifty two (52) gun shows each year in California, Arizona, Utah, Colorado and Nevada. He is a chartered member of the National Association of Arms Shows, an organization of gun show producers whose rules include the strictest compliance with the law and safety requirements of any gun shows in America. Approximately thirteen (5%) percent of the 265 vendors that participate in the Crossroads of the West Gun show sell firearms. Currently, his daughter-in-law, Tracey Olcottt, manages the event and is the holder of the required Certificate of Eligibility issued by the California Department of Justice.

In my considered opinion, as Chief of Security for the 22nd DAA for the last 17 years, the CROSSROADS OF THE WEST GUN SHOWS (5 per year) are in compliance with all the local, state and federal regulatory statutes and have operated without any violations of those laws. Under the laws of the State of California you must comply with all the laws of purchasing, selling and/or transferring of firearms at a gun show as you would at licensed gun dealer's store. Due to the strict California gun show regulations there are no so called loop holes that you so often hear about in the media.

It should be further noted, that in 2016 California voters passed Proposition 63, which will comprehensively regulate ammunition sales in California. Per Proposition 63, beginning January 1, 2018 the following rules and laws governing the sale ammunition in the State of California will take effect:

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- Beginning January 1, 2018, individuals who sell more than 500 rounds of ammunition in any month will be required to obtain an annual state issued license and will be required to conduct ammunition sales at specified business location or gun shows.
- State of California Department of Justice will issue ammunition vendor licenses to individuals who provide specified documentation, including a certificate of eligibility verifying that they passed a background check. Those dealers already licensed as firearm dealers are precluded.
- Dealers will be required to report loss or theft of ammunition from their inventory.
- Ammunition sales will have to be conducted by or processed through a licensed vendors.
- Beginning July 1, 2019, licensed ammunition vendors will be required to record, maintain and report to DOJ records of ammunition sales in a manner similar to dealer's records of sales for firearms purchases.
- Beginning July 1, 2019, licensed ammunition vendors will be prohibited from selling or transferring ammunition until first conducting a background check to verify that the person receiving the ammunition is legally eligible.
- Ammunition cannot be sold to anyone under the age of 18. Handgun ammunition can only be sold to those 21 years of age or older.
- All ammunition at Gun Shows must be displayed in closed containers. In addition, no person at a Gun Show in California, other than Security personnel or sworn peace officers, can possess at the same time both a firearm and ammunition that is designed to be fired in the firearm.

Patrick J. Kerins, Public Safety Director 22nd District Agricultural Association

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EXHIBIT 33

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Inside Gun Shows

What Goes on When Everybody Thinks Nobody's Watching

Garen Wintemute, MD, MPH



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Violence Prevention Research Program Department of Emergency Medicine UC Davis School of Medicine 2315 Stockton Blvd. Sacramento, CA 95817

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Copies may be downloaded at no charge: http://www.ucdmc.ucdavis.edu/vprp.

Support for this project was provided by the Eli and Edythe L. Broad Foundation, The Joyce Foundation, and The California Wellness Foundation.

I acknowledge with gratitude the contributions of Jeri Bonavia of the Wisconsin Anti-Violence Effort. She put gun shows on my radar and is an ace straw-purchase spotter. Thanks also to Barbara Claire and Vanessa McHenry of the Violence Prevention Research Program for their highly competent technical assistance.

This report and the work on which it is based could not have been completed without the support, made manifest in many ways, of my colleagues in the Department of Emergency Medicine. Thanks to all.

The project would never have been undertaken but for the uncompromising support given by the University of California to the principle that the pursuit of knowledge is a great privilege and therefore an obligation, come what may. Stan Glantz once wrote that this behavior is what makes the University of California a great public institution. He was right. Case: 23-3793, 01/30/2024, DktEntry: 19.3, Page 60 of 157

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Inside Gun Shows

Introduction

Gun shows are surrounded by controversy. On the one hand, they are important economic, social and cultural events with clear benefits for those who attend. On the other, they provide the most visible manifestation of a largely unregulated form of commerce in guns and, partly for that reason, are an important source of guns used in criminal violence.

The intent of this report is to document the broad range of what actually takes place at gun shows, with an emphasis on activities that appear to pose problems for the public's health and safety. Its purpose is not to inflame, but to inform. The report embodies its author's belief that objective evidence is beneficial to clear thought and sound action on important public matters.

Inside Gun Shows reflects observations made at 78 gun shows in 19 states, most of them during 2005-2008. Structured data on a subset of these shows were published previously.¹ During a period of exploratory work focused on developing methods for data collection, it became evident that descriptive anecdotes and quantitative evidence would never be adequate to the task. A camera was added.

It was important here, as often in field research, to avoid a Hawthorne effect: change in what is being observed introduced by the process of observation itself. For that reason conversation was kept to a minimum; no attempts were made to induce the behaviors that are depicted; criminal activity, when observed, was not reported; the camera was kept hidden.

> vii 0222 SER-0285

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It was also important to minimize any risk to individual persons, even though the behaviors being documented were occurring at events that were open to the public. No audio recordings were made, except of the author's own notes. Faces in the photographs have been obscured. The project was approved by the university's Institutional Review Board.

Readers should be aware that the author has worked collaboratively for many years with the Bureau of Alcohol, Tobacco, Firearms and Explosives and the California Department of Justice. The Violence Prevention Research Program receives support from the National Institute of Justice for research on gun tracing data and from the California Department of Justice for work on firearm-related domestic violence. Material concerning those agencies appears in this report.

Reading the Report

The following comments on the report's organization may be helpful. Chapter 1 reviews existing research and other evidence on the structure of gun commerce generally, the sources of guns used in crime, and the place of gun shows in that broader context. Chapter 2 takes up the ordinary details of gun show operations and presents a photographic overview of a day at a gun show. Chapters 3 through 6 are largely photo-essays. Chapter 3 takes up undocumented and illegal gun commerce; its core is a series of photo-narratives of private party gun sales and of what appear to be illegal "straw" purchases of guns. Chapter 4 focuses on the weaponry and related merchandise available at gun shows. Chapters 5 and 6 deal briefly with cultural, political, and social aspects of these events, again emphasizing aspects that appear problematic. Chapter 7 assesses these observations and makes recommendations for intervention.

The following terminology is used. Gun sellers who have federal firearms licenses are referred to as *licensed retailers*, whether they are gun dealers or pawnbrokers. Private parties without federal firearms licenses who sell guns are of two types: *unlicensed vendors*, who rent table space and display their guns from a fixed location, and *individual attendees*, who may be at the show primarily as customers but have also brought guns to sell. The occasional attendee who is both an active seller and buyer of guns is a *gun trader*. Sales by unlicensed vendors and individual attendees are collectively referred to as *private party gun sales*.

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For simplicity's sake, the term *assault weapon* will be used to describe semiautomatic, civilian versions of selective fire or fully automatic military firearms.

A Final Note

This report will be most useful if it is treated as an introduction to a complex and important subject. Readers are encouraged to take a weekend—even better, take several—and see for themselves.

References

1. Wintemute GJ. Gun shows across a multistate American gun market: observational evidence of the effects of regulatory policies. *Injury Prevention.* 2007;13:150-156. Case: 23-3793, 01/30/2024, DktEntry: 19.3, Page 64 of 157

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Gun Shows in Context



The United States and Gun Violence

Americans owned between 220 and 280 million guns in 2004, including at least 86 million handguns.¹ Millions of guns are added to that total each year. Just ten years earlier, America's gun stockpile was estimated to hold 192 million weapons.² As of 2004, some 38% of households and 26% of all adults had at least one gun; 41% of gun-owning households, and 48% of individual gun owners, had four guns or more.¹

More than 360,000 violent crimes involving guns, including an estimated 11,512 homicides, were committed in the United States in 2007.^{3,4} After dropping steadily through much of the 1990s,⁵ rates of gun-related and other violent crimes have changed little in recent years and have risen rapidly in some areas.^{6,7} Preliminary data for 2008⁸ and early 2009⁹ suggest a downward trend, which would be very good news, but rates of gun-related violence remain unacceptably high.

American Exceptionalism

America's rates of gun ownership are unique. We account



Assault rifles for sale, Dayton, Ohio.

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Mexico and Canada pose very different images when it comes to violent crime. [They] have one thing in common when it comes to armed violence—the underground gun market in the United States, which is a major source of supply to criminals and gangs in both nations...The USA represents a low-cost supplier of guns both because of lax regulations and of the great number of guns already circulating in private hands.

—Researchers Philip Cook, Wendy Cukier, and Keith Krause.¹⁵

There is "no reason why [Mexican] drug cartels would go through the difficulty of acquiring a gun somewhere else in the world and transporting it to Mexico when it is so easy for them to do so from the United States.

—U.S. and Mexican government and law enforcement officials interviewed by the Government Accountability Office for its study of cross-border gun trafficking.¹⁷ for less than 5% of the world's population but 35% to 50% of all firearms in civilian hands.¹⁰ Not surprisingly, death rates from gun violence are far higher in the United States than in other high -income countries.^{11, 12}

But America is not a uniquely violent society. As Franklin Zimring and Gordon Hawkins demonstrated some years ago,¹³ our rates of violent crime do not exceed those of other highincome countries—though they are above average. It is our rate of death from violent crime that is unique, and this high mortality rate results from our unique propensity to use firearms to commit violent crimes.

Exporting Crime Guns

Sadly, American firearms now also figure prominently in crimes committed elsewhere. Most crime guns that are recovered by law enforcement agencies in major Canadian cities, and for which a point of origin can be established, are imported illegally from the United States.^{14, 15} The problem has become particularly acute in Mexico, where drug-related gun violence has become so prevalent that the United States Joint Forces Command has warned of a possible "rapid and sudden collapse" with "serious implications for [US] homeland security."¹⁶ By April 2008, Mexican drug trafficking organizations had established a presence in at least 46 U.S. states.¹⁷ Of crime guns recovered in Mexico since 2006 for which the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has established a chain of ownership, more than 90% come across the border from the United States, and nearly 70% are American-made.^{17, 18}

Gun Shows and Gun Violence: An Introductory Case

At lunchtime on April 20, 1999, high schoolers Eric Harris and Dylan Klebold shot and killed 12 fellow students and a teacher at Columbine High School in Littleton, Colorado, and wounded 23 others. After exchanging fire with the police, they shot themselves.

All four guns used in the massacre were purchased at local gun shows, but none of them by Harris and Klebold.¹⁹ Three guns—two Savage shotguns and a Hi-Point 9mm carbine—were bought for them by an 18-year-old friend, Robyn Anderson, at a Tanner Gun Show near Denver the previous December.

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Gun Shows in Context

Anderson bought the guns from private parties rather than from licensed gun retailers. "While we were walking around [the show]," she would later testify, "Eric and Dylan kept asking sellers if they were private or licensed. They wanted to buy their guns from someone who was private—and not licensed—because there would be no paperwork or background check."²⁰ Anderson stressed that "[a]II I had to do was show my driver's license to prove I was 18. I would not have bought a gun for Eric and Dylan if I had had to give any personal information or submit to any kind of check at all."²¹

Just the day before, in fact, Harris and Klebold had tried to buy guns themselves at the show. The boys were 17 years old at the time. No one who would sell to them, but they were told that they could buy the guns if they brought someone with them who was at least 18 years old. Anderson believed it should have been obvious that she was buying the guns for Harris and Klebold; though she was making the payment, "they were handling the guns and asking the questions."²²

The fourth gun, a semiautomatic TEC-DC9 assault pistol, was bought at a Tanner Gun Show in August 1998 by Mark Manes—again from a private party, not a licensed retailer—and sold to Harris and Klebold the following January.¹⁹ Because the TEC-DC9 is a handgun, Manes was charged with providing a firearm to a minor (Harris and Klebold were still 17 when they bought the gun).

Anderson's rifle and shotgun purchases broke no federal or state laws, and she was not charged with any crime. J. D. Tanner, promoter of the shows, had this to say about her gun purchases: "All I can say is apparently it was all done legally. That makes me have a good feeling."²³

The first Tanner Gun Show held after the massacre took place the weekend of June 5 and 6; Tanner had canceled a show scheduled for the weekend after the shootings. On June 6, Corey Tucker, age 18, and David Winkler, age 17, used \$600 in cash provided by the Colorado Coalition Against Gun Violence to buy a TEC-9 pistol similar to the gun used by Harris and Klebold. They believed they were buying from a private party—there was apparently no evidence to the contrary—and their intent was to demonstrate how easily this could be done. "He didn't ask me my name or my age," Tucker said at a news conference the following week, and there was no identification check.²⁴ But the seller had been interviewed at the show on June 5 by *Denver* While we were walking around, Eric and Dylan kept asking sellers if they were private or licensed. They wanted to buy their guns from someone who was private—and not licensed because there would be no paperwork or background check.²⁰

All I had to do was show my driver's license to prove I was 18. I would not have bought a gun for Eric and Dylan if I had had to give any personal information or submit to any kind of check at all.²¹

—Robyn Anderson, on buying three of the guns used in the Columbine High School shootings.

All I can say is apparently it was all done legally. That makes me have a good feeling.

*—J. D. Tanner of Tanner Gun Shows.*²³

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Post reporter David Olinger, who was writing a story on the resumption of the Tanner shows. He was Terry Kern, a licensed gun retailer and gun store owner. When Olinger contacted him following Tucker and Winkler's news conference, Kern confirmed that he had sold the gun. But when told that his failure to document the sale or perform any identification check had become public knowledge, "Kern changed his account. The sale ,,didn't have anything to do with me," he said."²⁴

The sale was investigated by the Bureau of Alcohol, Tobacco and Firearms (ATF) and determined to have been illegal. Kern surrendered his firearms license.²⁵

Promoter J. D. Tanner himself sells guns at Tanner Gun Shows as an unlicensed vendor. A year after the massacre in Littleton, the prospective buyer of a handgun asked him, "You have to do a background check on this?" "No," he replied, "there"s no law says I have to."²⁶

A Paradox

The events surrounding the Columbine massacre exemplify many of the difficult problems posed by gun shows. Prohibited persons are able to acquire guns by using others as their agents. Guns can be sold anonymously, without background checks or records. Sellers, including licensed retailers, can be corrupt.

There is solid evidence that gun shows are an important source of crime guns, which we will review later in the chapter. The best of that evidence comes from ATF investigations of illegal gun trafficking—the organized procurement of guns for criminal use.²⁷⁻²⁹

But two highly-regarded surveys conducted under the auspices of the U.S. Bureau of Justice Statistics have found that less than 2% of felons incarcerated for crimes involving guns acquired those guns themselves at gun shows.^{30, 31} This poses a seeming paradox: How can gun shows be an important source of crime guns if criminals get their guns elsewhere? To clarify this, we need to take a step back and examine American gun commerce generally and the role gun shows play in that larger enterprise.

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Gun Shows in Context

America's Two Systems of Gun Commerce

Modern gun commerce operates under the terms of the oft-amended Gun Control Act of 1968 (GCA), which is enforced by ATF. Congress drew on its authority to regulate interstate commerce in drafting GCA as it had with GCA's predecessor, the Federal Firearms Act of 1938.³² Those "engaged in the business" of selling guns, as the law terms it, were required to obtain federal licenses and to buy and sell guns following specified procedures. Private parties who sold guns infrequently and not in the course of business were exempted, however. As a result, the United States has two very different systems of gun commerce that operate in parallel. At gun shows, they can operate literally side by side.

In 1995, Philip Cook and colleagues published a study that has done much to shape and clarify our understanding of how gun commerce operates.³³ By convention, the two systems mentioned above are referred to as the *primary market* and the *secondary market* for guns. The primary market comprises all transfers of guns by federally licensed firearms retailers such as gun dealers and pawnbrokers. These transfers may be of new or used guns.

The secondary market consists of transfers involving unlicensed sellers, such as the unlicensed vendors and individual attendees at gun shows.^{33, 34} This secondary gun market is much larger than is commonly thought. According to the Police Foundation's National Survey of Private Ownership of Firearms, it accounted for approximately 40% of all gun acquisitions in the mid-1990s.^{2, 33} Thirty years earlier, at the time Congress was debating the Gun Control Act, at least 25% of all gun acquisitions occurred through the private party transfers that were exempted from the terms of the Act.³⁵

As with other commodities, there is a *legal market* and an *illegal market* for guns. The movement of guns from the legal to the illegal market is the illegal market's chief source of supply. Gun trafficking is the intentional diversion of guns from the legal to the illegal market.

Finally, in considering how guns become available for use in crime, it is useful to consider *point sources* and *diffuse sources* of those guns.³⁴ Point sources are the venues linked to many known crime guns, usually licensed retailers. Diffuse sources are the many small-volume transactions between individuals that are

> ¹⁵ 0229 SER-0292

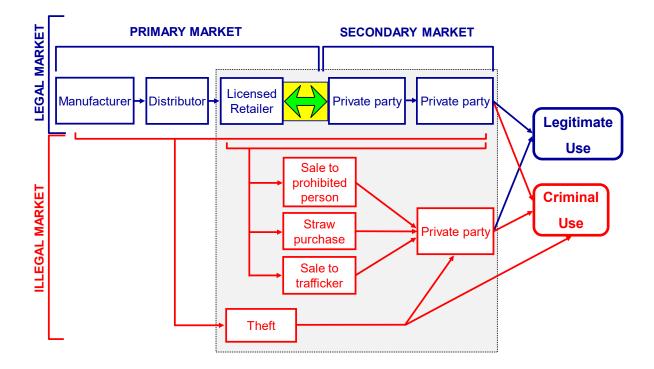
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dispersed in time and place, such as transfers of single guns between acquaintances or fellow gang members. Point sources provide the most readily identifiable targets for prevention activity, but diffuse sources, taken together, are the leading proximate source of crime guns.

An overview of America's gun markets is in Figure 1-1.

Figure 1-1. An overview of gun commerce in the United States. Activities within the shaded area occur at gun shows.



Gun manufacturers typically sell their products to distributors, who in turn sell them to federally licensed retailers such as gun dealers or pawnbrokers. Sales by manufacturers, distributors, and retailers make up the primary gun market. After its first sale by a licensed retailer to a private party, a gun may experience many subsequent sales or other changes of possession between private parties (through trades, for example). These transactions make up the secondary gun market. A private party may also sell his gun to a licensed retailer; most retailers sell both new and used guns. Guns enter the illegal market predominantly through sales to prohibited persons, straw purchasing and other trafficking operations, and theft. As with the legal market, guns in the illegal market may undergo many subsequent transfers of ownership. The shaded area of the figure identifies transactions that occur at gun shows.

Modified from Wintemute GJ. Where guns come from: the gun industry and gun commerce. *The Future of Children* 2002;12 (2):55-71.

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Gun Shows in Context

Regulating Gun Sellers

Federal Policy

In order to sell a gun to you, whether at a gun show or elsewhere, a federally licensed retailer such as a gun dealer or pawnbroker must see your identification. He must have you complete a lengthy Firearms Transaction Record on which you certify, under penalty of perjury, that you are buying the gun for yourself and that you are not prohibited from owning it. He must submit your identifying information to the National Instant Criminal Background Check System (NICS), administered by the Federal Bureau of Investigation.

Staff at NICS perform a background check on you, comparing your information to the records in a centralized archive of criminal histories and other databases to verify your eligibility to purchase firearms. In over 90% of cases this background check is completed within minutes,³⁶ but if important information is missing you may have to wait up to three business days to get your gun. (In 17 states, the background check can be waived for holders of permits to carry concealed weapons.)

The retailer must keep a permanent record of your purchase. If you buy more than one handgun from him within five business days, the retailer must file a special report with ATF. (This requirement does not apply to purchases of rifles or shotguns.)

These procedural safeguards are intended to ensure that you are who you say you are, that you and not someone else will be the actual owner of the gun, and that you are not prohibited from owning it. They also establish a paper trail that will help law enforcement authorities link the gun to you if it is used in a crime later.

But a private party, such as an unlicensed vendor or individual attendee at a gun show, can sell you that same gun—or as many guns as you want—and none of these federal safeguards will be in place. Private party gun sellers are not required to ask for your identification. They *cannot* initiate a background check, except in Delaware, Nevada, and Oregon, where they may do so voluntarily. There are no forms for you to fill out, and no records need be kept.

Again, the provisions of the Gun Control Act regulating gun sales apply only to those who are engaged in the business of



Attendee with several guns for sale, Houston, Texas.

¹⁷ 0231 SER-0294

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There is no limit to the amount of guns that a private collector can have. Some have 10, some have 1,000. If I go to a gun show and state that this is my private collection, I am not required by law to ask you for identification, ask you to fill out any paperwork, or conduct a background check. It is simply cash and carry.

—Tom Mangan, Special Agent, ATF, Phoenix, Arizona.³⁹

Unfortunately, the effect of the 1986 amendments has often been to frustrate the prosecution of unlicensed dealers masquerading as collectors or hobbyists but who are really trafficking firearms to felons or other prohibited persons.

—ATF gun show study, 1999.³⁷

selling guns. As originally enacted, GCA established that standard but did not define it. ATF considered the sale of five or more firearms annually to signify engagement in the business,³⁴ and federal courts upheld convictions for selling guns without a license in cases involving as few as six firearms.³⁷

Any clear understanding of what "engaged in the business" might mean was abolished by the 1986 Firearm Owners Protection Act (FOPA). The new law ambiguously defined a person as "engaged in the business" who "devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms."³⁸ Muddying the waters further, FOPA defined "with the principal objective of livelihood and profit" to mean "that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection."38 It specifically excluded from its definition of engagement in the business a person who makes "occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms."28, 38

The practical result was to make it much more difficult to set an upper limit to the frequency of buying and selling guns that did not require a license and compliance with the procedural safeguards described above. Today, private parties sometimes sell large numbers of new and used firearms while claiming hobbyist status and exemption from the requirements imposed on licensed retailers.²⁸ ATF put it this way in an important study of gun shows in 1999: "Unfortunately, the effect of the 1986 amendments has often been to frustrate the prosecution of unlicensed dealers masquerading as collectors or hobbyists but who are really trafficking firearms to felons or other prohibited persons."³⁷

State Policy

In 33 states, statutes regulating gun sales do not go beyond the ambiguous standards set by Congress. But 17 states regulate at least some sales by unlicensed private parties (Table 1-1). Some require that these transactions be routed through a licensed retailer; such transactions are subject to the same procedural safeguards that apply to the licensed retailer's own sales.

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Other states require that purchasers obtain a permit or undergo a background check through a law enforcement agency.⁴⁰ Of these 17 states, six regulate all private party gun sales and nine more regulate all private party sales of handguns. Two states, Colorado and Oregon, regulate all private party sales at gun shows only.

State	Handgun Sales		Long Gun Sales	
	All Sales	Gun Shows Only	All Sales	Gun Shows Only
California	•		•	
Colorado		•		•
Connecticut	•			•
Hawaii	•		•	
Illinois	•		•	
lowa	•			
Maryland	•			
Massachusetts	•		•	
Michigan	•			
Missouri	•			
Nebraska	•			
New Jersey	•		•	
New York	•			•
North Carolina	•			
Oregon		•		•
Pennsylvania	•			
Rhode Island	•		•	

Table 1-1. State regulation of private party gun sales*

* In the remaining 33 states, private party gun sales are not regulated.

From *Survey of state procedures related to firearm sales, 2005.* Washington, DC: Bureau of Justice Statistics; 2006. NCJ 214645. See Table 6.

¹⁹ 0233 SER-0296

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Regulating Gun Buyers

Federal Policy

Federal statutes prohibit several categories of persons from purchasing or otherwise acquiring firearms, whether from a licensed retailer or a private party, and from possessing firearms at any time.⁴⁰ (See Table 1-2.) Most of the prohibitions arise from criminal convictions. These were expanded to include convictions for misdemeanor crimes of domestic violence in 1996. Convictions for other violent and firearm-related misdemeanors, such as battery and brandishing a firearm, do not prohibit firearm ownership under federal law. A federal prohibition is permanent unless it arises from a domestic violence restraining order, in which case it exists only as long as the restraining order remains in effect.

Persons less than 21 years of age may not purchase handguns from licensed retailers, but persons ages 18 to 20 may purchase handguns from private parties. Those less than 18 years of age cannot purchase long guns (rifles and shotguns).⁴⁰

Table 1-2. Categories of persons who are generally prohibited from purchasing or possessing firearms under federal law

A	A person is prohibited who:			
•	Is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year			
•	Is a fugitive from justice			
•	Is an unlawful user of or addicted to any controlled substance			
•	Has been adjudicated as a mental defective or has been commit- ted to any mental institution			
•	Who, being an alien, is illegally or unlawfully in the United States or has been admitted to the United States under a nonimmigrant visa			
•	Who has been discharged from the Armed Forces under dishon- orable conditions			
•	Who, having been a citizen of the United States, has renounced his citizenship			
•	Is subject to a court order that restrains such person from harass- ing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person			
•	Has been convicted in any court of a misdemeanor crime of do- mestic violence			

From United States Code, Title 18, Section 922(d).

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Federal law also makes it a felony to purchase a firearm from a licensed retailer for another person while representing oneself to be the intended owner of that firearm. Such transactions are known as surrogate or "straw" purchases. Although illegal, such purchases are common and are an important source of guns for prohibited persons. Straw purchases will be discussed in more detail later in the chapter and in Chapter 3.

State Policy

Many states have broadened the federal criteria for prohibiting the purchase and possession of firearms. Details for each state are available in the regularly-updated *Survey of State Procedures Related to Firearm Sales*, compiled by the Justice Department's Bureau of Justice Statistics and available at http://www.ojp.usdoj.gov/bjs/. In California, for example, persons convicted of most violent misdemeanors are prohibited from possessing firearms for 10 years following their convictions.

California, Maryland, Virginia, and New Jersey also prohibit individuals from purchasing more than one handgun in any 30-day period. Because California has a centralized record of handgun purchases, this prohibition applies statewide, not just to multiple purchases from an individual retailer. Private party sales are exempted, however.

Screening and Denial

Since March 1, 1994, the Brady Handgun Violence Prevention Act has required background checks on persons purchasing firearms from federally licensed firearm retailers. Federal and state agencies have conducted 97,080,000 Brady Act background checks as of December 2008. The checks have resulted in 1,778,000 denials, for a denial rate of 1.8%.⁴¹

In 2008 alone, 9,901,000 background checks were conducted, 147,000 of which led to denials (a denial rate of 1.5%). A large majority of these denials resulted from the fact that the prospective purchasers had been convicted of, or were under indictment for, serious crimes. (See Table 1-3.)

Prior to the Brady Act, in 32 states no background check was required to verify purchasers" statements that they were not prohibited persons. The 18 other states had enacted background check requirements of their own, sometimes many years earlier.⁴² Okay, I want it, but I just bought a gun June 2. I'll have to wait.

—An attendee making a deposit on a Walther pistol on June 6, in Orange County, California. Because of the state's prohibition on the purchase of more than one handgun within 30 days, he will not be able to purchase the gun until July.

Vendor: It's my understanding that if you've got a conviction, you can't buy guns forever.

Attendee: That's right. You don't ever want to hit the old lady, "cause then you're through.

—Advice given to a man shopping for parts for an AR rifle, Las Vegas, Nevada.

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When the Brady Act first took effect, states where no background checks had previously been required found that as many as 9.4% of persons who sought to purchase firearms from licensed retailers, and who had just certified under penalty of perjury that they were eligible to own guns, were in fact prohibited from owning them.⁴³

Reason for Denial	Agency Type		
Reason for Denial	Federal (%)	State (%)	
Felony indictment/conviction	55.9	45.7	
State law prohibition	6.8	10.5	
Domestic violence			
Misdemeanor conviction	7.3	9.9	
Restraining order	4.1	4.0	
Fugitive	13.4	8.6	
Illegal alien	1.4	0.5	
Mental illness or disability	1.1	3.7	
Drug user/addict	9.5	3.1	
Other	0.6	13.9	
Total	100	100	

Table 1-3. Reasons for denial of firearm transfer applicationin 2008

From *Background checks for firearm transfers, 2008—statistical tables.* Washington, DC: Bureau of Justice Statistics, 2008. NCJ 227471. See Table 4. Results for local agencies are omitted.

Does Denial Work?

The goal of screening and denial programs is to prevent gun-related violence by preventing persons thought to be at high risk of committing such violence from acquiring guns. There are no systematic data on the intermediate question: How often do people who are denied the purchase of a gun from a licensed retailer go on to acquire a gun from some other source? There are, however, several studies that collectively describe the effect of these programs on violent crime.

It appears that denial of gun purchase significantly lowers the risk of committing violent and gun-related crimes among the persons who are directly affected. The best example of this effect

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comes from California, which in 1991 expanded its criteria for a prohibition on gun ownership to include prior convictions for almost all violent misdemeanors. Over three years of follow-up, there was a 23% drop in crimes involving guns or violence among those whose gun purchases were denied in the year after the new policy took effect, as compared to a group of violent misdemeanants who legally purchased handguns under the previous policy.⁴⁴ For persons ages 21 to 24, among whom absolute rates of violent criminal activity were highest, the decrease was 27%. There was no difference for crimes involving neither guns nor violence. This specificity of effect supports the inference that the observed results were produced by the change in policy rather than some other factor.

Similarly, denial based on a felony conviction appears to result in a decrease in risk for crimes involving guns or violence of 20% to 25%.⁴⁵ This is a sizeable effect. Its importance is reinforced by a new research finding concerning risk for new criminal activity among persons who have previously been arrested for serious crimes.⁴⁶ As much as 20 years may need to pass before their risk of re-arrest falls enough to approximate the risk of first arrest among persons their age who have no prior arrest record. Policies intended to reduce that elevated risk for new criminal activity appear to be well-advised.

However, the federal screening and denial program put in place by the Brady Act may have had little effect on populationwide rates of gun-related violent crime. Careful researchers studying rates of gun homicide determined that while a decrease occurred in states where Brady led to the institution of screening and denial for the first time, that decrease also occurred in states where similar programs had been in place all along.⁴² They found no effect on rates of gun homicide that could be attributed to the Brady Act itself.

Several explanations have been proposed for these seemingly contradictory findings. One is that the federal criteria for prohibiting an individual from purchasing a gun are quite narrow. Most violent misdemeanors are not prohibiting offenses, for example. As a result, many high-risk persons are still able to purchase guns, and the number of persons denied may be too small for any beneficial effect on them as individuals to be reflected in overall crime rates.⁴⁷

Another, probably more important, is that the Brady Act's mandate applies only to gun sales by federally licensed retailers.

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Of course, if I don't ask, nobody knows.

— A seller contemplating the sale of a handgun to a possibly prohibited party, Reno, Nevada.

Three and a half out the door. I'm not a dealer so just pay cash for it and you're outta here.

— An unlicensed vendor selling a Ruger revolver, tagged at \$425, Waukesha, Wisconsin. The secondary market's private party gun sales—accounting, again, for perhaps 40% of all gun transfers every year—are unaffected. A new evaluation of state-level regulations on gun sales provides evidence in support of this possibility. Gun trafficking, which facilitates firearm-related violent crime, appears to be significantly reduced in states that regulate private party sales of handguns.⁴⁸

Summing Up: Why Private Party Gun Sales Matter

Private party gun sales are quick and convenient. Even a completely law-abiding gun purchaser might appreciate the absence of paperwork that characterizes private party sales. And their anonymity will attract those who put privacy at a premium.

But the same attributes of private party sales that make them convenient for legal gun buyers make them the principal option for a felon, fugitive, domestic violence offender, or other prohibited person. The key is that while it is always illegal for a prohibited person to buy a gun, it is only illegal to sell a gun to a prohibited person if the seller knows or has "reasonable cause to believe" that he is doing so.⁴⁹ Again, a private party seller *cannot* initiate a background check. He is under no obligation to inquire directly. The matter is easily finessed. As one gun seller said while contemplating a possibly illegal handgun sale, "Of course, if I don't ask, nobody knows."

Where Crime Guns Come From

Licensed Retailers: The Primary Gun Market

In the early 1990s, the United States had more licensed gun retailers than gas stations.⁵⁰ More rigorous licensing and oversight policies led to a large decrease in licensed retailers by 2001.^{5, 34, 51} The sellers of one-third of crime guns traced in 1994 were out of business by 1998.⁵²

Licensed retailers remain an important source of crime guns, however.^{27, 28, 53-55} Of persons incarcerated during the 1990s for serious crimes involving guns, 12% to 19% of those in state prisons³¹ and 19% of those in federal prisons³⁰ purchased their guns personally from a retail store or pawnshop.

Others employ surrogate or "straw" purchasers to buy guns from licensed retailers on their behalf. In a typical straw

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purchase, the actual buyer determines which gun is to be bought and provides the funds. The straw purchaser, acting as the buyer's agent, makes the purchase by falsely representing himself (or, frequently, herself) to be the actual buyer of the gun. The details can vary. For example, the actual buyer may make the selection at the time of purchase and transfer the funds to the straw purchaser in full view of the retailer. Alternatively, the straw purchaser may operate with a shopping list of desirable guns or communicate with the actual buyer by cell phone (sometimes sending pictures of the guns in question).⁵⁶ Straw purchasers may be compensated with cash, drugs, or other currency.

Criminal gang members may be particularly likely to use straw purchasers, even if they themselves are not prohibited persons, for the simple reason that it is unsafe for them to travel outside their territories to a licensed retailer's place of business.⁵⁷ Gun traffickers, needing to mask their gun purchases, may employ whole networks of straw purchasers. Straw purchases have emerged as a leading source of supply for Mexican drug trafficking organizations.

Consider, for example, the case of John Philip Hernandez of Houston.^{58, 59} Between June 2006 and June 2007, Hernandez spent nearly \$25,000 to buy 23 firearms, including 5.7mm FN Herstal Five-seveN "cop killer" pistols and 15 AR rifles, from Houston-area retailers. The guns were smuggled into Mexico, where several have since been used in homicides and other violent crimes—as soon as two months after Hernandez purchased them. Hernandez recruited others to buy guns for him; they purchased another approximately 80 guns. The larger operation of which Hernandez and his confederates were just one segment is believed to have shipped well over 300 guns across the border. Most of the 22 members of that operation remain at large.

When all this began, Hernandez was 24 years old. In April 2009, he was sentenced to 97 months in prison by a judge who held that the maximum term recommended by the U.S. Sentencing Guidelines was not a sufficient deterrent to others.

Straw purchasers are often the intimate partners of actual buyers. Women make up about 10% of gun owners overall,^{1, 2} but 18% of straw purchasers working with gun trafficking operations were the girlfriends or spouses of the traffickers.²⁷

A straw purchase is a felony under federal law for both the actual buyer and the straw purchaser—and for the retailer, if he

If she's buying the gun, she's got to act like she's buying the gun. Come on up here.

—A licensed retailer in Las Vegas, Nevada, to two young men who are negotiating the purchase of a handgun and have just indicated that one of two women standing well behind them will be the purchaser. All four leave immediately.

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PRIVATE SALES SEE KEVIN.

—Multiple signs at this licensed retailer specializing in customassembled AR and AK rifles. The signs were seen at a show in Reno, Nevada, but not at subsequent shows in Las Vegas, Nevada; Phoenix, Arizona; or San Francisco, California. The photograph was taken in San Francisco. sells the gun despite knowledge or reasonable cause for belief that a straw purchase is in progress. There is clear evidence from criminal investigations that straw purchases are nonetheless an important source of crime guns.^{27, 55} In a 1993 survey, 32% of student-age correctional inmates and, perhaps even more surprisingly, 18% of inner city high school students had asked someone to purchase a gun for them from a retail outlet.^{60, 61} More recently, 53% of licensed retailers telephoned by a sham prospective purchaser indicated that they would sell a handgun to that person because his or her intimate partner "needs it."⁶²

The question arises: Why risk a straw purchase from a licensed retailer when private party gun sales offer a convenient and anonymous, if still illegal, alternative? The answer may be in part that licensed retailers have larger inventories than private party sellers do⁶³ and in particular are more likely to stock new assault rifles and similar weapons sought after by criminal users. Buying a new gun also avoids the risk of being linked through the gun to prior crimes in which it was used. This proposition would be unconvincing if the risk of apprehension during a straw purchase were high, but it is not.⁶³

Tracing Crime Guns

An individual licensed retailer's importance as a source of crime guns is estimated by determining the number of recovered crime guns sold by that retailer. Linking crime guns to their points of sale is accomplished by a procedure called gun tracing, which ordinarily reconstructs the chain of ownership of a gun from its manufacturer to its first retail purchaser. Gun traces are conducted by ATF in response to requests from law enforcement agencies all over the world, and annual reports on traced guns for each state in the U.S. are provided by ATF at its web site: http://www.atf.gov/firearms/trace_data/index.htm. In 2005, ATF received more than 260,000 requests for gun traces.⁶⁴

Some retailers sell more crime guns than others do. In 1998, of 83,272 licensed retailers nationwide, just 1,020 (1.2%) accounted for 57.4% of all traced guns.⁶⁵ At that time, many licensed retailers sold few guns or none at all, however. In a later California study of 421 retailers who sold at least 100 handguns a year, just 10 retailers (2.4%) accounted for 29.2% of all handguns sold by the entire group that were traced after use in a violent or firearm-related crime.⁶⁶

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The National Rifle Association has suggested that the number of traced guns linked to an individual retailer reflects only that retailer's sales volume.⁶⁷ This is not the case. Some licensed retailers are linked to crime guns not just frequently, but *disproportionately*: more frequently than would be expected from the overall number of guns they sell. In the California study cited above, the 11.2% of retailers who had disproportionate sales of crime guns accounted for 46.1% of handguns linked to violent or firearm-related crimes.⁶⁶

Perhaps of greatest concern, some licensed retailers are corrupt. Such retailers are the immediate source of nearly half of all guns that are trafficked—diverted intentionally into illegal gun commerce.²⁷ They account for two-thirds of trafficked guns coming from gun shows.²⁸

Private Parties: The Secondary Gun Market

Far and away, the leading proximate source of crime guns is the secondary gun market. More than 85% of the recovered crime guns traced by ATF are in the possession of someone other than their first retail purchaser when the crime is committed; the percentage is even higher for guns recovered from juveniles and youth.⁶⁸⁻⁷⁰ These guns have gone through at least one private party gun sale (or some other type of private party transfer of possession, such as a trade). Correspondingly, the great majority of persons who have committed violent crimes with guns report that they acquired their guns through a private party transaction.³¹ (See Table 1-4.)

At least two of the reasons for this are clear. As discussed, private party gun sales offer anonymity and are available to those who would be prohibited from buying from licensed retailers. Accessibility is also important. Licensed retailers can be few and far between, at least in some large cities. There are an estimated 57 million adult gun owners in the United States,¹ any one of whom can become a private party gun seller.

The lack of documentation for private party gun sales creates missing links in the chain connecting the first retail purchaser and the criminal from whom the gun has been recovered. Finding those missing links can be impossible, or at best very expensive. In states that require records to be kept for all gun sales, however, investigators seek to identify the most recent purchaser of a crime gun, not just the first.⁷⁰ This is of real practical value; it can Gun shows, flea markets, hotel rooms, just about anywhere. He's not asking for any identification, he's not asking to have somebody have a record check being done, so he'll sell to anybody for a price.

— ATF agent Thomas Stankiewicz describing Kurt Radovich, accused of gun trafficking in Pennsylvania in 2008. More than 500 guns and thousands of rounds of ammunition were taken from Radovich's home at the time of his arrest.⁷¹

I don't fill out any paperwork or anything.

—An unlicensed vendor in San Antonio, Texas, buying a Smith & Wesson .357 revolver for \$350 from an attendee at the show. The vendor has about 60 guns for sale, including at least 5 AK rifles.

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convert a crime gun whose first retail purchase was in another state several years earlier into a gun sold just weeks before the crime, just miles from the crime scene. (Examples are in Table 1-5.) The same information can be critically important in identifying gun trafficking networks and in linking one crime to another.

Source	Percentage	
Source	1997	1991
Purchased or traded from retail outlet	13.9	20.8
Retail store, pawnshop	12.1	18.9
Flea market, gun show	1.7	1.9
Family or friend	39.6	33.8
Purchased or traded	12.8	13.5
Rented or borrowed	18.5	10.1
Other	8.3	10.2
Street, illegal source	39.2	40.8
Theft, burglary	9.9	10.5
Drug dealer, off street	20.8	22.5
Fence, black market	8.4	7.8
Other	7.4	4.6

Table 1-4. Sources of guns used in crime by state prison inmates

From Harlow CW. *Firearm use by offenders*. Washington, DC: Bureau of Justice Statistics; 2001. NCJ 189369. See Table 8.

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Table 1-5. Results of standard ATF traces and traces incorporating additional California sales records for handguns recovered from young people in California and traced in 1999

Gun	Date of Recovery by Law Enforcement	ATF Sale Date	ATF Time from Sale to Recovery	California Sale Date	California Time from Sale to Recovery
GLC 23, .40	03/06/99	Unknown	Unknown	06/08/96	2.7 у
	05/22/98	288 d			
SW 910, 9mm	02/01/99	02/28/96	2.9 у	02/28/96	2.9 y
				09/20/98	135 d
SW Sigma, 9mm	09/28/99	04/28/95	4.4 y	03/19/97	2.5 y
	06/25/99	95 d			
GLC 19, 9mm	12/22/98	04/21/98	245 d	12/01/98	22 d
CLT .25	02/17/99	Unknown	Unknown	12/19/98	62 d

Summary of example cases:

In case 1, a Glock Model 23, .40 caliber semiautomatic pistol was recovered on March 6, 1999 in Los Angeles. The standard trace identified the retailer who first sold the gun, but the date of purchase and time from sale to recovery were unknown. California sales records identified three transactions, two of which occurred less than a year before the gun's recovery.

In Case 2, a Smith and Wesson Model 910, 9mm semiautomatic pistol was recovered February 1, 1999. Both the standard trace and the sales records identified a first sale in February, 1996, but the sales records included a subsequent transfer just over four months prior to the gun's recovery.

(Y denotes years; d denotes days.)

From Wintemute GJ. The life cycle of crime guns: a description based on guns recovered from young people in California. *Annals of Emergency Medicine* 2004;43:733-742.

Gun Shows and Gun Commerce

Since the adoption of the Firearm Owner's Protection Act in 1986, federal law has permitted licensed retailers to sell guns of any type at gun shows in their home states. They can sell long guns at shows elsewhere.³⁴ Prior to 1984, retailers could sell only at the premises listed on their license; from 1984 to 1986, they were allowed to conduct business at gun shows under a new ATF

> ²⁹ 0243 SER-0306

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PRIVATE SALES NO TAX B/A CHECK



Signs posted by unlicensed vendors, Tucson and Phoenix, Arizona.

regulation.⁷² By creating an ambiguous definition of the term "engaged in the business," FOPA also expanded opportunities for private parties to buy and sell guns regularly while claiming to be indulging a hobby.

Although systematic data are lacking, the result appears to have been a rapid increase in both the number and size of gun shows during the 1980s and 1990s. An informal survey in 1996 by the Violence Policy Center yielded the following impressions, among others.⁷² From a regional ATF official: "Several out of my eight supervisors said we definitely had an increase of more than 50 percent in the last 10 years." From David Cook, show organizer for the North Texas Gun Club, a promoter of large gun shows in Dallas: "They"ve become more popular. I remember the days when there was a show only once every three months. Now you can go to one just about every weekend."

Today, gun shows continue to play a unique role in gun commerce, stemming from the fact that dozens to hundreds of gun sellers—licensed retailers, unlicensed vendors, and individual attendees—are present and competing with one another for business. Licensed retailers rent table space from the shows" promoters and display their inventory from a fixed location, but unlicensed vendors do this as well. ATF, based on interviews with promoters, estimates that 25% to 50% of all gun sellers at gun shows who rent table space are unlicensed vendors.³⁷ A separate study, based on observations at gun shows, raises this estimate to 70%.⁶³ (The reasons for the discrepancy will be discussed later.)

The same absence of regulation that characterizes private party gun sales generally is also true of sales by unlicensed vendors at gun shows. Some advertise their unregulated status; at one show, an unlicensed vendor posted this sign: "No background checks required; we only need to know where you live and how old you are."³⁷ It is of great concern that some unlicensed vendors are likely to be "corrupt licensed gun dealers who were squeezed out of the primary market by recent...ATF efforts to make it more difficult to obtain and renew a federal firearms license."²⁸

Individual attendees who have brought guns to sell probably outnumber licensed retailers and unlicensed vendors put together. Some are active traders, both buying and selling guns.

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Economies of Scale

Major gun shows can usefully be considered the big-box retailers of gun commerce. Some individual licensed retailers at these shows are as large and well-staffed as a good-sized gun store. When dozens or hundreds of gun sellers are together in the same place along with thousands of potential customers, collective effects become important. Competition allows for multiple business strategies to be successful. Larger retailers can stock a wide range of products and maximize their sales volume at the expense of profit per item sold; small vendors may specialize to achieve excellence in a niche market. As a result, these gun shows offer their customers a breadth and depth of weaponry to choose from that can be found nowhere else, at prices that are as low as the market will bear.

This effect may not be particularly important for conventional handguns and long guns—the core of the inventory of a typical gun dealer or pawnshop. On the other hand, a customer might need to visit several retailers scattered across a metropolitan area in order to inspect a single .50 BMG rifle or one of the new semiautomatic pistols based on AR or AK rifle designs (more on these in Chapter 4). At a large gun show, however, he is likely to find at least half a dozen licensed retailers with several of these weapons to sell. Simply by walking back and forth between them he can comparison shop and negotiate a low selling price. Not uncommonly, he can buy them anonymously from an unlicensed vendor or another attendee.

The sheer quantity of weapons for sale at any one time, whether arrayed on tables or carried by attendees, can be eyeopening. A reasonable working estimate of the number of guns per seller renting table space is 25. (In a prior study, the median number of guns per seller was 22 in California and 26 in other states.⁶³) At the low end are unlicensed vendors who have just one or two guns on display and are mostly selling something else. At the other extreme, Shoot Straight Sports (see Chapter 2) had an estimated 1,354 guns laid out at a show in Orlando, Florida; some of these were atop stacks of boxes holding additional guns.

At a show with 200 gun vendors, then, an attendee walking the aisles might have about 5,000 guns on display to choose from at any one time. This does not include guns still in their boxes or carried by other attendees.

> ³¹ 0245 SER-0308

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See that guy over there? He's at every show. And he sells some of the same guns I do, only he charges more. Now why do you think some people are willing to pay more at his table than mine? Because he doesn't have to run them through a background check.

*—Licensed retailer Merlin Scales at a 2008 gun show in Norfolk, Virginia, describing a nearby unlicensed seller.*⁷³

Seller: I'm not really supposed to sell handguns to...non-Vermont residents.

Buyer: I was just hoping I'd be able to find somebody up here and let money do the talking, you know?

Seller: Well, you know the old Italian saying: make me an offer I can't refuse. You know what I mean? Then we can do something illegal.

Buyer: I'm willing to do \$2,500 cash.

Seller: Twenty-five hundred cash, that's tempting. I was figuring around the same thing. You got that kind of money?

Buyer: I'll go do what I gotta do.

--Conversation between an unlicensed vendor and a reporter, posing as a gun buyer, at a gun show in Vermont in 2008 or late 2007. The reporter is from Massachusetts. It is illegal for the vendor to sell a handgun to a buyer from another state. ⁷⁴

Gun Shows and Crime Guns

Much of the concern about gun shows as a source of crime guns focuses on private party gun sales, since no background checks are conducted and no records are kept.^{28, 37, 63} ATF emphasizes that "[u]nder current law, large numbers of firearms at these public markets are sold anonymously... there is virtually no way to trace them." As a result, "too often the shows provide a ready supply of firearms to prohibited persons, gangs, violent criminals, and illegal firearms traffickers."³⁷ A 2009 Government Accountability Office report identified both the lack of back-ground checks and the lack of records for private party gun purchases, including specifically those at gun shows, as "key challenges" to efforts to interdict gun trafficking across the border to criminal organizations in Mexico.¹⁷

Licensed retailers have not been silent. "Many Federal firearms licensees," ATF notes, "have complained to ATF about the conduct of non-licensees at gun shows."³⁷ At ATF briefings for licensed retailers attended by the author, licensees have reported flagrantly illegal activity by unlicensed vendors and private party sellers.

Perhaps the most vocal of these licensed retailers was the late Bill Bridgewater, head of the National Association of Stocking Gun Dealers. In 1993 he wrote to the House Judiciary Committee's Subcommittee on Crime and Criminal Justice:

> The BATF has established rules and regulations for these things they call "gun shows." The opportunity for the black marketers is that the BATF doesn't enforce those regulations and there isn't anyone else to do so. Consequently, there are literally hundreds of "gun shows" scattered around the country where you may rent tables, display your wares, sell what you please to whomever you please and once again the sale that is made with no records, no questions and no papers, earns the highest sales price...There are wide open "gun shows" the length and breadth of the United States, wherein anyone may do as he chooses, including buy firearms for children.⁷²

But licensed retailers themselves are implicated; there is

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evidence that among gun dealers, at least, those who sell at gun shows are more likely to have crime guns traced to them than are those who do not. ATF's 1998 Operation Snapshot, which compiled data on random samples of 382 gun dealers and 370 pawnbrokers, found that 30% of dealers with gun show sales, but 22% of all dealers, had previously had a crime gun traced to them. For pawnbrokers the difference was in the opposite direction; 36% of those with sales at gun shows, but 44% overall, had prior gun traces.⁷⁵ And in California, where both gun shows themselves and gun commerce generally are regulated, sales at gun shows are not a risk factor among licensed retailers for disproportionate sales of crime guns.⁶⁶

The best available data on gun shows as a source of crime guns come from ATF investigations of illegal gun trafficking.²⁷⁻²⁹ Example cases are given in Table 1-6.

In 2000, ATF published a detailed study of 1,530 such investigations initiated from July 1996 through December 1998, of which 212 (13.9%) involved gun shows and flea markets.²⁷ These cases accounted for 25,862 guns—30.7% of all the guns in the study.²⁷ Half the cases involved 40 guns or more. Nearly half (46%) involved felons either buying or selling guns at the shows. In more than a third, one or more of the involved guns were known to have been used in subsequent crimes, including homicide, assault, robbery, and drug offenses.³⁷

A follow-up study of 314 gun show investigations found that individual cases involved as many as 10,000 guns.²⁸ Trafficking at gun shows accounted for 9.9% of all firearms in cases linked to juveniles and youth.⁵⁴

ATF trafficking investigations also suggest that corrupt licensed retailers may preferentially do business at gun shows, as oversight is less stringent.^{27, 28} Nearly 20% of investigations concerning gun shows involved FFLs selling firearms without conducting background checks or retaining records.³⁷

Gun Show Exports

Gun shows are now frequently identified as the source of guns exported to Mexico,^{17, 58, 76} Canada,⁷⁷ and elsewhere. A lack of information, most importantly the absence of records for private party sales, has made it impossible to quantify the extent of the problem.¹⁷ Sales by licensed retailers and by private parties are both involved. I use my discretion. Most people who come to the shows, you see them a lot. You know who's "right" and who's "wrong." I don't have to, but I ask everybody to see their driver's license, and if they're not "right," they usually move on at that point.

—Unlicensed vendor Jim Caton at a 2008 gun show in Norfolk, Virginia.⁷³

> ³³ 0247 SER-0310

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Table 1-6. Examples of gun trafficking cases involving gun shows

	Year	Case Description
	1993	A licensed retailer in Tennessee "purchased more than 7,000 firearms, altered the serial numbers, and resold them to two unlicensed [vendors] whosold the firearms at gun shows and flea markets." The licensed retailer was sentenced to 15 months in prison and the unlicensed vendors to 21 and 25 months, respectively. ³⁷
s d	1995	A convicted felon in Michigan "used a false police identification to buy handguns at gun shows and resold them for profit." The guns included 16 new, inexpensive, 9mm and .380 semiautomatic pistols. The subject was sentenced to 27 months in prison. ³⁷
	1996	An unlicensed vendor who was a convicted felon operated a network of straw purchasers and had trafficked more than 1,000 guns, some acquired at gun shows. He "offered to sell agents an unlimited number of firearms, including fully automatic weapons and silencers." One gun "was recovered from the scene of a shootout in which two Mexican military officials were killed by drug traffickers." Another was recovered from the apartment of a Mexican drug czar. The trafficker was eventually sentenced to 78 months in prison; two licensed retailers who collaborated with him received probation. ²⁷
	2004	Dorian Bennett Carr, Jr., and Alvin Eugene Edwards were indicted for operating a straw purchasing ring that acquired approximately 240 new semiautomatic pistols from licensed retailers at Oklahoma gun shows and gun stores in six months. The guns were trafficked to Baltimore. Seven alleged straw purchasers were also indicted. ⁸¹
	2006	"Operation Flea Collar" began as an investigation of two traffickers who purchased firearms from a licensed retailer in Alabama and sold them at gun shows and flea markets there. The investigation grew to involve thousands of firearms recovered from at least 12 states; gangs routinely sent buyers to Alabama to purchase the guns in bulk. Twelve guns were linked to homicides. Eighteen persons were arrested and convicted, and 556 firearms, including a Streetsweeper shotgun, were seized. ^{82, 83}
	2006	Between 1994 and 2001, unlicensed vendor Richard Clausen bought and resold 300-400 firearms at gun shows and swap meets in Arizona. Clausen bought the guns from licensed retailers; the guns were sometimes resold, without background checks or records, within days. Clausen was sentenced to 27 months in prison. The judge said this of Clausen's conduct: "It was like spreading poison in the public water supply." ⁸⁴

They send over a scout on Saturday to see if there's anything they want. Then they show up on Sunday with a big wad of money and somebody who's got a clean record, who's legal to buy.

—A seller of trigger activators devices that increase the rate of fire of semi-automatic guns—on how Mexican gangs acquire guns at gun shows, Tucson, Arizona.⁷⁶

When somebody walks in and says, "I need eight of these," it becomes apparent what's happening.

—A licensed retailer in Tucson, Arizona. As reported by the New York Times, "[o]n May 18, 2008, a man bought two military-style rifles from him at a gun show on the Arizona State Fairgrounds. Two days later, the man showed up at the dealer's home with a friend and bought eight more rifles for more than \$5,000 cash. Despite the dealer's help [to law enforcement], members of the ring managed to smuggle at least 112 weapons, bought at a half dozen locations, into Mexico before they were arrested in February [2009]."58

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Table 1-6, continued.

Year	Case Description	
2006	Mark Andrew Nelson of Ohio pleaded guilty to operating a straw purchasing ring that acquired guns from licensed retailers for him to sell at area gun shows and directly to prohibited persons. The straw purchasers, who also pleaded guilty, were members of his family: Phaedra Ann Nelson, his wife (173 guns); Ricky Frank Nelson, his brother (83 guns); and James Robert Crook, his father-in- law (71 guns). Licensed retailer Robert L. Cook pleaded guilty of selling a firearm to a prohibited person. ⁸⁵	I have ha backgrou are carryi they boug —License Schluder
2008	In October, 2005, Antrinna Collins purchased 3 semi- automatic pistols and 3 AK-47 rifles at the Cuyahoga County gun show in Ohio. One of the pistols was used by a convicted felon in a shooting 27 days later. On at least 3 occasions, guns she purchased were found in the possession of convicted felons. She was sentenced to 4 years in prison. ⁸⁶	Pharr, Te
2008	During 2006-2007, Ernesto Olvera-Garza directed a trafficking network in San Antonio, Texas, that specialized in "high-powered, high-capacity handguns and assault rifles" ⁸⁷ acquired at gun shows and elsewhere. At least 9 straw purchasers were involved. ⁸⁸ A woman who straw purchased a gun for him at a San Antonio gun show testified that, when she delivered the gun to him in the parking lot, he showed her 10 more guns that other straw purchasers had bought. ⁸⁹ Garza's operation smuggled at least 50 guns into Mexico, one of which was used in a gunfight that killed two Mexican soldiers. He was sentenced to 12 years in prison. ⁹⁰	
2008	During 2007-2008, Jonatan Lopez-Gutierrez and John Avelar operated a straw-purchasing ring in El Paso, Texas, that bought more than 90 firearms from licensed retailers at gun shows and elsewhere. The guns were smuggled into Mexico. Twenty-four guns were seized, including .50- caliber and .308-caliber sniper rifles and AR-15 rifles. The men were sentenced to 48 and 37 months in prison, respectively. ⁹¹	
2009	Marvin Acevedo, a 35-year-old Guatemalan linked to a narcotics cartel in that country, was sentenced to four years in prison in February. He had purchased "more than ten" FN Five-seveN pistols and several thousand rounds of ammunition at gun shows and gun stores in North Texas and elsewhere. ⁹²	

I have had people that failed background checks, and yet they are carrying guns out of here that they bought from someone else.

—Licensed retailer Bruce A. Schluderman, at a gun show in Pharr, Texas.⁵⁸

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Referring to the widely-reported increase in gun trafficking from this country to Mexico, ATF's Assistant Director for Field Operations, William Hoover, emphasized the importance of "a readily accessible source of firearms and ammunition originating in mostly the secondary market such as gun shows, flea markets and private sales."⁷⁸ Canada's Criminal Intelligence Service, in its 2005 annual report on organized crime, referred to unregulated gun shows in the United States as a "serious threat."⁷⁹ And in 2003, the Congressional Research Service suggested that gun shows may be an attractive source of firearms for foreign terrorists.⁸⁰

Federal and State Policy on Gun Shows

Federal Policy

There is no federal regulation of gun shows *per se*. Existing law sets the terms for legal gun sales by licensed retailers and private parties, whether at a gun show or elsewhere. ATF regulations define gun shows and specify that the business procedures licensed retailers are required to follow at their usual premises apply at gun shows as well. Figure 1-2 reproduces an ATF circular outlining "activities permitted at bona fide gun shows."

State Policy

Eight states regulate gun shows, but the nature and scope of those regulations vary widely.^{40, 93} California "requires a show organizer to obtain a Certificate of Eligibility from the Department of Justice, provide local law enforcement with a list of the show"s sellers, and exclude minors unless they are accompanied at all times by a parent or guardian."⁴⁰ Details for each state are in Table 1-7.

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Table 1-7. Summary of state statutes regulating gun shows

State	Key Provisions of Statutes
California	Promoters must obtain a certificate of eligibility; provide a list of licensed retailers who will be attending, and of all vendors if requested; provide an approved security plan; and maintain liability insurance. Vendors must execute written contracts, certify that they will not display prohibited items and will process all gun sales through licensed retailers, and provide a list of all employees in attendance. All firearms brought by attendees must be tagged with the possessor's name, signature, and identifying information. Persons under 18 years of age are not admitted unless accompanied by a parent or legal guardian. (Other requirements have been omitted; see CA Penal Code Sections 12070-12071.4.)
Colorado	Records must be kept of all firearm transfers at gun shows, including private party transfers, by licensed retailers. (A licensed retailer must initiate a background check for a private party transfer at a gun show.)
Connecticut	Promoters must provide 30 days' advance notice of gun shows to law enforcement. (The Department of Public Safety must conduct a background check for a private party transfer at a gun show, which is requested by the seller.)
Illinois	Records must be kept of all firearm transfers at gun shows by gun sellers, including private party sellers, for 10 years. The record must include the buyer's Firearm Owner Identification Card number. (The Department of State Police must conduct a background check for a private party transfer at a gun show, which is requested by the seller.)
Maryland	Private party sellers of handguns and assault weapons at gun shows must obtain a temporary transfer permit for each show they attend, but only if they sell "from a table or fixed display." The permit requires a background check, and an individual may only be issued five permits per year.
New York	Promoters must post signs and provide written notification to vendors that all firearm sales require background checks initiated by licensed retailers and must identify a retailer who will initiate checks for private party sales. The retailer must retain records of sales at gun shows for 10 years.
Oregon	Promoters must post signs stating the requirement for a background check prior to the sale of any firearm at a gun show and must provide forms for requesting background checks. Records must be kept of all firearm transfers at gun shows by gun sellers, including private party sellers, for 5 years. (The Department of State Police must conduct a background check for a private party transfer at a gun show, which is requested by the seller.)
Virginia	Promoters must provide 30 days' advance notice of gun shows to law enforcement and provide a list of all vendors within five days following the show. There is an exemption for "shows held in any town with a population of not less than 1,995 and not more than 2,010, according to the 1990 United States census."

Adapted in part from *Regulating guns in America: an evaluation and comparative analysis of federal, state and selected local gun laws.* San Francisco, CA: Legal Community Against Violence, 2008.

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Figure 1-2 ATF circular outlining procedures to be followed at gun shows

U.S. Department of Justice

Bureau of Alcohol, Tobacco, Firearms and Explosives

Important Notice to Dealers and Other Participants at this Gun Show



This NOTICE applies to activities permitted at bona fide gun shows, as defined in Title 27 of the Code of Federal Regulations, Section 478.100. Federal firearms licensees ("FFLs" or "Dealers") may only sell firearms at gun shows within the State in which their licensed premises is located.

DEALERS LICENSED IN THIS STATE

- MUST display license.
- MUST comply with all recordkeeping requirements of ATF regulations concerning acquisitions and dispositions of firearms, including the recording of the place of sale.
- MAY dispose of handguns to residents of this State only, provided that the purchaser is at least 21 years of age and all provisions of the Brady law are met.
- MAY dispose of long guns to residents of any State, provided that the purchaser is at least 18 years of age, the laws
 of both States are complied with, and all provisions of the Brady law are met.
- MAY dispose of firearms to any FFL.
- MAY acquire firearms from any FFL licensed in the State and from any non-licensed individual.
- MAY take orders of any firearm from a non-licensee and ship the same to a licensee in the purchaser's State of
 residence from whom the purchaser can then take possession after the provisions of the Brady law are met.

DEALERS NOT LICENSED IN THIS STATE

- MUST display license.
- MUST comply with all ATF recordkeeping requirements concerning the acquisition of firearms.
- MAY acquire firearms from any FFL licensed in this State and from any non-licensed individual.
- MAY make a sale and deliver curio or relic firearms to any other FFL licensed in any State as long as the laws of both States are complied.
- MAY ship curio or relic firearms from this show to any other FFL.
- MAY display and take orders.

NON-LICENSED RESIDENTS OF THIS STATE

- MAY acquire long guns or handguns from FFLs licensed in this State, provided all provisions of the Brady law are met.
- MAY dispose of personal firearms to any FFL.
- MAY acquire from and dispose of personal firearms to non-licensed residents of the State. However, non-licensed
 individuals may not be engaged in the business of dealing in firearms without a Federal firearms license.
- CANNOT acquire from or dispose of firearms to non-licensed residents of any other State.
- CANNOT ship in interstate commerce, except to themselves or an FFL, a firearm that has otherwise been lawfully
 acquired; must, when shipping to themselves, declare the firearm to the commercial or contract carrier.

NON-LICENSED RESIDENTS FROM ANOTHER STATE

- MAY dispose of firearms to any FFL.
- MAY acquire long guns only from FFLs licensed in the State, provided the laws of both States are complied with and all provisions of the Brady law are met.
- MAY order firearms from any FFL and have them shipped from the show to an FFL in their State of residence by a commercial or contract carrier in accordance with State and Federal law.
- CANNOT acquire handguns.
- CANNOT acquire from or dispose of firearms to non-licensed individuals.

ATF 15300.23A Revised March 2006

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Law Enforcement at Gun Shows

ATF has had no proactive program of gun show enforcement.⁹⁴ Instead, its investigations traditionally have been reactive, originating in information developed from complaints or, more recently, patterns developed in gun tracing data or reports of multiple handgun sales. For example, of the 314 ATF trafficking investigations involving gun shows in the late 1990s, over 40% began with complaints or tips from informants (including 9% from FFLs or show promoters), and another 23% arose from analysis of trace and multiple sales records. Only 14% arose from "prior ATF attention to gun shows."²⁸

From 2004 to 2006, gun show operations accounted for 3.2% of all trafficking investigations initiated by ATF and affected 3.3% of the gun shows estimated by the Department of Justice to have occurred during those years.⁹⁴ During those years ATF conducted 202 investigative operations at 195 gun shows, resulting in 121 arrests (with at least 83 convictions) and the seizure of 5,345 firearms.⁹⁴ Of the 202 operations, 156 (77%) focused on specific individuals who were suspected of gun trafficking; only 46 (23%) addressed "general illegal activity related to firearms trafficking occurring at gun shows."⁹⁴ Examples of operations directed at firearms trafficking generally at gun shows are in Table 1-8. These have been covert operations, conducted in some cases without the knowledge of the shows" promoters. ATF's operations at a series of gun shows in Richmond will be discussed in Chapter 7.

Gun show operations are also part of ATF's recently established Project Gunrunner, intended to disrupt the flow of guns from the United States into Mexico for use by drug trafficking organizations. The project's gun show component targets "widespread international trafficking by individuals and gangs that cross the U.S. border carrying drugs and then return to Mexico carrying guns that they obtained through straw purchases at gun shows in the southwestern states."⁹⁴ No separate data have been published on Gunrunner's impact on gun shows. Altogether, from its onset in 2004 through mid-February of 2009, Gunrunner "has referred for prosecution 795 cases involving 1,658 defendants; those cases include 382 firearms trafficking cases involving 1,035 defendants and an estimated 12,835 guns."¹⁸

The limitations on ATF's enforcement activities stem in

Alcohol, Tobacco, Firearms should be a convenience store, not a government agency.

—T-shirt worn by an attendee, Phoenix, Arizona.

> ³⁹ 0253 SER-0316

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large part from a lack of resources. For a sense of how serious a problem the under-resourcing of ATF has been, consider the border states of the Southwest. ATF estimated in 2008 that there were 6,647 licensed retailers in the area, while their workforce comprised just 100 special agents and 35 industry operations investigators. Nationwide, ATF at that time employed only about 2,500 investigators and 750 special agents.⁷⁸ When asked by a reporter in 2007 about the possibility of routine patrols at gun shows, William Newell, the head of ATF's office in Phoenix, responded simply, "We don't have enough agents to do that."⁹⁵

Table 1-8. Examples of ATF enforcement operations at gun shows targeting general firearms trafficking, by ATF field division

Year	Field Division	Description of Operation
2006	Columbus, OH	Investigations were conducted at 3 gun shows in Cleveland based on intelligence that "many of the guns recovered in high-crime areas of the city had been purchased at local gun shows" and that others were trafficked to other states and to Canada. The operations resulted in the seizure of 5 guns, 1 indictment, and 2 pending indictments.
2005-2006	Houston, TX	Operations were undertaken at 2 shows in Pharr, a suburb of McAllen on the border with Mexico. Four Mexican nationals were arrested. Three had purchased 14 firearms and 3,000 rounds of ammunition; the fourth had coordinated the straw purchases of 10 "high-priced" firearms.
2004-2006	New Orleans, LA	Gun shows in Kenner, a suburb of New Orleans, were identified through a review of tracing records as "a source used by local gang members and other criminals" for guns acquired through straw purchases or private party transfers. Operations resulted in 12 arrests, 6 convictions, and the seizure of 4 guns.
2004-2006	Phoenix, AZ	Gun shows in the Southwest "attracted large numbers of gang members from Mexico and California" who "bought large quantities of assault weapons." Operations at 8 shows in Phoenix, Yuma, and Tucson, AZ, and in Albuquerque, NM resulted in 13 arrests, 3 convictions, and the seizure of 193 guns.
2004-2005	San Francisco, CA	Gun shows in Reno are "a gateway for illegal firearms trafficking into California." In undercover operations at 6 shows, ATF agents identified illegal sales to out-of-state residents, illegal off-paper sales, and cases of dealing in firearms without a license. The operations resulted in 14 arrests and 11 convictions; 1000 firearms were purchased or seized.

Adapted from *The Bureau of Alcohol, Tobacco, Firearms and Explosives' investigative operations at gun shows*. Washington, DC: Office of the Inspector General, US Department of Justice; 2007. The report was published not long after the operations were conducted. Outcomes for criminal cases arising from the investigations were not always available, and additional filings were expected.

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Public Education

ATF occasionally sets up educational displays at gun shows; staff answer questions and distribute materials covering gun laws and purchase procedures. In collaboration with ATF, the National Shooting Sports Foundation administers a public education program, "Don't Lie for the Other Guy," intended to prevent straw purchases.⁹⁶ Begun in 2000, the program is now operational in approximately 15 states or metropolitan areas selected by ATF. Don't Lie is not specific to gun shows; it offers training and display materials to all licensed retailers in the targeted areas. The materials stress the fine (up to \$250,000) and long prison term (up to ten years) that await a convicted straw purchaser.

These educational efforts, like ATF's operations generally, receive a mixed reception at gun shows (see pages 42-43).

Other Federal Efforts

United States Immigration and Customs Enforcement (ICE), now the primary investigative agency of the Department of Homeland Security, has targeted cross-border gun trafficking generally since 2005, if not earlier. Fifteen multi-agency Border Enforcement Security Task Forces have seized more than 2,000 weapons and made high-profile arrests of traffickers.⁹⁷ An apparently separate partnership with other agencies and the government of Mexico, Operation Armas Cruzadas, has recovered more than 1,400 firearms and 120,000 rounds of ammunition. No results specific to operations at gun shows are available.

A June 2009 review by the Government Accountability Office of efforts to combat gun trafficking into Mexico criticized both ATF and ICE for a failure to "consistently and effectively coordinate their efforts," which "has resulted in some instances of duplicate initiatives and confusion during operations."¹⁷ By the end of the month, the agencies had signed an agreement intended to clarify their areas of responsibility and facilitate collaborative work.⁹⁸

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ATF and Its "Don't Lie" Campaign

ATF rents table space at gun shows (1-3). This is not common, and it is a lonely job. The emphasis is on their "Don't Lie" campaign to deter straw purchases. Some licensed retailers display Don't Lie materials prominently; purchasers cannot help but see them. (In the straw purchase on pages 148-149, four piles of cash were counted out on a Don't Lie counter mat.) Some view ATF's work with hostility. Manifestations include displaying Firearms Transaction Records beside a Nazi flag (10) and throwing Don't Lie postcards on the ground (11,12). The photographs were taken in Orlando, FL (1,3,10); Atlanta, GA (2); Dayton, OH (4); Reno, NV (5); Dallas, TX (6); Richmond, VA (7,9); and Phoenix, AZ (8,11,12).

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WARNING. Undercover law enforcement officers are actively working at this show. Do not under any circumstances allow yourself to sell a firearm without conducting the sale through a licensed dealer.

—Sign posted at a licensed retailer acting as a transfer station for private party gun sales, Orange County, California.

State-Level Enforcement

The California Department of Justice has conducted systematic law enforcement operations at gun shows at least since 2001. Its Gun Show Enforcement Program (GSEP), which is supported by allocations from the state's general funds, was mandated by the legislature as part of a larger effort to regulate gun shows. Teams of experienced special agents, working undercover, are at "every single major gun show" in the state-and most of the smaller shows as well-according to agency officials interviewed for this report. Individual operations are sometimes collaborative efforts involving local law enforcement, agencies from other states (particularly Arizona and Nevada), and ATF. A continuing series of joint operations involving gun shows in Reno, for example, was initiated at the request of chiefs of police in the San Francisco Bay Area after it became clear that the shows were important sources of guns used in crimes in Bay Area cities. As measured by gun recoveries, investigative operations generally have been "very lucrative" and have "put a dent" in gun trafficking. Individual cases have involved dozens of guns.

GSEP agents work closely with promoters, both as enforcers of the law and as educators. Promoters "assume we're always there and know we're not an absentee landlord," said agency officials. The program makes active use of the materials that gun show promoters must provide in advance of each event: a security plan and a list of all those who are renting table space to sell guns, among others. The administrative requirements of the law have teeth; a promoter who does not meet them faces the loss of his license.

The program appears to have undergone an important transition. After some initial resistance, many promoters and individual retailers have become quite supportive. With them, at least, program operations have entered what might be considered a maintenance phase. Agency officials report "a sizeable amount" of self-policing and stress the importance of ethical promoters and retailers as sources of leads on criminal activity.

Some Additional Data and Preliminary Inferences

As the discussion to this point hopefully establishes, the role that gun shows play in gun commerce and gun violence cannot be described simply. As the Columbine massacre and many

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gun trafficking cases demonstrate, gun shows may be particularly important as an indirect source of crime guns—they supply guns to intermediaries who in turn supply active criminals. This point has been most clearly made by Anthony Braga and David Kennedy, two leading experts in the field:

> Assessing any problem presented by gun shows is a difficult analytic task. While an important question is *whether prohibited persons personally buy firearms at gun shows*, which might be answered by surveys, an equally important one is *whether gun shows are sources of firearms that are trafficked to prohibited persons by straw purchasers, street dealers, and the like*. However, this question cannot be answered by surveys.²⁸ [Italics in original.]

At the same time, the available evidence suggests the following interim conclusions, which are worth considering as additional evidence accumulates.

The proportion of all gun sales nationwide that occurs at gun shows is relatively small.

The best published information we have on where guns come from is in the Police Foundation's 1996 National Survey on Private Ownership of Firearms (NSPOF). In that survey, gun owners were asked a series of questions about the most recent gun they had acquired, including where they had acquired it. Four percent of the guns had been acquired at gun shows; the survey did not ask these gun buyers if they had made their purchases from licensed retailers or private parties.² Unpublished data from a second nationwide survey¹ yield a similar result; of 566 gun owners, 9% acquired their most recent guns at a gun show.

Such estimates do not come from surveys alone. California's records of handgun sales identify transactions occurring at gun shows. For the 10 years 1998 through 2007, the archive contains records for more than 1.8 million transactions. Of these, 2.7% were recorded as occurring at gun shows. This figure would include both direct sales by licensed retailers and private party sales that were processed by licensed retailers, as required by state law.

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Survey results can be imprecise, particularly for infrequent events as appears to be the case here. Clearly, a gun most recently purchased by a survey respondent at a location other than a gun show may have passed through a gun show earlier in its lifetime. And it is entirely possible that some gun show sales in the California records were not identified as such. That said, all the available estimates support the general statement that gun shows account for a relatively small proportion of overall gun commerce.

Most sales at gun shows involve licensed retailers.

ATF estimates that 50% to 75% of gun sellers who rent table space at gun shows are licensed retailers.³⁷ Our prior study⁶³ yielded an estimate of only 30%, but this was based on observational data and almost certainly an underestimate. Many licensed retailers at gun shows do not identify themselves as such—at least not until consummating a gun sale—though they are required to do so. The largest and most active vendors at gun shows are almost always licensed retailers.

Given that licensed retailers probably make up a majority of vendors who rent table space, and that they account for essentially all the largest and most active vendors, it is likely that they account for most sales at gun shows. Even allowing for sales by individual attendees who have not rented table space, it is reasonable to estimate that perhaps two-thirds of gun sales are made by licensed retailers. There are, unfortunately, no published data on this point.

Private party sales at gun shows account for a relatively small percentage of gun sales in the United States.

Taken together, three estimates—that 40% of all gun sales are private party transactions, that 4% to 9% of all gun sales occur at gun shows, and that two thirds of gun show sales are made by licensed retailers—allow for the rough approximations in Table 1-9 of the importance of private party gun sales at gun shows to gun commerce generally. If the 4% estimate is used, then of 1,000 hypothetical gun sales overall, 13 would be private party sales occurring at gun shows. These 13 guns account for 3.3% of private party gun sales and 1.3% of gun sales overall. Using the

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9% estimate, 30 of every 1,000 hypothetical gun sales would be private party sales at gun shows. These 30 guns account for 7.5% of private party gun sales and 3% of gun sales overall.

Table 1-9. Allocation of 1,000 hypothetical gun sales between licensed retailers and private party gun sellers, and between gun shows and other venues

a. Assuming that 4% of all gun sales occur at gun shows

Venue	Private Party	Licensed Retailer	Total
Gun Show	13	27	40
Other	387	573	960
Total	400	600	1,000

b. Assuming that 9% of all gun sales occur at gun shows

Venue	Private Party	Licensed Retailer	Total
Gun Show	30	60	90
Other	370	540	910
Total	400	600	1,000

Licensed retailers are probably the primary source of crime guns acquired at gun shows.

The one peer-reviewed study of gun shows as sources of crime guns, discussed previously, developed data from 314 ATF investigations of gun trafficking at gun shows.²⁸ Nearly 55,000 guns were involved. While an unlicensed seller was the main subject in most of the investigations (54.1%), two thirds of the trafficked guns were linked to investigations in which the main suspect was (or had been) a licensed retailer. These retailer cases involved an average of 452 guns apiece and 33,445 guns in total; those centered on unlicensed sellers involved an average of 112 guns each and 15,551 guns altogether. Licensed retailers are able to buy guns in large quantities, and an increase in the number of guns linked to trafficking investigations when licensed retailers are involved is not unique to gun shows.²⁷

These data are not the whole story, however. First, trafficking operations that do not involve licensed retailers might be less likely to be brought to ATF's attention and trigger an investigation, precisely because they are smaller than operations in

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which retailers participate. This could lead an assessment based just on trafficking investigations to underestimate the importance of private-party trafficking.

Complicating this is the fact that ATF, because of limitations in the data it is allowed to collect, is not able to provide an estimate other than from those trafficking investigations of the number of trafficked guns that are obtained at gun shows, whether from licensed retailers or private parties.¹⁷ Records of trafficking investigations cannot possibly capture all the guns acquired at gun shows with criminal intent—recall that ATF enforcement operations affect a very small percentage of gun shows. This means that the best available evidence we have on the role of gun shows as a source of crime guns probably underestimates their importance.

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EXHIBIT 34

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Assembly

California Legislature

TODD GLORIA

MAJORITY WHIP

ASSEMBLYMI MBER. SLVI.NTY LIGHTH DISTRICT

STATE CAPITOL P.O. BOX 942849 SACRAMENTO, CA 94249-0078 (916) 319-2078 FAX (916) 319-2178 DISTRICT OFFICE 1350 FRONT STREET, SUJTE 6054 SAN DIEGO, CA 92101 (619) 645-3090 FAX (619) 645-3024

E-MAIL Assumblymember Gloria@assembly.ca.gov

September 10, 2018

22nd District Agricultural Association Attn: Board of Directors 2260 Jimmy Durante Blvd. Del Mar, CA 92014

Dear Members of the Board,

As the Assemblymember representing the 78th District, which includes the Del Mar Fairgrounds, I am writing in support of the Contracts Committee recommendation that no new contracts with producers of gun shows be approved. As stated in my letter of March 12, 2018, it is my firm belief that the State of California should in no way help to facilitate the sale of firearms.

I applaud the 22nd District Agricultural Association (22nd DAA)'s willingness to consider options for limiting or eliminating these gun shows, and believe that this recommendation reflects the desires of the surrounding community. It is my firm belief that the Board itself should carry out this directive, however, I am prepared to act by way of legislation should the 22nd DAA Board be unable to take meaningful action. I have prepared language for introduction in the next legislative session should that become necessary.

With the continued prevalence of gun violence in our nation, it is impossible to ignore the link to the number of guns in our communities. That is why I believe it is imperative to remove the State, to the extent possible, from complicity in these tragedies by restricting gun shows at the Del Mar Fairgrounds.

I appreciate the Board's time and consideration of this matter.

Sincerely,

ssemblymemb

CC: Tim Fennell, Del Mar Fairgrounds CEO/General Manager

COMMITTEES AGING AND LONG-TERM CAFE GOVERNMENTAL ORGANIZATION HOUSING AND COMMUNITY DEVELOPMENT VLTERANS AFFAIRS WATER, PARKS, AND WILDLIFE

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CERTIFICATE OF SERVICE IN THE UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA 1 2 3 Case Name: B & L Productions, Inc., et al. v. Newsom, et al. Case No.: 8:22-cv-01518 JWH (JDEx) 4 IT IS HEREBY CERTIFIED THAT: 5 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 6 Beach, California 90802. 7 I am not a party to the above-entitled action. I have caused service of: 8 **DECLARATION OF ANNA M. BARVIR IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION** 9 on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them. 10 11 Nicole J. Kau, Deputy Attorney General 12 nicole.kau@doj.ca.gov 300 South Spring Street, Suite 1702 Los Angeles, CA 90013-1230 Attorney for Defendants 13 14 I declare under penalty of perjury that the foregoing is true and correct. 15 Executed November 16, 2022. aura Palmerin 16 17 18 19 20 21 22 23 24 25 26 27 28 CERTIFICATE OF SERVICE

Case 8:22-cv-01518-JWH-JDE Document 21-4 Filed 11/16/22 Page 1 of 4 Page ID #:1354

1 2 3	C.D. Michel-SBN 144258 Anna M. Barvir-SBN 268728 Tiffany D. Cheuvront-SBN 317144 MICHEL & ASSOCIATES, P.C. 180 East Ocean Blvd., Suite 200 Long Beach, CA 90802	
4	Long Beach, CA 90802 Telephone: (562) 216-4444 Email: <u>cmichel@michellawyers.com</u>	
5	Attorneys for Plaintiffs B&L Productions, Incorporated, Gerald Clark, Eric Johnson,	Inc., California Rifle & Pistol Association, Chad Littrell, Jan Steven Merson, Asian , Second Amendment Law Center, Inc.
6 7		, Second Amendment Law Center, Inc.
8	Donald Kilmer-SBN 179986 Law Offices of Donald Kilmer, APC 14085 Silver Ridge Road	
9 10	Caldwell, Idaho 83607 Telephone: (408) 264-8489 Email: <u>Don@DKLawOffice.com</u>	
10 11	Attorney for Plaintiff Second Amendment	Foundation
11	IN THE UNITED STA	TES DISTRICT COURT
12	FOR THE CENTRAL DI	STRICT OF CALIFORNIA
14	B&L PRODUCTIONS, INC., d/b/a CROSSROADS OF THE WEST;	CASE NO.: 8:22-cv-01518 JWH (JDEx)
15	GERALD CLARK; ERIC JOHNSON; CHAD LITTRELL; JAN STEVEN MERSON; CALIFORNIA RIFLE &	DECLARATION OF CARL DAWSON MICHEL IN SUPPORT OF PLAINTIFFS' MOTION FOR
16 17	PISTOAL ASSOCIATION, INCORPORATED; ASIAN PACIFIC AMERICAN GUN OWNERS	PRELIMINARY INJUNCTIONHearing Date:January 6, 2023
18	ASSOCIATION; SECOND AMENDMENT LAW CENTER, INC.; and SECOND AMENDMENT	Hearing Time: 9:00 a.m. Courtroom: 9D Judge: John W. Holcomb
19	FOUNDATION,	
20	Plaintiffs,	Action Filed: August 12, 2022
21	V.	
22	GAVIN NEWSOM, in his official capacity as Governor of the State of California; ROB BONTA, in his official	
23	capacity as Attorney General of the State of California; KAREN ROSS, in	
24	her official capacity as Secretary of California Department of Food &	
25	Agriculture and in his personal capacity; TODD SPITZER, in his official capacity	
26 27	as District Attorney of Orange County; 32nd DISTRICT AGRICULTURAL ASSOCIATION; DOES 1-10;	
27 28	Defendants.	
20		1
	DECLARATION OF C	ARL DAWSON MICHEL

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DECLARATION OF CARL DAWSON MICHEL I, Carl Dawson Michel, am a Founder, Board Member, and general 1. counsel for Plaintiff Second Amendment Law Center ("2ALC"). I make this declaration of my own personal knowledge and, if called as a witness, I could and would testify competently to the truth of the matters set forth herein. 2. 2ALC is a nonprofit organization, incorporated under the laws of Nevada with headquarters in Henderson, Nevada, and registered with the California Secretary of State to do business in the state of California. 3. 2ALC works to advance Second Amendment jurisprudence across the country while educating the public, participating in scholarly research, and providing thought-provoking writings and content to help advance the Second Amendment. 2LC works to support and protect Second Amendment rights across the country. 4. But for the adoption and implementation of Senate Bill 264, 2ALC would participate as a nonprofit vendor at the Crossroads of the West Gun Show, a recurring, safe, and family-friendly gun-show event produced by B&L Productions, Inc., d/b/a Crossroads of the West ("Plaintiff Crossroads") and held at the Orange County Fair & Event Center ("the Fairgrounds"). 5. 2ALC wishes to have a presence at Plaintiff Crossroads' gun shows across the state and at the Fairgrounds to promote the preservation and expansion of constitutional and statutory rights of gun ownership, including the right to selfdefense and the right to keep and bear arms. We seek to distribute materials at gun shows in California to educate and inform the public about our work in the legal sector to protect their rights. 6. 2ALC also strives to educate and empower gun owners so they can be responsible gun owners and protect themselves and their loved ones. Attending larger events like gun shows will allow our organization the ability to spread our messages about legal issues affecting gun owners in California. DECLARATION OF CARL DAWSON MICHEL

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7. 2ALC also expends resources and time supporting public interest
 constitutional litigation to defend its own interests and the interests of its members
 and gun owners in general. Gun shows provide a platform for sharing information
 about these legal challenges.

8. 2ALC is a proud member and supporter of the "gun culture," which is a
discrete and identifiable group of individuals and organizations. We all share a
desire to exercise the fundamental rights protected by the Second Amendment, and
we seek to participate in public discourse and share in the benefit of a public forum,
like the Fairgrounds. Participation in this culture with other gun owners and gun
rights organizations is one of the primary reasons that 2ALC supporters attend gun
shows.

9. With the adoption and enforcement of SB 264 and SB 915, 2ALC will
sustain, and has in fact already sustained, lost opportunities to engage with likeminded individuals and promote its core message of preserving and defending the
Second Amendment.

I declare under penalty of perjury that the foregoing is true and correct.
Executed within the United States on November 16, 2022.

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Carl Dawson Michel Declarant

3 DECLARATION OF CARL DAWSON MICHEL

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1	<u>CERTIFICATE OF SERVICE</u> IN THE UNITED STATES DISTRICT COURT	
2	CENTRAL DISTRICT OF CALIFORNIA	
3 4	Case Name: <i>B & L Productions, Inc., et al. v. Newsom, et al.</i> Case No.: 8:22-cv-01518 JWH (JDEx)	
5	IT IS HEREBY CERTIFIED THAT:	
6	I, the undersigned, am a citizen of the United States and am at least eighteen	
7	years of age. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.	
8 9	I am not a party to the above-entitled action. I have caused service of:	
10	DECLARATION OF CARL DAWSON MICHEL IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION	
11	on the following party by electronically filing the foregoing with the Clerk of the	
12	District Court using its ECF System, which electronically notifies them.	
13	Nicole J. Kau, Deputy Attorney General	
14	nicole.kau@doj.ca.gov 300 South Spring Street, Suite 1702	
15 16	Los Angeles, CA 90013-1230 Attorney for Defendants	
17		
18	I declare under penalty of perjury that the foregoing is true and correct.	
19	Executed November 16, 2022. 0	
20	Laura Palmerin	
21	Č (
22		
23		
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25		
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	CERTIFICATE OF SERVICE	

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1	C.D. Michel-SBN 144258 Anna M. Barvir-SBN 268728		
2	Tiffany D. Cheuvront-SBN 317144 MICHEL & ASSOCIATES, P.C.		
3	180 East Ocean Blvd., Suite 200 Long Beach, CA 90802		
4	Telephone: (562) 216-4444 Email: cmichel@michellawyers.com		
5	Attorneys for Plaintiffs B&L Productions Incorporated, Gerald Clark, Eric Johnson	s, Inc., Çalifornia R	lifle & Pistol Association,
6	Incorporated, Gerald Clark, Eric Johnson Pacific American Gun Owner Associatio	n, Chad Littrell, Jan n, Second Amendn	Steven Merson, Asian nent Law Center, Inc.
7	Donald Kilmer-SBN 179986 Law Offices of Donald Kilmer, APC		
8	14085 Silver Ridge Road Caldwell, Idaho 83607		
9	Telephone: (408) 264-8489 Email: Don@DKLawOffice.com		
10	Attorney for Plaintiff Second Amendmen	nt Foundation	
11	IN THE UNITED ST.	ATES DISTRICT (COURT
12 13	FOR THE CENTRAL D	DISTRICT OF CAL	IFORNIA
_	B&L PRODUCTIONS, INC., d/b/a CROSSROADS OF THE WEST;	CASE NO.: 8:22-	cv-01518 JWH (JDEx)
	GERALD CLARK; ERIC JOHNSON; CHAD LITTRELL; JAN STEVEN	DECLARATION OLCOTT IN SU	
10	MERSON; CALIFÓRNIA RIFLE & PISTOAL ASSOCIATION,	PLAINTIFFS' N PRELIMINARY	IOTION FOR
17	INCORPORATED; ASIAN PACIFIC AMERICAN GUN OWNERS	Hearing Date:	January 6, 2023
10	ASSOCIATION; SECOND AMENDMENT LAW CENTER, INC.; and SECOND AMENDMENT	Hearing Time: Courtroom:	9:00 a.m. 9D
19	FOUNDATION,	Judge:	John W. Holcomb
20	Plaintiffs,	Action Filed:	August 12, 2022
21	V.		
22	GAVIN NEWSOM, in his official capacity as Governor of the State of		
23	California; ROB BONTA, in his official capacity as Attorney General of the		
	State of California; KAREN ROSS, in her official capacity as Secretary of		
25	California Department of Food & Agriculture and in his personal capacity;		
26	TODD SPITZER, in his official capacity as District Attorney of Orange County; 32nd DISTRICT AGRICULTURAL		
	ASSOCIATION; DOES 1-10;		
28	Defendants.		
)TT
	DECLARATION OF TRACY OLCOTT		

Case 8:22-cv-01518-JWH-JDE Document 21-5 Filed 11/16/22 Page 2 of 7 Page ID #:1359

DECLARATION OF TRACY OLCOTT 1 2 1. I, Tracy Olcott, am the President and General Manager of Plaintiff B & L 3 Productions d/b/a Crossroads of the West Gun Shows ("Crossroads"). I make this declaration of my own personal knowledge and, if called as a witness, I could and 4 5 would testify competently to the truth of the matters set forth herein. Crossroads is a for-profit event promotion company, incorporated under 6 2. 7 the laws of the state of Utah, with its headquarters in Kaysville, Utah. Crossroads 8 has been operating event promotion shows in venues across the state of California 9 for over 30 years. 3. 10 Before the adoption and enforcement of SB 264, Crossroads produced, 11 promoted, planned, and implemented the Crossroads of the West Gun Show, a 12 recurring, legal, safe, and responsible gun-show event held four-to-five times every 13 year at Orange County Fair & Event Center ("the Fairgrounds"). 14 4. I believe that our gun show events—which are heavily regulated by 15 federal, state, and local law and by rules set by the Fairgrounds—promote public 16 safety. They do not endanger it. For they encourage attendees to engage in lawful, 17 convenient, transparent firearm transfers in the state of California, instead of elsewhere. 18 19 5. Indeed, Crossroads has a long history of complying with all applicable 20 federal, state, and local laws, as well as all Fairgrounds rules for vendors and 21 contractors. In fact, not one of these authorities has ever reprimanded or refused to 22 work with Crossroads due to failures in safety or compliance. It was not until gun 23 control groups began pressuring local fair boards and state legislators) to end gun 24 shows that this decades-long relationship with the Fairgrounds ended. 25 6. Like most state-owned venues we have worked with throughout California, the Fairgrounds had long given Crossroads, as a veteran event producer, 26 27 a "first right of refusal" to hold dates for our annual shows to manage the calendar until dates could be secured by a formal contract with the Defendant 32nd District 28 DECLARATION OF TRACY OLCOTT

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Agricultural Association ("the District"). Having held successful events throughout
 2021 and given our long history at the Fairgrounds, we had no reason to doubt that
 the District would recant its longstanding promise to hold dates.

- But because of the adoption and enforcement of SB 264, the District 4 7. refused to place the approval of our 2022 event contracts on its agendas in 5 6 September, October, November, or December 2021. And since SB 264 took effect in 7 January 2022, we have been unable to get District staff to work with us in good faith 8 to propose event dates and/or begin the process for reserving the facility. This 9 refusal is detrimental to our long relationship with the Fairgrounds, our business, 10 and our relationship with all of the vendors who may now book shows elsewhere to 11 keep their businesses viable.
- 12 8. But for the adoption and enforcement of SB 264 and SB 915—and the District's implementation of these laws by refusing to contract with Crossroads-we 13 14 would continue to produce, promote, plan, and implement the Crossroads of the 15 West Gun Show event at the Fairgrounds. And because the business model of gun 16 shows relies on the participation and support of vendors who sell firearms, 17 ammunition, and related products, we would open our events to sales of *lawful* 18 firearms, ammunition, and firearm precursor parts. We have never hosted a gun 19 show without such vendors. Such an event is not within our business model, and 20 even if it were, the scale of such events would be so small as to now require a 21 location like the Fairgrounds
- 9. That said, in order to salvage our longstanding relationship with the
 District, mitigate damages, and continue planning and promoting our family-friendly
 events till our legal claims could be heard, I offered to attempt to hold events
 without the sales of firearms, ammunition, or firearm precursor parts in compliance
 with SB 264—even though such an event is *not* the business model of gun shows
 and would *not* be financially successful. Defendant District, however, dragged its
 fee and refused to provide or approve contracts for dates in 2022 and beyond.

DECLARATION OF TRACY OLCOTT

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In order to preserve our decades-long relationship with and reputation
 in the Orange County community, I also attempted find other facilities near the
 Fairgrounds that could accommodate our large-scale event. But after speaking to
 several different possible alternative venues, we determined that there are no similar
 venues in the area that can accommodate both the size of our gun show events and
 the multiple dates that we require.

11. As the promoter of the Crossroads of the West Gun Show at the Venue,
Crossroads has an important job in bringing together for-profit vendors, nonprofit
organizations, politicians, and individuals to participate in all manner of political,
educational, and commercial speech related to the acquisition of firearms and their
lawful uses, including self-defense, hunting, target shooting, safety training,
gunsmithing, and appreciation of firearms as art, historical objects, and
technological artifacts.

14 12. Indeed, our gun show events regularly host Second Amendment civil 15 rights organizations, like Plaintiffs California Rifle & Pistol Association, 16 Incorporated, Asian Pacific American Gun Owner Association, Second Amendment 17 Law Center, Inc., and the Second Amendment Foundation. As vendors, these 18 organizations engage with attendees to increase their membership base, promote 19 their programs, including firearm safety training, competitive and recreational 20 shooting events, and fundraisers, and to engage in firearm-related political and 21 educational speech. Crossroads assists these vendors in promoting their messages by 22 allowing them to place materials at the ticket booths or hand out information to 23 participants as they enter the event.

24

25

26

13. Our gun show events also regularly include speakers who give lectures about, inter alia, hunting, firearm safety, and state and federal firearms law. And our events also sometimes includes self-protection training classes.

27 14. Candidates for political office have attended our gun shows to discuss28 politics, the government, and the law with constituents who are part of the "gun

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culture." Registering attendees to vote or gathering signatures for ballot initiatives 1 2 also regularly occurs in these public forums.

3

15. Our gun show events also include various retailer vendors, including those who sell firearms, ammunition, firearm parts, and firearm-related accessories. 4 These vendors often participate in commercial speech with gun show attendees who 5 6 are in the market to buy a firearm or other item. They also educate attendees, who 7 may or may not be in the market for a firearm-related product, about available 8 products and impart their knowledge to potential buyers who may not otherwise 9 have ready access to an experienced retailer.

10 16. Firearm retailer vendors at our gun shows are often the same licensed 11 vendors that have brick-and-mortar stores in the community, operate legally over the 12 internet, and are registered with the state as lawful businesses.

13 B & L participates in and is a member of the "gun culture," a discrete 17. and identifiable group of people and organizations, who share a desire to exercise 14 15 fundamental rights protected by the Second Amendment. Members of the "gun 16 culture" also seek to participate in public discourse and share in the benefits of 17 public resources like the use of the Venue. Participating in that culture is one of the 18 primary reasons people attend gun shows, and it is a driving force behind B & L's 19 continued promotion of such events.

20 18. That said, if our vendors unable to sell firearms, ammunition, and 21 firearm precursor parts at the Fairgrounds pursuant to SB 264 and SB 915, there is 22 little to no financial incentive for these businesses to participate as vendors at our gun shows. That is because our firearm and ammunition retailer vendors rely heavily 23 on product sales at the gun shows to offset the costs of vendor fees, employee 24 25 compensation, and necessary overhead. If they can no longer afford to participate in gun shows because of the inability to turn a profit, it will end the gun shows. Lack of 26 27 vendors and the absence of firearms and ammunition sales will make it less enticing for attendees to spend the day at the gun shows with their families. 28

DECLARATION OF TRACY OLCOTT

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1 19. SB 264 and SB 915 will diminish, for Crossroads, and in the aggregate
 2 for the community that comprises the "gun culture," the dissemination of
 3 information, speech, and commerce related to the exercise of constitutional rights
 4 under the First Amendment and Second Amendment at the Fairgrounds.

5 20. SB 264 and SB 915 diminish our vendors' ability to carry on lawful
6 commerce and their ability to engage with others in the dissemination of information
7 that is related to both their business,

8 21. What's more, because the effect of SB 264 and SB 915 has been to ban
9 gun shows altogether, it also restricts our vendors and our attendees' right to engage
10 with other like-minded people through political and commercial speech.

22. Due to the enforcement of SB 264 and SB 9915 and the shuttering of
gun shows, Crossroads has sustained and (unless this Court enjoins enforcement of
these laws) will continue to sustain lost profits and lost opportunity.

14 23. If this Court were to enjoin the enforcement of SB 264 and SB 915,

15 allowing Plaintiff Crossroads' gun show events to return to the Fairgrounds,

16 Crossroads would immediately resume efforts to contract with the District and hold17 gun show events at the Fairgrounds. And because the business model of gun shows

18 relies on the participation and support of vendors who sell firearms, ammunition,

19 and related products, we would open our events to sales of *lawful* firearms,

20 ammunition, and firearm precursor parts.

23

24

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28

I declare under penalty of perjury that the foregoing is true and correct.
Executed within the United States on November 15, 2022.

your

Tracy Olcott Declarant

DECLARATION OF TRACY OLCOTT

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1	<u>CERTIFICATE OF SERVICE</u> IN THE UNITED STATES DISTRICT COURT		
2	CENTRAL DISTRICT OF CALIFORNIA		
3 4	Case Name: <i>B & L Productions, Inc., et al. v. Newsom, et al.</i> Case No.: 8:22-cv-01518 JWH (JDEx)		
5	IT IS HEREBY CERTIFIED THAT:		
6			
7	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.		
8			
9	I am not a party to the above-entitled action. I have caused service of:		
10	DECLARATION OF TRACY OLCOTT IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION		
11	on the following party by electronically filing the foregoing with the Clerk of the		
12	District Court using its ECF System, which electronically notifies them.		
13	Nicole J. Kau, Deputy Attorney General		
14	nicole.kau@doj.ca.gov 300 South Spring Street, Suite 1702		
15 16	Los Angeles, CA 90013-1230 Attorney for Defendants		
17	I declare under penalty of perjury that the foregoing is true and correct.		
18	Executed November 16, 2022.		
19	Jan Paleie		
20	Laura Palmerin		
21			
22			
23			
24			
25			
26			
27			
28			
	CERTIFICATE OF SERVICE		

Case 8:22-cv-01518-JWH-JDE Document 21-6 Filed 11/16/22 Page 1 of 5 Page ID #:1365

1 2	C.D. Michel-SBN 144258 Anna M. Barvir-SBN 268728 Tiffany D. Cheuvront-SBN 317144		
	MICHEL & ASSOCIATES, P.C.		
3	180 East Ocean Blvd., Suite 200 Long Beach, CA 90802		
4	Telephone: (562) 216-4444 Email: <u>cmichel@michellawyers.com</u>		
5	Attorneys for Plaintiffs B&L Productions,	Inc., California Ri	fle & Pistol Association,
6	Incorporated, Gerald Clark, Eric Johnson, Pacific American Gun Owner Association	Chad Littrell, Jan S , Second Amendm	Steven Merson, Asian ent Law Center, Inc.
7	Donald Kilmer-SBN 179986 Law Offices of Donald Kilmer, APC		
8	14085 Silver Ridge Road		
9	Caldwell, Idaho 83607 Telephone: (408) 264-8489		
10	Emaîl: <u>Don@DKLawOffice.com</u>		
11	Attorney for Plaintiff Second Amendment		
12	IN THE UNITED STA		
13	FOR THE CENTRAL DI	STRICT OF CALI	FORNIA
14	B&L PRODUCTIONS, INC., d/b/a CROSSROADS OF THE WEST;		cv-01518 JWH (JDEx)
15	GERALD CLARK; ERIC JOHNSON; CHAD LITTRELL; JAN STEVEN	DECLARATION CLARK IN SUP	
16	MERSON; CALIFÓRNIA RIFLE & PISTOAL ASSOCIATION,	PLAINTIFFS' N PRELIMINARY	IOTION FOR INJUNCTION
17	INCORPORATED; ASIAN PACIFIC AMERICAN GUN OWNERS	Hearing Date:	January 6, 2023
	ASSOCIATION; SECOND AMENDMENT LAW CENTER, INC.;	Hearing Time: Courtroom:	9:00 a.m. 9D
18	and SECOND AMENDMENT FOUNDATION,	Judge:	John W. Holcomb
19			
20	Plaintiffs,	Action Filed:	August 12, 2022
21	V.		
22	GAVIN NEWSOM, in his official capacity as Governor of the State of		
23	California; ROB BONTA, in his official capacity as Attorney General of the		
24	State of California; KAREN ROSS, in her official capacity as Secretary of		
25	California Department of Food & Agriculture and in his personal capacity;		
25 26	TODD SPITZER, in his official capacity as District Attorney of Orange County;		
	32nd DISTRICT AGRICULTURAL ASSOCIATION; DOES 1-10;		
27 28	Defendants.		
28		1	
	DECLARATION	OF GERALD CLA	RK

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DECLARATION OF GERALD CLARK 1 2 1. I, Gerald Clark, am a plaintiff in the above-entitled action. I make this 3 declaration of my own personal knowledge and, if called as a witness, I could and 4 would testify competently to the truth of the matters set forth herein. 2. I am a current resident of Orange County, California. 5 3. 6 Before the adoption and implementation of Senate Bill 264, I regularly 7 attended the Crossroads of the West Gun Show, a recurring, safe, and family-8 friendly gun-show event produced by B&L Productions, Inc., d/b/a Crossroads of 9 the West ("Plaintiff Crossroads") and held at the Orange County Fair & Event 10 Center ("the Fairgrounds"). 11 4. I am an instructor and I work as a volunteer offering training to 12 scouting groups and gun owners across the state. In these roles, is important for me 13 to participate in events like gun shows, which provide valuable opportunities to 14 educate gun owners and to learn from others while engaging in discussions about 15 firearms, shooting techniques, legal requirements, and the like to enhance my 16 knowledge as a trainer. 17 5. Indeed, as an instructor it is imperative that I am knowledgeable about 18 firearms, ammunition, and parts of firearms so that I may best educate my students 19 to operate firearms safely and confidently. I gather much of this information from 20 other gun owners, trainers, and vendors at gun shows held at the Fairgrounds. 21 Indeed, there are few, if any, other venues that offer the broad base of firearms-22 related information that gun shows offer. 23 6. I also enjoyed attending gun shows at the Fairgrounds because these 24 events offer me a unique opportunity to engage with like-minded people to explore 25 and discuss the lawful uses of firearms, including self-defense, hunting, target 26 shooting, safety training, gunsmithing, and general appreciation of firearms. I also 27 enjoy discussing other issues like politics, the Second Amendment, being a gun owner in California, and gun safety with potential customers and other attendees of 28 DECLARATION OF GERALD CLARK

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the show.

1

7. I also attended gun shows at the Fairgrounds to purchase firearms,
ammunition, parts for firearms already owned, and materials to help with my
training and as a gun owner to be more proficient. As a purchaser of such products
at gun shows, I like being able to see firearms up close, to feel how they fit in my
hand, and help me make the best decision about what firearm is right for me. Gun
shows also provide a unique opportunity to engage with firearm retailers to ask
questions about their products and learn from their expertise.

8. Even when I am not in the market to purchase a firearm or ammunition,
being able to speak to the vendors about new products and offerings is important to
me as a gun owner and as an instructor. If it is not profitable for vendors to be at a
gun show where they can sell their lawful products, I will lose the opportunity to
engage these vendors and the gun show will end.

At gun show events, like the Plaintiff Crossroads' gun show at the
 Fairgrounds, I have engaged with non-profit organizations that have shared
 information about their programs, given lectures, held training classes, and led
 discussions about gun rights. Indeed, I taught gun safety and training courses at gun
 shows at the Fairgrounds. During those courses, I talked to others about their rights,
 the importance of membership in the CRPA, and the Second Amendment.

I am a member of the "gun culture," which is a discrete and identifiable
group of individuals and organizations, who share a desire to exercise fundamental
rights protected by the Second Amendment, and who seek to participate in public
discourse and share in the benefit of a public resource, like the Fairgrounds.
Participating in that culture with other gun owners and retailers is an important
reason that I attend and support gun shows.

11. SB 264 and SB 915 diminish my right to engage in otherwise lawful
commercial speech in a public forum and restricts my ability to purchase firearms,
ammunition, and firearm parts for lawful purposes.

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1	12. And because the effect of SB 264 and SB 915 has been to ban gun	
2	shows altogether, SB 264 and SB 915 restrict my right to engage with other like-	
3	minded people through political and commercial speech.	
4	13. But for the adoption and enforcement of SB 264 and SB 915 which	
5	prohibits the sale of firearms, ammunition, and firearm precursor parts at the	
6	Fairgrounds, I would resume my participation as a trainer and attendee at gun show	
7	events at the Fairgrounds.	
8	14. If this Court were to enjoin the enforcement of SB 264 and SB 915,	
9	allowing Plaintiff Crossroads' gun show events to return to the Fairgrounds, I would	
10	resume my participation as a trainer and attendee at gun show events at the	
11	Fairgrounds.	
12	I declare under penalty of perjury that the foregoing is trye and conject.	
13	Executed within the United States on November 15, 2022.	
14		
15	Gerald Clark	
16	Declarant	
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21	4 DECLARATION OF GERALD CLARK	

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1 2	<u>CERTIFICATE OF SERVICE</u> IN THE UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA	
3 4	Case Name: <i>B & L Productions, Inc., et al. v. Newsom, et al.</i> Case No.: 8:22-cv-01518 JWH (JDEx)	
5	IT IS HEREBY CERTIFIED THAT:	
6 7	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.	
8 9	I am not a party to the above-entitled action. I have caused service of:	
10	DECLARATION OF GERALD CLARK IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION	
11 12	on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.	
13	Nicole J. Kau, Deputy Attorney General <u>nicole.kau@doj.ca.gov</u>	
14 15	300 South Spring Street, Suite 1702 Los Angeles, CA 90013-1230	
16	Attorney for Defendants	
17 18	I declare under penalty of perjury that the foregoing is true and correct. Executed November 16, 2022.	
10 19		
20		
21		
22		
23 24		
25		
26		
27		
28		
	CERTIFICATE OF SERVICE	

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1 2	C.D. Michel-SBN 144258 Anna M. Barvir-SBN 268728 Tiffany D. Cheuvront-SBN 317144		
3	MICHEL & ASSOCIATES, P.C.		
_	180 East Ocean Blvd., Suite 200 Long Beach, CA 90802 Telephone: (562) 216-4444		
4	Email: <u>cmichel@michellawyers.com</u>		
5	Attorneys for Plaintiffs B&L Productions,	Inc., California Ri	fle & Pistol Association,
6	Attorneys for Plaintiffs B&L Productions, Incorporated, Gerald Clark, Eric Johnson, Pacific American Gun Owner Association	Chad Littrell, Jan , Second Amendm	Steven Merson, Asian ent Law Center, Inc.
7	Donald Kilmer-SBN 179986 Law Offices of Donald Kilmer, APC		
8	14085 Silver Ridge Road		
9	Caldwell, Idaho 83607 Telephone: (408) 264-8489		
10	Email: Don@DKLawOffice.com		
11	Attorney for Plaintiff Second Amendment	t Foundation	
12	IN THE UNITED STA	TES DISTRICT C	OURT
13	FOR THE CENTRAL DI	STRICT OF CAL	FORNIA
	B&L PRODUCTIONS, INC., d/b/a	CASE NO.: 8:22-	cv-01518 JWH (JDEx)
14	CROSSROADS OF THE WEST; GERALD CLARK; ERIC JOHNSON;		N OF ERIC JOHNSON
15	CHAD LITTRELL; JAN STEVEN MERSON; CALIFORNIA RIFLE &	IN SUPPORT O MOTION FOR I	
16	PISTOAL ASSOCIATION, INCORPORATED; ASIAN PACIFIC	INJUNCTION	
17	AMERICAN GUN OWNERS ASSOCIATION; SECOND	Hearing Date: Hearing Time:	January 6, 2023 9:00 a.m.
18	AMENDMENT LAW CENTER, INC.; and SECOND AMENDMENT	Courtroom:	9D John W. Holcomb
19	FOUNDATION,	Judge:	John W. Holcomb
20	Plaintiffs,	Action Filed:	August 12, 2022
20	V.		
	GAVIN NEWSOM, in his official		
22	capacity as Governor of the State of California; ROB BONTA, in his official		
23	capacity as Attorney General of the State of California; KAREN ROSS, in		
24	her official capacity as Secretary of California Department of Food &		
25	Agriculture and in his personal capacity;		
26	TODD SPITZER, in his official capacity as District Attorney of Orange County;		
27	32nd DISTRICT AGRICULTURAL ASSOCIATION; DOES 1-10;		
28	Defendants.		
_ •		1	
	DECLARATION	OF ERIC JOHNSO	DN

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DECLARATION OF ERIC JOHNSON 1 2 1. I, Eric Johnson, am a plaintiff in the above-entitled action. I make this 3 declaration of my own personal knowledge and, if called as a witness, I could and 4 would testify competently to the truth of the matters set forth herein. 2. I am a current resident of Whittier, California. 5 3. 6 Before the adoption and implementation of Senate Bill 264, I regularly 7 attended the Crossroads of the West Gun Show, a recurring, safe, and family-8 friendly gun-show event produced by B&L Productions, Inc., d/b/a Crossroads of 9 the West ("Plaintiff Crossroads") and held at the Orange County Fair & Event 10 Center ("the Fairgrounds"). 11 4. I am a certified trainer, Range Safety Expert, retired coach, and Chief 12 Range Safety Officer, and I work as a volunteer offering training to scouting groups 13 and gun owners across the state. In these roles, is important for me to participate in 14 events like gun shows, which provide valuable opportunities to educate gun owners 15 and to learn from others while engaging in discussions about firearms, shooting 16 techniques, legal requirements, and the like to enhance my knowledge as a trainer. 17 5. Indeed, as an instructor it is imperative that I am knowledgeable about 18 firearms, ammunition, and parts of firearms so that I may best educate my students 19 to operate firearms safely and confidently. I gather much of this information from 20 other gun owners, trainers, and vendors at gun shows held at the Fairgrounds. 21 6. I also enjoyed attending gun shows at the Fairgrounds because these 22 events offer me a unique opportunity to engage with like-minded people to explore 23 and discuss the lawful uses of firearms, including self-defense, hunting, target 24 shooting, safety training, gunsmithing, and general appreciation of firearms. I also 25 enjoy discussing other issues like politics, the Second Amendment, being a gun owner in California, and gun safety with potential customers and other attendees of 26 27 the show. 28 7. I also attended gun shows at the Fairgrounds to purchase firearms,

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1 ammunition reloading supplies, ammunition, parts for the firearms he owns, 2 materials for caring for his firearms, and much more. As a purchaser of such 3 products at gun shows, I like being able to see firearms up close, to feel how they fit 4 in my hand, and help me make the best decision about what firearm is right for me. Gun shows also provide a unique opportunity to engage with firearm retailers to ask 5 6 questions about their products and learn from their expertise

7 8. Even when I am not in the market to purchase a firearm or ammunition, 8 being able to speak to the vendors about new products and offerings is important to 9 me as a gun owner and as an instructor. If it is not profitable for vendors to be at a 10 gun show where they can sell their lawful products, I will lose the opportunity to 11 engage these vendors.

9. 12 At gun show events, like the Plaintiff Crossroads' gun show at the 13 Fairgrounds, I have engaged with non-profit organizations that have shared 14 information about their programs, given lectures, held training classes, and led 15 discussions about gun rights. Indeed, I often set up and work Plaintiff California 16 Rifle & Pistol Association's nonprofit vendor booth. I enjoy being able to participate 17 in this broad platform event where all of my interests in these areas converge.

18 10. I am a member of the "gun culture," which is a discrete and identifiable 19 group of individuals and organizations, who share a desire to exercise fundamental 20 rights protected by the Second Amendment, and who seek to participate in public 21 discourse and share in the benefit of a public resource, like the Fairgrounds. 22 Participating in that culture with other gun owners and retailers is an important 23 reason that I attend and support gun shows.

24

SB 264 and SB 915 diminish my right to engage in otherwise lawful 11. 25 commercial speech in a public forum and restricts my ability to purchase firearms, ammunition, and firearm parts for lawful purposes. 26

27 12. And because the effect of SB 264 and SB 915 has been to ban gun shows altogether, SB 264 and SB 915 restrict my right to engage with other like-28

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1	minded people through political and commercial speech.		
2	13. But for the adoption and enforcement of SB 264 and SB 915 which		
3	prohibits the sale of firearms, ammunition, and firearm precursor parts at the		
4	Fairgrounds, I would resume my participation as a trainer and attendee at gun show		
5	events at the Fairgrounds.		
6	14. If this Court were to enjoin the enforcement of SB 264 and SB 915,		
7	allowing Plaintiff Crossroads' gun show events to return to the Fairgrounds, I would		
8	resume my participation as a trainer and attendee at gun show events at the		
9	Fairgrounds.		
10	I declare under penalty of perjury that the foregoing is true and correct.		
11	Executed within the United States on November 15, 2022.		
12	\mathcal{L}		
13	lilph		
14	Eric Johnson Declarant		
15	Declarant		
16			
17			
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27 20			
28	4		
	DECLARATION OF ERIC JOHNSON		

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1	<u>CERTIFICATE OF SERVICE</u> IN THE UNITED STATES DISTRICT COURT	
2	CENTRAL DISTRICT OF CALIFORNIA	
3 4	Case Name: <i>B & L Productions, Inc., et al. v. Newsom, et al.</i> Case No.: 8:22-cv-01518 JWH (JDEx)	
5	IT IS HEREBY CERTIFIED THAT:	
6	I, the undersigned, am a citizen of the United States and am at least eighteen	
7	years of age. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.	
8 9	I am not a party to the above-entitled action. I have caused service of:	
10	DECLARATION OF ERIC JOHNSON IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION	
11	on the following party by electronically filing the foregoing with the Clerk of the	
12	District Court using its ECF System, which electronically notifies them.	
13	Nicole J. Kau, Deputy Attorney General	
14	nicole.kau@doj.ca.gov 300 South Spring Street, Suite 1702	
15	Los Angeles, CA 90013-1230 Attorney for Defendants	
16		
17 18	I declare under penalty of perjury that the foregoing is true and correct. Executed November 16, 2022.	
18 19		
20	Laura Palmerin	
21	\checkmark	
22		
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26		
27		
28		
	CERTIFICATE OF SERVICE	

Case 8:22-cv-01518-JWH-JDE Document 21-8 Filed 11/16/22 Page 1 of 5 Page ID #:1375

1 2	C.D. Michel-SBN 144258 Anna M. Barvir-SBN 268728 Tiffany D. Cheuvront-SBN 317144		
3	MICHEL & ASSOCIATES, P.C.		
3 4	180 East Ocean Blvd., Suite 200 Long Beach, CA 90802 Telephone: (562) 216-4444		
5	Email: <u>cmichel@michellawyers.com</u>		
6	Attorneys for Plaintiffs B&L Productions, Incorporated, Gerald Clark, Eric Johnson, Pacific American Gun Owner Association	, Inc., California Ri Chad Littrell, Jan , Second Amendm	fle & Pistol Association, Steven Merson, Asian ent Law Center, Inc.
7	Donald Kilmer-SBN 179986		
8	Law Offices of Donald Kilmer, APC 14085 Silver Ridge Road		
9	Caldwell, Idaho 83607 Telephone: (408) 264-8489		
10	Email: <u>Don@DKLawOffice.com</u>		
11	Attorney for Plaintiff Second Amendment	Foundation	
12	IN THE UNITED STA	TES DISTRICT C	OURT
	FOR THE CENTRAL DI	STRICT OF CALL	FORNIA
13	B&L PRODUCTIONS, INC., d/b/a	CASE NO.: 8:22-	cv-01518 JWH (JDEx)
14	CROSSROADS OF THE WEST; GERALD CLARK; ERIC JOHNSON;	DECLARATION	NOF CHAD_
15	CHAD LITTRELL; JAN STEVEN MERSON; CALIFORNIA RIFLE &	LITTRELL IN S PLAINTIFFS' M	SUPPORT OF IOTION FOR
16	PISTOAL ASSOCIATION, INCORPORATED; ASIAN PACIFIC	PRELIMINARY	INJUNCTION
17	I AMERICAN GUN OWNERS	Hearing Date:	January 6, 2023
18	ASSOCIATION; SECOND AMENDMENT LAW CENTER, INC.;	Hearing Time: Courtroom:	9:00 a.m. 9D
19	and SECOND AMENDMENT FOUNDATION,	Judge:	John W. Holcomb
	Plaintiffs,	Action Filed:	August 12, 2022
20	V.	Action I fied.	August 12, 2022
21			
22	GAVIN NEWSOM, in his official capacity as Governor of the State of California; ROB BONTA, in his official		
23	capacity as Attorney General of the State of California; KAREN ROSS, in		
24	her official capacity as Secretary of		
25	California Department of Food & Agriculture and in his personal capacity; TODD SPITZER, in his official capacity		
26	as District Attorney of Orange County; 32nd DISTRICT AGRICULTURAL		
27	ASSOCIATION; DOES 1-10;		
28	Defendants.		
		1	
	DECLARATION	OF CHAD LITTRE	ELL

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1 **DECLARATION OF CHAD LITTRELL** 2 1. I, Chad Littrell, am a plaintiff in the above-entitled action. I make this 3 declaration of my own personal knowledge and, if called as a witness, I could and 4 would testify competently to the truth of the matters set forth herein. 2. I am a current resident of La Habra, California. 5 3. Before the adoption and implementation of Senate Bill 264, I regularly 6 7 attended the Crossroads of the West Gun Show, a recurring, safe, and family-8 friendly gun-show event produced by B&L Productions, Inc., d/b/a Crossroads of 9 the West ("Plaintiff Crossroads") and held at the Orange County Fair & Event 10 Center ("the Fairgrounds"). 11 4. In fact, my former company, Vytamenc 22 Tactical, was a regular 12 vendor at Plaintiff Crossroads' gun shows at the Fairgrounds. At these events, I 13 would lawfully sell uppers, precursor parts and AR-15 rifles. 5. 14 I have never been arrested or charged with any crime related to my 15 business dealings at gun shows or elsewhere. And I have never had my Federal 16 Firearms License (FFL) revoked or suspended. 17 6. I enjoy attending gun shows at the Fairgrounds because these events 18 offer me a unique opportunity to engage with like-minded people to explore and 19 discuss the lawful uses of firearms, including self-defense, hunting, target shooting, 20 safety training, gunsmithing, and general appreciation of firearms. I also enjoy 21 discussing other issues like politics, the Second Amendment, being a gun owner in 22 California, and gun safety with potential customers and other attendees of the show. 23 7. At gun show events, like the Crossroads' gun shows at the Fairgrounds, 24 I have engaged with non-profit organizations that have shared information about the 25 products I sell. I enjoy being able to participate in this broad platform event where 26 all of my interests in the areas of firearms and the legalities of being a gun owner 27 converge. 28 8. As a vendor, I offer for sale legal firearm-related products. I also enjoy DECLARATION OF CHAD LITTRELL

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the unique opportunity that gun shows afford me to interact with my customers in a
 meaningful way. Many of my customers come to gun shows to learn about new
 technology, speak to vendors, handle merchandise to see what works best for them,
 and to participate in discussions about gun ownership.

- 9. I am a member of the "gun culture," which is a discrete and identifiable
 group of individuals and organizations, who share a desire to exercise fundamental
 rights protected by the Second Amendment, and who seek to participate in public
 discourse and share in the benefit of a public resource, like the Fairgrounds.
 Participating in that culture with other gun owners and retailers is an important
 reason that I attend and support gun shows.
- 10. That said, if I am unable to sell my products (i.e., uppers, precursor
 parts and AR-15 rifles) at the Fairgrounds pursuant to SB 264 and SB 915, there is
 no financial incentive for my business to participate as a vendor at Crossroads' gun
 show. Indeed, I rely on product sales at the gun shows to offset the costs of vendor
 fees, employee compensation, and necessary overhead.
- 16 11. SB 264 and SB 915 diminish my ability to carry on lawful commerce
 and my ability to engage with others in the dissemination of information that is
 related to both my business and the exercise of my constitutional rights under the
 First and Second Amendments at the Fairgrounds.

20 12. Worse yet, because Plaintiff Crossroads has been unable to secure dates
21 to host gun shows at the Fairgrounds since SB 264 took effect, I have been forced to
22 close my business because my primary outlet for selling my legal products was the
23 marketplace of the gun shows.

- And because the effect of SB 264 and SB 915 has been to ban gun
 shows altogether, SB 264 and SB 915 restrict my right to engage with other likeminded people through political and commercial speech.
- 27 14. But for the adoption and enforcement of SB 264 and SB 915 which
 28 prohibits the sale of firearms, ammunition, and firearm precursor parts at the

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1	Fairgrounds, I would reopen my business and resume my participation as a vendor	
2	and attendee at gun show events at the Fairgrounds.	
3	15. If this Court were to enjoin the enforcement of SB 264 and SB 915,	
4	allowing Plaintiff Crossroads' gun show events to return to the Fairgrounds, I would	
5	reopen my business and resume my participation as a vendor and attendee at gun	
6	shows at the Fairgrounds.	
7	I declare under penalty of perjury that the foregoing is true and correct.	
8	Executed within the United States on November 15, 2022.	
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10	MIM	
11	Chad Littrell Declarant	
12	Declaratit	
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	DECLARATION OF CHAD LITTRELL	

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1	CERTIFICATE OF SERVICE IN THE UNITED STATES DISTRICT COURT					
2	CENTRAL DISTRICT OF CALIFORNIA					
3	Case Name: <i>B & L Productions, Inc., et al. v. Newsom, et al.</i> Case No.: 8:22-cv-01518 JWH (JDEx)					
4	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.					
5						
6						
7	I am not a party to the above-entitled action. I have caused service of:					
8 9	DECLARATION OF CHAD LITTRELL IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION					
10	on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.					
11						
12	Nicole J. Kau, Deputy Attorney General <u>nicole.kau@doj.ca.gov</u> 300 South Spring Street, Suite 1702					
13	Los Angeles, CA 90013-1230 Attorney for Defendants I declare under penalty of perjury that the foregoing is true and correct.					
14						
15						
16	Executed November 16, 2022.					
17	Jaim Paleere Laura Palmerin					
18						
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	CERTIFICATE OF SERVICE					

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1 2	C.D. Michel-SBN 144258 Anna M. Barvir-SBN 268728 Tiffany D. Cheuvront-SBN 317144				
2	MICHEL & ASSOCIATES, P.C.				
3 4	180 East Ocean Blvd., Suite 200 Long Beach, CA 90802 Telephone: (562) 216-4444				
5	Email: <u>cmichel@michellawyers.com</u>				
6	Attorneys for Plaintiffs B&L Productions, Inc., California Rifle & Pistol Association, Incorporated, Gerald Clark, Eric Johnson, Chad Littrell, Jan Steven Merson, Asian Pacific American Gun Owner Association, Second Amendment Law Center, Inc.				
7	Donald Kilmer-SBN 179986				
8	Law Offices of Donald Kilmer, APC 14085 Silver Ridge Road				
9	Caldwell, Idaho 83607 Telephone: (408) 264-8489				
10	Email: Don@DKLawOffice.com				
11	Attorney for Plaintiff Second Amendment Foundation				
12	IN THE UNITED STATES DISTRICT COURT				
13	FOR THE CENTRAL DISTRICT OF CALIFORNIA				
14	B&L PRODUCTIONS, INC., d/b/a CROSSROADS OF THE WEST; CASE NO.: 8:22-cv-01518 JWH (JDEx)				
15	GERALD CLARK; ERIC JOHNSON; CHAD LITTRELL; JAN STEVEN	DECLARATION OF JAN STEVEN MERSON IN SUPPORT OF			
16	MERSON; CALIFÓRNIA RIFLE & PISTOAL ASSOCIATION, NICOPPODATED: ASIAN DACIEIC	PLAINTIFFS' N PRELIMINARY			
17	INCORPORATED; ASIAN PACIFIC AMERICAN GUN OWNERS	Hearing Date:	January 6, 2023		
18	ASSOCIATION; SECOND AMENDMENT LAW CENTER, INC.;	Hearing Time: Courtroom:	9:00 a.m. 9D		
19	and SECOND AMENDMENT FOUNDATION,	Judge:	John W. Holcomb		
20	Plaintiffs,	Action Filed:	August 12, 2022		
21	V.		-		
22	GAVIN NEWSOM, in his official				
22	capacity as Governor of the State of California; ROB BONTA, in his official				
23 24	capacity as Attorney General of the State of California; KAREN ROSS, in				
	her official capacity as Secretary of California Department of Food &				
25 26	Agriculture and in his personal capacity; TODD SPITZER, in his official capacity				
26 27	as District Attorney of Orange County; 32nd DISTRICT AGRICULTURAL ASSOCIATION; DOES 1-10;				
27	Defendants.				
28		1			
	DECLARATION OF JAN STEVEN MERSON				

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DECLARATION OF JAN STEVEN MERSON 1 1. I, Jan Steven Merson, am a plaintiff in the above-entitled action. I make 2 this declaration of my own personal knowledge and, if called as a witness, I could 3 and would testify competently to the truth of the matters set forth herein. 4 2. I am a current resident of Fullerton, California. 5 3. I own Merson's Machining Tool Making & Gunsmithing, and I hold a 6 valid Federal Firearms License (FFL). 7 4. Before the adoption and implementation of Senate Bill 264, I regularly 8 attended the Crossroads of the West Gun Show, a recurring, safe, and family-9 friendly gun-show event produced by B&L Productions, Inc., d/b/a Crossroads of 10 the West ("Plaintiff Crossroads") and held at the Orange County Fair & Event 11 Center ("the Fairgrounds"). 12 5. In fact, my company, then known as Merson's Custom Tooling & 13 Gunsmith, was a regular vendor at Plaintiff Crossroads' gun shows at the 14 Fairgrounds. At these events, I would lawfully sell firearm precursor parts, which 15 are legal products in California and are not considered firearms by legal definition. 16 6. I have never been arrested or charged with any crime related to my 17 business dealings at gun shows or elsewhere. And I have never had my FFL revoked 18 or suspended. 19 7. I enjoy attending gun shows at the Fairgrounds because these events 20 offer me a unique opportunity to engage with like-minded people to explore and 21 discuss the lawful uses of firearms, including self-defense, hunting, target shooting, 22 safety training, gunsmithing, and general appreciation of firearms. I also enjoy 23 discussing other issues like politics, the Second Amendment, being a gun owner in 24 California, and gun safety with potential customers and other attendees of the show. 25 8. At gun show events, like the Crossroads' gun shows at the Fairgrounds, 26 I have engaged with non-profit organizations that have shared information about the 27 products I sell. I enjoy being able to participate in this broad platform event where 28

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2

all of my interests in the areas of firearms and the legalities of being a gun owner converge.

9. As a vendor, I offer for sale legal firearm-related products. I also enjoy
the unique opportunity that gun shows afford me to interact with my customers in a
meaningful way. Many of my customers come to gun shows to learn about new
technology, speak to vendors, handle merchandise to see what works best for them,
and to participate in discussions about gun ownership.

8 10. I am a member of the "gun culture," which is a discrete and identifiable
9 group of individuals and organizations, who share a desire to exercise fundamental
10 rights protected by the Second Amendment, and who seek to participate in public
11 discourse and share in the benefit of a public resource, like the Fairgrounds.
12 Participating in that culture with other gun owners and retailers is an important
13 reason that I attend and support gun shows.

14 11. That said, if I am unable to sell my products (i.e., firearm precursor
15 parts) at the Fairgrounds pursuant to SB 264 and SB 915, there is no financial
16 incentive for my business to participate as a vendor at Crossroads' gun show.
17 Indeed, I rely on product sales at the gun shows to offset the costs of vendor fees,
18 employee compensation, and necessary overhead.

19 12. SB 264 and SB 915 diminish my ability to carry on lawful commerce
20 and my ability to engage with others in the dissemination of information that is
21 related to both my business and the exercise of my constitutional rights under the
22 First and Second Amendments at the Fairgrounds.

13. What's more, because the effect of SB 264 and SB 915 has been to ban
gun shows altogether, it also restricts my right to engage with other like-minded
people through political and commercial speech.

14. But for the adoption and enforcement of SB 264 and SB 915 which
prohibits the sale of firearms, ammunition, and firearm precursor parts at the
Fairgrounds, I would resume my participation as a vendor and attendee at gun show

DECLARATION OF JAN STEVEN MERSON

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 events at the Fairgrounds. 15. If this Court were to enjoin the enforcement of SB allowing Plaintiff Crossroads' gun show events to return to the resume my participation as a vendor and attendee at gun shows I declare under penalty of perjury that the foregoing is true Executed within the United States on November 16, 2022. 	Fairgrounds, I would at the Fairgrounds.			
 allowing Plaintiff Crossroads' gun show events to return to the resume my participation as a vendor and attendee at gun shows I declare under penalty of perjury that the foregoing is true Executed within the United States on November 16, 2022. 	Fairgrounds, I would at the Fairgrounds.			
 resume my participation as a vendor and attendee at gun shows I declare under penalty of perjury that the foregoing is true Executed within the United States on November 16, 2022. 	at the Fairgrounds.			
 I declare under penalty of perjury that the foregoing is true Executed within the United States on November 16, 2022. 	_			
6 Executed within the United States on November 16, 2022.	e and correct.			
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8 Jan Steven Merson 8				
9 Declarant				
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	4 DECLARATION OF JAN STEVEN MERSON			

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1	CERTIFICATE OF SERVICE IN THE UNITED STATES DISTRICT COURT						
2	CENTRAL DISTRICT OF CALIFORNIA						
3	Case Name: <i>B & L Productions, Inc., et al. v. Newsom, et al.</i> Case No.: 8:22-cv-01518 JWH (JDEx)						
4	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:						
5							
6 7							
8							
8 9	DECLARATION OF JAN STEVEN MERSON IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION						
10	on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.						
11	Nicole J. Kau, Deputy Attorney General						
12	nicole.kau@doi.ca.gov						
13	300 South Spring Street, Suite 1702 Los Angeles, CA 90013-1230 Attorney for Defendants						
14	I declare under penalty of perjury that the foregoing is true and correct.						
15	Executed November 16, 2022.						
16	Jaim Paleire						
17	Laura Palmerin						
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	CERTIFICATE OF SERVICE						
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Case	8:22-cv-01518-JWH-JDE Document 21-10 #:1385	Filed 11/16/22	Page 1 of 6 Page ID		
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21		, Inc., California , Chad Littrell, Ja , Second Amend t Foundation ATES DISTRICT ISTRICT OF CA CASE NO.: 8:2 DECLARATIONICH IN PLAINTIFFS	Rifle & Pistol Association, an Steven Merson, Asian Iment Law Center, Inc.		
22 23 24 25 26 27 28	GAVIN NEWSOM, in his official capacity as Governor of the State of California; ROB BONTA, in his official capacity as Attorney General of the State of California; KAREN ROSS, in her official capacity as Secretary of California Department of Food & Agriculture and in his personal capacity; TODD SPITZER, in his official capacity as District Attorney of Orange County; 32nd DISTRICT AGRICULTURAL ASSOCIATION; DOES 1-10; Defendants.				
_	1 DECLARATION OF RICHARD MINNICH				

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1

DECLARATION OF RICHARD MINNICH

I. I, Richard Minnich, am an officer and the Treasurer of Plaintiff
 California Rifle & Pistol Association, Incorporated (CRPA). I make this declaration
 of my own personal knowledge and, if called as a witness, I could and would testify
 competently to the truth of the matters set forth herein.

CRPA is a non-profit, membership, and donor-supported organization
classified under IRC section 501(c)(4) and incorporated under the laws of California
with its headquarters in Fullerton, California.

9 3. The mission of CRPA is to protect and defend the Constitution of the 10 United States and the individual's right to keep and bear arms both in public and in 11 private; to promote and educate the public regarding safe and responsible firearm 12 ownership and use; provide firearm education and safety training; encourage 13 participation in the shooting sports and sponsor competitive state championship 14 matches and shooting teams; to sponsor legislation, regulatory policies and litigation 15 that supports the mission of CRPA; promote the individual's right of self-16 preservation, hunting, defense of family, and persons; and to oppose any actions 17 which the CRPA believes infringe upon the individual rights guaranteed by the 18 Second Amendment.

4. Before the adoption and implementation of Senate Bill 264, CRPA
 participated as a nonprofit vendor at the Crossroads of the West Gun Show, a
 recurring, safe, and family-friendly gun-show event produced by B&L Productions,
 Inc., d/b/a Crossroads of the West ("Plaintiff Crossroads") and held at the Orange
 County Fair & Event Center ("the Fairgrounds").

5. As an officer and member of the Board of Directors of CRPA, I
regularly speak with donors, members, and supporters of the organization to discuss
their interests, concerns, and reasons for supporting CRPA. As a result, I have
personal knowledge that CRPA members have attended gun shows at the
Fairgrounds in the past and wish to attend gun shows at the Fairgrounds in the

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future. I also personally attend gun shows in California on behalf of CRPA to
 promote the organization and talk with attendees, CRPA members, and potential
 CRPA members.

6. Gun shows like the one at issue in this case, are events where
individuals engage in lawful trade, commerce, and the exchange of information
related to, and necessary for, exercising Second Amendment rights such as selfdefense, hunting, and target shooting. They are a forum for lectures, training, and
discussions about gun rights. Gun shows also present a unique place for the
exchange of knowledge regarding the market for firearms, firearms accessories, and
other related products.

7. As a vendor at Crossroads' guns shows at the Fairgrounds and
 throughout California, CRPA engages with gun show attendees to sell organization
 memberships, promote its programs, including firearm safety training, competitive
 and recreational shooting events, and fundraisers, advertise events, solicit donations
 for programs, distribute publications, and sell merchandise, some of which includes
 expressly pro-gun messaging.

17 8. CRPA volunteers engage gun show attendees in discussions about the
18 lawful uses of firearms, including self-defense, hunting, target shooting, safety
19 training, gunsmithing, and appreciation of firearms as historical objects and
20 technological artifacts.

9. CRPA has also invited speakers to give lectures about, inter alia,
 hunting, firearm safety, and state and federal firearms law, at Crossroads' gun shows
 at the Fairgrounds. And, sometimes, CRPA presents comprehensive training on
 firearm-related topics.

25 10. CRPA also has individual members and business affiliate members
26 that, before the adoption and enforcement of SB 264, also participated in gun shows
27 at the Fairgrounds and at state-owned properties throughout California. Many of
28 CRPA's members were themselves regular vendors at gun shows, where they

DECLARATION OF RICHARD MINNICH

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engaged the public in discussions about the organization and its purposes, the
 shooting sports, firearms and firearm safety, and the Second Amendment and other
 political issues. Other CRPA-member gun-show vendors also sold firearms,
 ammunition, and/or other firearm-related products.

5 11. CRPA, as well as its individual and business affiliate members,
6 participate in and are members of the "gun culture," a discrete and identifiable group
7 of people and organizations, who share a desire to exercise fundamental rights
8 protected by the Second Amendment. They also seek to participate in public
9 discourse and share in the benefits of public resources like the use of the Venue.
10 Participating in that culture is one of the primary reasons people attend gun shows.

11 12. SB 264 and SB 915 will diminish, for CRPA, and in the aggregate for
12 the community that comprises the "gun culture," the dissemination of information
13 and commerce related to CRPA's exercise of constitutional rights under the First
14 Amendment and Second Amendment at the Fairgrounds.

15 13. CRPA promotes its programs and memberships in its organization and
engages members of the public and those attending gun shows in political
discussions related to firearms and constitutional rights. As a result of the adoption
and enforcement of SB 264 and SB 915, CRPA will sustain and has, in fact,
sustained lost opportunities to engage those people and to speak to potential
members.

21 14. CRPA is a membership organization that expends resources and
22 advocates on behalf of their members' First and Second Amendment rights at many
23 public forums throughout California.

24 15. CRPA has engaged in advocacy and expenditure of resources at gun
25 shows throughout California, including gun shows that have historically taken place
26 at the Fairgrounds.

27 16. But for the adoption and enforcement of SB 264 and SB 915, which
28 prohibit the sale of firearms, ammunition, and firearm precursor parts at the

DECLARATION OF RICHARD MINNICH

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1	Fairgrounds, CRPA would resume its participation as a nonprofit vendor at gun
2	show events at the Fairgrounds.
3	17. If this Court were to enjoin the enforcement of SB 264 and SB 915,
4	allowing Plaintiff Crossroads' gun show events to return to the Fairgrounds, CRPA
5	would resume its participation as a nonprofit vendor at gun show events at the
6	Fairgrounds.
7	I declare under penalty of perjury that the foregoing is true and correct.
8	Executed within the United States on November 16, 2022.
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11	Kur Mark
12	Richard Minnich Declarant
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	DECLARATION OF RICHARD MINNICH
I	

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1 2	<u>CERTIFICATE OF SERVICE</u> IN THE UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA
3	
4	Case Name: <i>B & L Productions, Inc., et al. v. Newsom, et al.</i> Case No.: 8:22-cv-01518 JWH (JDEx)
5	IT IS HEREBY CERTIFIED THAT:
6 7	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.
8 9	I am not a party to the above-entitled action. I have caused service of:
10	DECLARATION OF RICHARD MINNICH IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION
11	on the following party by electronically filing the foregoing with the Clerk of the
12	District Court using its ECF System, which electronically notifies them.
13	Nicole J. Kau, Deputy Attorney General
14	nicole.kau@doj.ca.gov 300 South Spring Street, Suite 1702
15 16	Los Angeles, CA 90013-1230 Attorney for Defendants
17	I dealage up den nonality of nonjumy that the forecasing is true and connect
18	I declare under penalty of perjury that the foregoing is true and correct.
19	Executed November 16, 2022.
20	Laura Palmerin
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	CERTIFICATE OF SERVICE

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1 2 3 4 5 6 7 8 9 10	C.D. Michel-SBN 144258 Anna M. Barvir-SBN 268 Tiffany D. Cheuvront-SBI MICHEL & ASSOCIATE 180 East Ocean Blvd., Sui Long Beach, CA 90802 Telephone: (562) 216-444 Email: <u>cmichel@michella</u> Attorneys for Plaintiffs B& Incorporated, Gerald Clarf Pacific American Gun Ow Donald Kilmer-SBN 1799 Law Offices of Donald Ki 14085 Silver Ridge Road Caldwell, Idaho 83607 Telephone: (408) 264-848 Email: <u>Don@DKLawOffic</u>	728 N 317144 S, P.C. te 200 4 wyers.com &L Productions, c, Eric Johnson, mer Association 86 lmer, APC 9 ce.com	Chad Littrell, Ja , Second Amenc	an Steven M	erson, Asian
11	2	E UNITED STA			
12		E CENTRAL DI			
13	B&L PRODUCTIONS, IN		CASE NO.: 8:2		
14	CROSSROADS OF THE GERALD CLARK; ERIC	WEST;	DECLARATI		, í
15	CHAD LITTRELL; JAN S MERSON; CALIFORNIA	STEVEN RIFLE &	LOPEZ IN SU PLAINTIFFS'	PPORT OI MOTION	F FOR
16	PISTOAL ASSOCIATION INCORPORATED; ASIA	N PACIFIC	PRELIMINA		
17	AMERICAN GUN OWN ASSOCIATION; SECON	D	Hearing Date: Hearing Time:	January 9:00 a.n	
18	AMENDMENT LAW CE and SECOND AMENDM		Courtroom: Judge:	9D John W.	Holcomb
19	FOUNDATION,	aintiffs,			
20		amunis,	Action Filed:	August 1	12, 2022
21	v. GAVIN NEWSOM, in his	official			
22	capacity as Governor of th California; ROB BONTA,	e State of			
23	capacity as Attorney Gene State of California; KARE	ral of the			
24	her official capacity as Sec California Department of	cretary of Food &			
25	Agriculture and in his pers TODD SPITZER, in his o	sonal capacity;			
26 27	as District Attorney of Ora 32nd DISTRICT AGRICU ASSOCIATION; DOES 1	JLTURAL			
		efendants.			
28			1		
	DE	CLARATION (OF PATRICK L	OPEZ	

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1

DECLARATION OF PATRICK LOPEZ

I. I, Patrick Lopez, am the founder of Plaintiff Asian Pacific American
 Gun Owners Association ("APAGOA"). I make this declaration of my own personal
 knowledge and, if called as a witness, I could and would testify competently to the
 truth of the matters set forth herein.

APAGOA is a nonprofit organization incorporated under the laws of
Texas and registered with the California Secretary of State to do business in the state
of California. APAGOA has approximately 270 members who reside in California.

3. APAGOA is a community of gun owners with an Asian Pacific
American ("APA") heritage. Its core focus is to promote safe and responsible gun
ownership within the APA community by providing educational materials and other
resources to its members and other interested parties. APAGOA advocates for
firearm safety, education, and community-building initiatives. And it strives to
educate and empower the APA gun owner community so they can use their firearms
safely and responsibly.

4. Before the implementation of Senate Bill 264, APAGOA participated
 as a nonprofit participant at the Crossroads of the West Gun Show, a recurring, safe,
 and family-friendly gun-show event produced by B&L Productions, Inc., d/b/a
 Crossroads of the West ("Plaintiff Crossroads") and held at the Orange County Fair
 & Event Center ("the Fairgrounds").

5. Gun shows like the one at issue in this case, are events where
individuals engage in lawful trade, commerce, and the exchange of information
related to, and necessary for, exercising Second Amendment rights such as selfdefense, hunting, and target shooting. They are a forum for lectures, training, and
discussions about gun rights. Gun shows also present a unique place for the
exchange of knowledge regarding the market for firearms, firearms accessories, and
other related products.

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6. Before the adoption and implementation of Senate Bill 264, APAGOA

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attended gun shows across the Fairgrounds to promote the preservation and
 expansion of constitutional and statutory rights of gun ownership, including the right
 to self-defense and the right to keep and bear arms.

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7. Being a vendor at the gun shows affords APAGOA a unique opportunity ability to meaningfully interact with gun owners (and those who hope to become gun owners), share experiences, and talk about the politics and laws surrounding the Second Amendment. APAGOA does this by providing educational materials and other resources to members and those of the general public.

8. APAGOA strives to educate and empower the Asian Pacific American
community so they can be responsible gun owners and protect themselves and their
loved ones. Attending large-scale events like gun shows allows APAGOA the ability
to publicize our message about safety and self-protection at a time when this has
become vitally important to the APA community.

9. APAGOA is a member and supporter of the "gun culture," which is a
discrete and identifiable group of individuals and organizations, who share a desire
to exercise fundamental rights protected by the Second Amendment, and who seek
to participate in public discourse and share in the benefit of a public resource, like
the Fairgrounds. APAGOA members are also a part of this discrete and identifiable
group. Participating in that culture with other gun owners is one of the primary
reasons SAF and its members attend gun shows.

10. APAGOA promotes its programs and memberships in its organization
and engages members of the public and those attending gun shows in political
discussions related to firearms and constitutional rights. As a result of the adoption
and enforcement of SB 264 and SB 915, APAGOA will sustain and has, in fact,
sustained lost opportunities to engage those people and to speak to potential
members.

27 11. APAGOA is a membership organization that expends resources and
28 advocates on behalf of their members' First and Second Amendment rights at many

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1	public forums throughout California.
2	12. APAGOA has engaged in advocacy and expenditure of resources at
3	gun shows throughout California, including gun shows that have historically taken
4	place at the Fairgrounds.
5	13. But for the adoption and enforcement of SB 264 and SB 915 which
6	prohibits the sale of firearms, ammunition, and firearm precursor parts at the
7	Fairgrounds, APAGOA would resume its participation as a nonprofit vendor at gun
8	show events at the Fairgrounds.
9	14. If this Court were to enjoin the enforcement of SB 264 and SB 915,
10	allowing Plaintiff Crossroads' gun show events to return to the Fairgrounds,
11	APAGOA would resume its participation as a nonprofit vendor at gun show events
12	at the Fairgrounds.
13	I declare under penalty of perjury that the foregoing is true and correct.
14	Executed within the United States on November 16, 2022.
15	Patrick Lopez
16	Patrick Lopez
17	Declarant
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Case 8:22-cv-01518-JWH-JDE Document 21-11 Filed 11/16/22 Page 5 of 5 Page ID #:1395 1 **CERTIFICATE OF SERVICE** IN THE UNITED STATES DISTRICT COURT 2 CENTRAL DISTRICT OF CALIFORNIA 3 Case Name: B & L Productions, Inc., et al. v. Newsom, et al. Case No.: 8:22-cv-01518 JWH (JDEx) 4 5 IT IS HEREBY CERTIFIED THAT: 6 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 7 Beach, California 90802. 8 I am not a party to the above-entitled action. I have caused service of: 9 **DECLARATION OF PATRICK LOPEZ IN SUPPORT OF PLAINTIFFS'** 10 **MOTION FOR PRELIMINARY INJUNCTION** 11 on the following party by electronically filing the foregoing with the Clerk of the 12 District Court using its ECF System, which electronically notifies them. 13 Nicole J. Kau, Deputy Attorney General nicole.kau@doj.ca.gov 14 300 South Spring Street, Suite 1702 Los Angeles, CĂ 90013-1230 15 Attorney for Defendants 16 I declare under penalty of perjury that the foregoing is true and correct. 17 Executed November 16, 2022. 18 <u>facu faleir</u> Laura Palmerin 19 20 21 22 23 24 25 26 27 28 CERTIFICATE OF SERVICE

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DECLARATION OF ALAN GOTTLIEB

I. I, Alan Gottlieb, am the Executive Vice President and founder of
 Plaintiff Second Amendment Foundation ("SAF"). I make this declaration of my
 own personal knowledge and, if called as a witness, I could and would testify
 competently to the truth of the matters set forth herein.

6 2. SAF is a non-profit membership and donor-supported organization
7 classified under IRC section 501(c)(3) and incorporated under the laws of the state
8 of Washington with its headquarters in Bellevue, Washington.

9 3. Before the adoption and implementation of recent gun show regulations 10 designed to ban them from state property (Senate Bill 264 & Senate Bill 915), 11 SAF's members have attended gun shows at the Crossroads of the West Gun Show. 12 These gun-show events are a recurring, safe, and family-friendly gathering produced 13 by B&L Productions, Inc., d/b/a Crossroads of the West ("Plaintiff Crossroads"), 14 including gun shows held at the Orange County Fair & Event Center ("the 15 Fairgrounds"). It is my understanding that B & L Productions, Inc., d/b/a/ 16 Crossroads of the West, holds these events at state-owned properties and fairgrounds 17 throughout California.

4. Gun shows like the one at issue in this case, are public events where
individuals engage in lawful trade, commerce, and the exchange of information
related to, and necessary for, exercising Second Amendment rights such as selfdefense, hunting, and target shooting. They are a forum for lectures, training, and
discussions about gun rights. Gun shows also present a unique and timely place for
the exchange of knowledge regarding the market for firearms, firearms accessories,
and other related products.

5. Gun shows, like the one at issue in this case, also promote public
safety. They do this by providing a convenient, public, and transparent venue for
lawful commerce of firearms. I allege on information and belief that closing such
venues would have the effect of driving a significant portion of firearm transactions

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underground, i.e., away from the highly regulated environment that is easily 1 2 accessible to law enforcement at gun shows and their other retail establishments. 3 Thus the unintended consequence of banning gun shows from the public square, 4 might actually increase illegally transferred firearms, that will be conducted without 5 background checks, waiting periods, and registration of the firearm. By providing a 6 convenient, public, and transparent venue for gun sales conducted in accordance 7 with federal and state law, gun shows actually promote lawful commerce in firearms 8 and thus lawful gun ownership.

9 6. Gun shows afford SAF members a meaningful opportunity to interact
10 with gun owners and those who hope to become gun owners, to share experiences
11 and provide information about the Second Amendment.

7. SAF has over 700,000 members and supporters nationwide with
thousands in California. The opportunity for them to engage at large-scale events
like gun shows is extremely important to sharing the right to Keep and Bear Arms
message that is essential to SAF's mission.

8. SAF also expends resources and time supporting public interest
constitutional litigation to defend its own interests and the interests of its members
and gun owners in general. Gun shows provide a platform for sharing information
about these legal challenges.

9. SAF is a proud member and supporter of the "gun culture," which is a
discrete and identifiable group of individuals and organizations. We all share a
desire to exercise the fundamental rights protected by the Second Amendment, and
we seek to participate in public discourse and share in the benefit of a public forum,
like the Orange County Fairgrounds. Participation in this culture with other gun
owners and gun rights organization is one of the primary reasons that SAF members
attend gun shows.

27 10. With the adoption and enforcement of SB 264 and SB 915, SAF,
28 through it members will sustain, and has in fact already sustained lost opportunities

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1	to engage with like-minded individuals and promote its core message of preserving	
2	and defending the Second Amendment.	
3	I declare under penalty of perjury that the foregoing is true and correct.	
4	Executed within the United States on November 15, 2022.	
5	<u>/s/ Alan Gottlieb</u>	
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7	Alan Gottlieb	
8	Declarant	
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	DECLARATION OF ALAN GOTTLIEB	+
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1	CERTIFICATE OF SERVICE
2	IN THE UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA
3	Case Name: B & L Productions, Inc., et al. v. Newsom, et al.
4	Case No.: 8:22-cv-01518 JWH (JDEx)
5	IT IS HEREBY CERTIFIED THAT:
6	I, the undersigned, am a citizen of the United States and am at least eighteen
7	years of age. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.
8 9	I am not a party to the above-entitled action. I have caused service of:
10	DECLARATION OF ALAN GOTTLIEB IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION
11	on the following party by electronically filing the foregoing with the Clerk of the
12	District Court using its ECF System, which electronically notifies them.
13	Nicole J. Kau, Deputy Attorney General
14	nicole.kau@doj.ca.gov 300 South Spring Street, Suite 1702
15 16	Los Angeles, CA 90013-1230 Attorney for Defendants
17	I declare under penalty of perjury that the foregoing is true and correct.
18	Executed November 16, 2022.
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	CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that on January 30, 2024, an electronic PDF of APPELLEES' SUPPLEMENTAL EXCERPTS OF RECORD, VOLUME II OF II, was uploaded to the Court's CM/ECF system, which will automatically generate and send by electronic mail a Notice of Docket Activity to all registered attorneys participating in the case. Such notice constitutes service on those registered attorneys.

Date: January 30, 2024

<u>s/ Anna M. Barvir</u> Anna M. Barvir