

No. 24-542

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

KIM RHODE., ET AL.,
Plaintiffs-Appellees

v.

ROB BONTA,
IN HIS OFFICIAL CAPACITY AS THE
ATTORNEY GENERAL OF THE STATE OF CALIFORNIA,
Defendant-Appellant.

On Appeal from the
United States District Court for the Southern District of California
Case No. 3:18-cv-00802-BEN-JLB
Honorable J. Roger T. Benitez

**UNOPPOSED MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF
ON BEHALF OF THE SECOND AMENDMENT FOUNDATION,
CITIZENS COMMITTEE FOR THE RIGHT TO KEEP AND BEAR
ARMS, AND SECOND AMENDMENT LAW CENTER, INC., IN
SUPPORT OF PLAINTIFFS-APPELLEES ON REHEARING EN BANC**

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January 2, 2026

CORPORATE DISCLOSURE STATEMENT

Under Rule 26.1(a) of the Federal Rules of Appellate Procedure, counsel for amici curiae certify that Second Amendment Foundation, Citizens Committee for the Right to Keep and Bear Arms, and Second Amendment Law Center, Inc., are nonprofit organizations and thus have no parent corporations and no stock.

Date: January 2, 2026

SECOND AMENDMENT FOUNDATION

/s/ Konstadinos T. Moros

Konstadinos T. Moros

Counsel for Amici Curiae

MOTION FOR LEAVE TO FILE AMICUS BRIEF

Pursuant to Federal Rule of Appellate Procedure 29(a)(3) and Circuit Rule 29-2(b), Second Amendment Foundation, Citizens Committee for the Right to Keep and Bear Arms, and Second Amendment Law Center respectfully seek leave to file the attached amicus brief supporting Plaintiffs-Appellees in the en banc rehearing proceedings in this matter. The parties have confirmed they do not oppose Amici filing a brief in support of Plaintiffs-Appellees.

The Amici are regular participants in amicus briefing in Second Amendment matters in this Court as well as in several other federal circuits, state courts, and the United States Supreme Court. The Second Amendment Law Center, for example, has participated in 16 amicus briefs in 2025 alone. *See* Second Amend. L. Ctr., *Amicus Briefs Filed*, <https://www.2alc.org/amicus-briefs-filed> (last visited Dec. 30, 2025). Second Amendment Foundation has participated in a similar number of amicus briefs and is also a plaintiff in over 50 pending cases nationwide, several of which are proceeding or have recently concluded in this Circuit. Just a few examples include: *Nguyen v. Bonta*, 140 F.4th 1237 (9th Cir. 2025); *Miller v. Bonta*, No. 23-2979, 2023 U.S. App. LEXIS 36127 (9th Cir. Oct. 28, 2023) (granting stay of district court ruling); *May v. Bonta*, 125 F.4th 1246 (9th Cir. 2025) (denying rehearing en banc); *Renna v. Bonta*, No. 23-55367, 2025 U.S. App. LEXIS 7148 (9th Cir. Mar. 27, 2025) (directing the parties to file supplemental briefing); *B & L Prods., Inc. v. Newsom*, 104 F.4th 108 (9th Cir. 2024). Suffice it to say, Amici have a particular interest in Second Amendment matters like this one, and they are also experienced in litigating such cases.

The brief they have prepared for this case may prove helpful to this Court for

three main reasons. First, it provides additional attention to aspects of the record in this case that Plaintiffs-Appellees did not have the space to fully discuss in their briefing. That includes a more detailed look at the statistics of the erroneous AFS rejections, as well as an examination of some of the declarations submitted in the district court from members of the associational plaintiff in this case. One of those members is even *totally prohibited* from buying ammunition in California under the challenged ammunition background check regime because he is a resident of Florida.

Second, part of the State’s argument in its reply briefing was that because “nearly 90 percent” of individuals using its ammunition background check were quickly approved, Plaintiffs-Appellees are automatically not entitled to the facial relief awarded by the district court. *See* Appellant's Reply Br. at 9, *Rhode v. Bonta*, No. 24-542 (9th Cir. Sept. 13, 2024). The dissent to the now-vacated panel ruling similarly stated that Plaintiffs-Appellees could only pursue an as-applied challenge because California “has shown that the vast majority of its checks cost one dollar and impose less than one minute of delay.” *Rhode v. Bonta*, 145 F.4th 1090, 1121 (9th Cir. 2025) (Bybee, J., dissenting). The attached amicus brief rebuts those arguments and explains why facial invalidation of California’s ammunition background check regime is appropriate here.

Third and finally, the brief concludes with a section summarizing all of the obstacles and expenses facing someone seeking to purchase a handgun in California for the first time, of which the ammunition background check regime is just one barrier of many. While the rest of California’s gun control regime is obviously not at issue in this case, Amici believe this Court may benefit from knowledge of the greater restrictive context the ammunition background check system exists within.

Because the parties do not oppose Amici filing their brief, and because the brief may assist the Court, this motion should be granted, and the attached brief filed.

Dated: January 2, 2026

Respectfully submitted,

SECOND AMENDMENT FOUNDATION

/s/ Konstadinos T. Moros

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CERTIFICATE OF COMPLIANCE

I certify that this Motion complies with Fed. R. App. P. 32(a)(5) and (6) because it was prepared in 14-point Garamond, a proportionally spaced font. I further certify that this Motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(a) because it contains 621 words according to Microsoft Word.

Date: January 2, 2026

SECOND AMENDMENT FOUNDATION

/s/ Konstadinos T. Moros

Konstadinos T. Moros

Counsel for Amici Curiae

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing Motion with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit on January 2, 2026, using the ACMS system, which will send notice of such filing to all registered ACMS users.

Date: January 2, 2026

SECOND AMENDMENT FOUNDATION

/s/ Konstadinos T. Moros

Konstadinos T. Moros

Counsel for Amici Curiae