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16 **IN THE UNITED STATES DISTRICT COURT**  
17 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

18 B&L PRODUCTIONS, INC., et al.,  
19 Plaintiffs,  
20 v.  
21 GAVIN NEWSOM, et al.,  
22 Defendants.

Case No.: 8:22-cv-01518 JWH (JDEx)

**REPLY TO OPPOSITION TO  
PLAINTIFFS’ MOTION FOR LEAVE  
TO FILE SECOND AMENDED  
COMPLAINT**

Hearing Date: February 27, 2026  
Hearing Time: 9:00 AM  
Courtroom: 9D  
Judge: Hon. John W. Holcomb  
Action Filed: August 12, 2022

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## INTRODUCTION

1  
2 When it affirmed the judgment of dismissal in the Southern District case,  
3 where the Plaintiffs had waived their right to amend as part of the Rule 12 motion  
4 litigation (relying on the proposition that the “meaningful constraint” test had been  
5 abrogated by the Supreme Court in *Bruen*), the Ninth Circuit panel put an end to the  
6 Plaintiffs’ Second Amendment claims in that matter. But the only legal effect that  
7 decision has on this case—where the appellate panel merely vacated the preliminary  
8 injunction because the panel insisted that the “meaningful constraint” test remains  
9 the rule for Second Amendment claims in this circuit—is that Plaintiffs, having not  
10 waived their right to amend in this action, now seek to have an opportunity to plead  
11 and prove that the Challenged Statutes (or Defendants’ post-appeal interpretation  
12 and enforcement of them) do, in fact, constitute a “meaningful constraint” on  
13 Second Amendment commerce.

14 A similar rationale applies to Plaintiffs’ First Amendment claims. Having  
15 waived the right to amend in the Southern District case (believing that the  
16 commercial speech doctrine covered all contractual language), Plaintiffs now amend  
17 their First Amendment claims to conform to the new rule that the Ninth Circuit has  
18 promulgated that compelling an “acceptance” to occur away from state land does not  
19 offend the commercial speech doctrine. Defendants’ rejection of this business plan  
20 means that Plaintiffs must still seek declaratory relief from this Court to protect their  
21 commercial speech interests in making offers and discussions related to  
22 consideration. The last two paragraphs of the panel opinion provide the basis for  
23 amending the First Amendment claims. *B&L Prods., Inc. v. Newsom*, 104 F.4th 108,  
24 119-20 (9th Cir. 2024). Indeed, the Court of Appeals provided two theories for a  
25 viable Second Amended Complaint on the commercial speech claims.

26 Finally, Plaintiffs have expanded their equal protection claims to include a  
27 class-of-one theory to supplement their unequal treatment of fundamental rights  
28 argument, which the Ninth Circuit summarily disposed of without analysis.

1 **ARGUMENT**

2 **I. AMENDMENT IS NOT FUTILE BECAUSE A LIVE CONTROVERSY OVER**  
3 **PLAINTIFFS’ FIRST AMENDMENT CLAIMS REMAINS**

4 The first reason that Plaintiffs’ proposed amendments are appropriate (and  
5 would not be futile) is the Ninth Circuit’s holding that the Challenged Statutes allow  
6 both offers for sale, the discussion of consideration, and other categories of speech  
7 that seek to propose a commercial transaction. The Ninth Circuit’s holding only  
8 allows the state to forbid gun show attendees from immediately accepting offers on  
9 state property—indeed, it sanctions acceptance, as long as it occurs off-site. The  
10 opinion expressly states: “Given that offers are not proscribed, attendees of gun  
11 shows in California can peruse such offers, leave the premises, **and immediately**  
12 **order** their desired goods from the vendor.... The only thing attendees can no longer  
13 do is *agree to buy firearms while physically present at the gun show.*” *Id.* at 119-  
14 20 (italics in original, bold added).

15 When Plaintiffs first brought this action, they reasonably believed the First  
16 Amendment must protect their right to engage in speech constituting both offer and  
17 acceptance, as well as all that speech surrounding both (e.g., price point, discussions  
18 of the gun’s best uses, safety considerations, specifications).<sup>1</sup> It was only the  
19 delivery that must take place offsite and, as to firearms, at least ten days later. And  
20 while the Ninth Circuit panel upheld Plaintiffs’ rights to make offers and engage in  
21 speech about a potential sale, it sanctioned an interpretation of the Challenged  
22 Statutes that compelled both acceptance and delivery to take place off-site, i.e., away  
23 from state-controlled property like the Orange County Fair & Event Center. This  
24 comports with Plaintiffs’ proposed business plan for gun show promoters and  
25 vendors on state property, which contemplates using the internet to consummate gun

26 \_\_\_\_\_  
27 <sup>1</sup> Indeed, even though a transaction might be highly regulated, the commercial  
28 speech associated with the regulated transaction is still entitled to First Amendment  
protection. *See Va. Pharm. Bd., v. Va. Consumer Council*, 425 U.S. 748 (1976)  
(holding that prescription drug advertisements and prices are protected speech).

1 and ammunition sales (in which the acceptance occurs off-site) and using option  
2 contracts (which do not immediately transfer title of the goods until the option is  
3 exercised after the attendee is no longer physically present at the gun show) to  
4 facilitate off-site contract acceptance and consummation of gun and ammunition  
5 sales contracts.

6 This proposed structure preserves Plaintiffs’ right to make offers and engage  
7 in related commercial speech regarding potential sales at the gun shows on state  
8 land, which the Ninth Circuit panel confirmed remained protected. *B&L Prods.*, 104  
9 F.4th at 113 (citing *Nordyke v. Santa Clara Cnty.*, 110 F.3d 707, 710 (9th Cir.  
10 1997)). Defendants rejected that proposal and provided no alternative. Stated  
11 another way, Plaintiffs still have viable First Amendment commercial speech claims  
12 because Defendants have interpreted the Challenged Statutes to bar gun show  
13 attendees from accepting offers for sale immediately off-site, which effectively bans  
14 offers and discussion of potential sales, as well. This is not a surprise. That is how  
15 Defendants interpreted their statutory authority during the preliminary injunction  
16 hearing. Order Granting Pls.’ Mot. Prelim. Inj. at 13 (“[A]t the hearing Defendants  
17 stated that ... offers and acceptances of firearm sales at gun shows were prohibited  
18 under the statu[t]es—all of which directly implicate commercial speech.”) (citing  
19 April 6, 2023, Hr’g Tr. at 6:5-6 & 9:21-10:1, ECF No. 40).

20 Defendants’ reliance on Federal Rule of Evidence 408 is misplaced.  
21 Plaintiffs’ correspondence outlining a proposed business plan was not an offer to  
22 compromise. It did not propose dismissal or an exchange of valuable consideration.  
23 Rather, it sought clarification of a threshold legal issue—i.e., whether Defendants  
24 interpreted the Ninth Circuit opinion to permit off-site acceptance of offers for sale  
25 through internet orders and/or option contracts. Consistent with their obligations to  
26 meet and confer under Local Rule 7-3, Plaintiffs made that inquiry to determine the  
27 scope of acceptable conduct under the Challenged Statutes and whether amendment  
28 of the complaint was necessary. In fact, the letter expressly advised Defendants that,

1 if the proposal was unacceptable, Plaintiffs would request leave to amend to  
2 incorporate that dispute into the action. And Plaintiffs later provided Defendants  
3 with a draft of the proposed SAC—including allegations about the proposal and its  
4 anticipated rejection. When declining to stipulate to the filing of the SAC,  
5 Defendants did not suggest that Rule 408 barred inclusion of those allegations.

6 What’s more, Rule 408 applies only to evidence of statements made during  
7 compromise negotiations offered to “prove or disprove the validity or amount of a  
8 disputed claim or to impeach by a prior inconsistent statement or a contradiction.”  
9 Allegations about Plaintiffs’ proposal and Defendants’ rejection of it are not offered  
10 for either purpose. Instead, they demonstrate the parties’ disagreement over the  
11 interpretation of the Challenged Statutes, Defendants’ position that the proposed  
12 business plan is unlawful, and the existence of an actual controversy that requires  
13 declaratory relief. Rule 408 does not bar evidence offered for such purposes.

14 Finally, setting aside the commercial speech claims, Plaintiffs’ proposed SAC  
15 also includes new allegations (and new Plaintiffs) addressing Defendants’ post-  
16 appeal interpretation of the Challenged Statutes to prohibit charitable raffles and  
17 auctions of guns and ammunition, fundraisers that Plaintiffs CRPA, Rocky  
18 Mountain Elk Foundation, and California Bowman Hunters/State Archery  
19 Association rely on to fund their First Amendment activities. (Redline SAC 15:7-11,  
20 19:2-21:13.) These allegations bolster Plaintiffs’ First Amendment claims and were  
21 not considered by the Ninth Circuit panel and are thus not affected by that decision.

22 **II. THE SAC ADDRESSES THE NINTH CIRCUIT’S “MEANINGFUL CONSTRAINT”**  
23 **TEST AND ESTABLISHES THAT A LIVE CONTROVERSY OVER PLAINTIFFS’**  
24 **SECOND AMENDMENT CLAIM REMAINS**

25 The Ninth Circuit decision also provides a path forward for Plaintiffs’ Second  
26 Amendment claim in light of that court’s insistence on clinging to an undefined,  
27 unbounded, and currently standardless “meaningful constraint” test for Second  
28 Amendment claims in this circuit. *B&L Prods.*, 104 F.th at 118-19. This test  
emerged from a line of cases that included *Teixeira v. Cnty. of Alameda*, 873 F.3d

1 670 (9th Cir. 2017) (en banc), published five years before *New York State Pistol &*  
2 *Rifle Association v. Bruen*, 597 U.S. 1 (2022). *See also Silvester v. Harris*, 843 F.3d  
3 816 (9th Cir. 2016); *Jackson v. City & Cnty. of San Francisco*, 746 F.3d 953 (9th  
4 Cir. 2014). Although these cases relied on the two-step approach to Second  
5 Amendment claims abrogated by *Bruen*, the “meaningful constraint” test has now  
6 apparently—at least with respect to commercial rights associated with the Second  
7 Amendment—been retained (or resuscitated) by a panel of the Ninth Circuit.

8 Notably, the “meaningful constraint” analysis—at least until the decision  
9 above—did not have even the hint or even suggestion of a concrete test. This new  
10 round of litigation should define the boundaries of this inchoate test, including who  
11 decides what constitutes a “meaningful constraint,” which metrics to use, and what  
12 evidence is relevant and admissible for such a determination. The Ninth Circuit  
13 panel decision did provide a vague reference to what might be relevant to that  
14 analysis, noting that there are six FFLs located within the same ZIP Code as the  
15 Orange County Fair & Event Center. *B&L Prods.*, 104 F.4th at 199. From that  
16 observation, it appears that a trial court, when confronted with a challenge to a  
17 regulation on Second Amendment commerce (e.g., the right to acquire a firearm or  
18 ammunition from a licensed dealer) must now engage in a ZIP Code marketing  
19 survey to determine the relative density of firearm and ammunition vendors within a  
20 given geographical area to determine whether a restriction on commerce in firearms  
21 and ammunition has constrained the Second Amendment in some *meaningful* way.

22 Even still, the Ninth Circuit’s decision and reasoning leave much to be  
23 answered. Is the existence of six dealers per ZIP Code the minimum threshold  
24 necessary for exercising Second Amendment commercial rights, or is the calculation  
25 based on a per capita statistic? For that matter, what is the population density of the  
26 ZIP Code where the venue sits? What is the history of firearm dealer stores in that  
27 ZIP Code? Does it matter if those stationary gun stores offer only a limited selection  
28 of products or services? Was it simply assumed that physical “access” to a brick-

1 and-mortar store or “kitchen table FFL” was equivalent (or even comparable) to the  
2 physical retail experience at a gun show? And were the impacts of economies of  
3 scale that gun shows offer, including price differentials or other financial incentives,  
4 even considered? The point is that none of these “constraints” were subjected to the  
5 animating contest that resolves factual controversies in our federal courts through  
6 the presentation of competing evidence offered by the parties in an adversarial  
7 proceeding.

8 Moreover, if the “meaningful constraint” test is to become the de facto default  
9 rule for adjudicating Second Amendment commerce claims in the Ninth Circuit, it  
10 must be an objective inquiry based on facts, not simply a gut feeling. Perhaps the  
11 best existing model for such a test is the “undue burden” test discussed in *Whole*  
12 *Woman’s Health v. Hellerstedt*, 579 U.S. 582 (2016).<sup>2</sup> While that test has been  
13 rendered obsolete by *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215 (2022),  
14 *Hellerstedt* still contains the most thorough discussion of an “undue burden” on  
15 (what was then) a fundamental right in the same context presented here—that is,  
16 geographic burdens on access to a fundamental right.

17 In *Hellerstedt*, the Supreme Court described 15 data points that courts were to  
18 analyze to determine whether a law imposes an “undue burden” (or “meaningful  
19 constraint”) on a woman’s right to obtain an abortion. 579 U.S. at 593-95. The list  
20 included factors such as the number of people the regulations affect, the reduction in  
21 locations where people can exercise their rights, the distance people must travel to  
22 access the right, whether the regulation addresses public safety and reduces risks,  
23 and the cost of compliance. *Id.* Plaintiffs contend that the “undue burden” test from  
24 *Hellerstedt* is indistinguishable from the Ninth Circuit’s “meaningful constraint”  
25 test. Moreover, taking evidence and applying it to an objective set of criteria has the

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26  
27 <sup>2</sup> Plaintiffs reject the premise that any form of balancing test is appropriate in  
28 Second Amendment cases, but as long as the Ninth Circuit insists on applying a  
“meaningful constraint” analysis, the “undue burden” analysis provides a fair model  
of an objective, fact-based inquiry rooted in precedent.

1 virtue of:

2 [R]eject[ing] the application of any “judge-empowering  
3 ‘interest-balancing inquiry’ that ‘asks whether the statute  
4 burdens a protected interest in a way or to an extent that is  
5 out of proportion to the statute’s salutary effects upon other  
6 important governmental interests.” *District of Columbia v.*  
7 *Heller*, 554 U.S. 570, 634 (2008) (quoting *id.*, at 689-690  
8 (Breyer, J., dissenting)); *see also McDonald v. City of*  
9 *Chicago, Ill.*, 561 U.S. 742, 790-791 (2010) (plurality  
10 opinion) (the Second Amendment does not permit—let  
11 alone require—“judges to assess the costs and benefits of  
12 firearms restrictions” under means-end scrutiny). We  
13 declined to engage in means-end scrutiny because “[t]he  
14 very enumeration of the right takes out of the hands of  
15 government—even the Third Branch of Government—the  
16 power to decide on a case-by-case basis whether the right  
17 is *really worth* insisting upon.” *Heller*, 554 U.S., at 634. We  
18 then concluded: “A constitutional guarantee subject to  
19 future judges’ assessments of its usefulness is no  
20 constitutional guarantee at all.” *Ibid.*

21 *Bruen*, 597 U.S. at 22-23.

22 While Plaintiffs seek to preserve the argument that maintaining a “meaningful  
23 constraint” test—in any form—was error, due process requires that they be afforded  
24 the opportunity to litigate their Second Amendment claims, even while they are  
25 duty-bound to adhere to the “meaningful constraint” test as the law of the case.<sup>3</sup>  
26 Stated another way, through their SAC, Plaintiffs attempt to meet their burden to  
27 plead and prove that the Challenged Statutes (or at least Defendants’ obtuse  
28 interpretation of the panel opinion) do, *in fact*, impose a “meaningful constraint” on  
their right to keep and bear arms. To that end, Plaintiffs’ proposed new allegations  
include not only clear references to the “meaningful constraint” test (Redline SAC at  
4:20-5:1, 5:4-28), but also details of Plaintiffs’ proposed business plan for gun  
shows on state property (Redline SAC at 8:16-24, 9:19-10:4, 10:25-11:9, 11:6-15,

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25 <sup>3</sup> It is uncontroversial that new or additional evidence might be introduced at  
26 the jury trial of a case, even if evidence was already taken during a preliminary  
27 injunction hearing. Indeed, the Federal Rules of Civil Procedure expressly  
28 contemplate that evidence “received on the motion and that would be admissible at  
trial becomes part of the trial record and need not be repeated at trial. *But the court  
must preserve any party’s right to a jury trial.*” Fed. R. Civ. Proc. 65(a)(2)  
(emphasis added).

1 15:13-23, 17:7-17, 34:21-35:1), and Defendants’ rejection of that proposal (Redline  
2 SAC at 8:24-9:5, 9:19-10:4, 11:6-15, 10:25-11:9, 15:13-23, 17:7-17, 35:14-18).  
3 How Defendants’ post-appeal interpretation and enforcement of the Challenged  
4 Statutes constitute a “meaningful constraint” on Second Amendment conduct is now  
5 a live controversy before this Court. None of this was (or could have been)  
6 addressed by the Ninth Circuit, so that decision alone cannot dispose of Plaintiffs’  
7 claims or justify denial of Plaintiffs’ motion for leave to amend.

8 Indeed, the Ninth Circuit panel bootstrapped a finding that the “Challenged  
9 Statutes do not ‘meaningfully constrain’ the right to keep and bear arms, declaring  
10 that Plaintiffs had “essentially concede[d]” the point.” *B&L Prods.*, 104 F.4th at  
11 110, 119. That the panel labelled this phantom concession as one that was  
12 “essentially” made rather than conclusively adjudicated is significant for two  
13 reasons. First, it means that the panel left open the possibility that its “meaningful  
14 constraint” finding<sup>4</sup> was as provisional as the interlocutory preliminary injunction  
15 order it was reviewing. Second, because (according to the panel) this Court applied  
16 the wrong test, the gun store ZIP Code evidence presented by Defendants, and cited  
17 by the appellate court to declare the absence of any “meaningful constraint,” was  
18 never subjected to any credibility assessment or rebuttal of other factors that might  
19 help prove that the Challenged Statutes are—in fact—a “meaningful constraint” on  
20 Plaintiffs’ Second Amendment commercial rights.

21 In the end, the “meaningful constraint” analysis—which was applied to  
22 dismiss the Southern District case, but only to vacate the preliminary injunction  
23 here—must be based on adjudicated facts subject to the rules of evidence and the  
24 animating contest of the adversarial process. And although Plaintiffs were given an  
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26 <sup>4</sup> The Ninth Circuit opinion also ignores, for now, that the panel’s findings  
27 contradicted the evidence and factual findings adjudicated by this Court in its  
28 preliminary injunction order, without first making a finding of clear error, in  
violation of FRCP 52(a)(6)—another error that Plaintiffs hope to present to the  
Supreme Court should that opportunity (once again) arise.

1 opportunity to amend their complaint in the Southern District and did not take it, the  
2 reason for that decision is important. Plaintiffs did not amend in the Southern  
3 District matter because they believed, at that time, that the *Teixeira* test had been  
4 overruled by *Bruen*. This was not an unreasonable belief, especially considering that  
5 the Ninth Circuit has been wrong about virtually every Second Amendment decision  
6 it has ever made. *See* Mot. at 9-10.

7 *Teixeira* was on shaky ground when the Supreme Court handed down *Bruen*.  
8 This Court was on solid ground when it declined to apply it during the preliminary  
9 injunction proceedings and instead applied the *Bruen* test urged by Plaintiffs. The  
10 Supreme Court’s denial of certiorari in this matter is not a ruling on the merits, but  
11 that does not make the betting odds against *Teixeira* remaining good law<sup>5</sup> any  
12 better—even if this Court is duty-bound to follow the “meaningful constraint” test as  
13 the law of this case. And even if Plaintiffs are put to the extra effort of making their  
14 case under its rule, given the procedural posture of the case, Plaintiffs must be given  
15 an opportunity to meet that burden. The adjudicated facts from the preliminary  
16 injunction were based on evidence necessary to apply the *Bruen* text-history-  
17 tradition test. The facts going forward must now address the Ninth Circuit’s  
18 “meaningful constraint” test—whatever that test turns out to be.

19 **III. THE SAC CLARIFIES PLAINTIFFS’ “CLASS OF ONE” EQUAL PROTECTION**  
20 **THEORY, WHICH DOES NOT RELY ON THE VIABILITY OF THEIR FIRST OR**  
21 **SECOND AMENDMENT CLAIMS**

22 The Ninth Circuit panel relegated its entire analysis of Plaintiffs’ equal  
23 protection claim to a footnote:

24 In each case[,] B&L has also alleged violations of the Equal  
25 Protection Clause, *but it concedes that its Equal Protection*  
26 *claims essentially duplicate its First Amendment claims*, as  
27 B&L’s Equal Protection claims rely on its assertion that the  
28 Challenged Statutes target pro-gun speech. We therefore do

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27 <sup>5</sup> Even the United States government is challenging the “meaningful  
28 constraint” test as an amicus in a case before an en banc panel of this circuit. *See* En  
Banc Brief for the United States as Amicus Curiae at 6-7, *Rhode v. Bonta*, No. 24-  
542 (9th Cir. Jan. 5, 2026), ECF No. 98.1.

not separately address those arguments.

1  
2 *B&L Prods.*, 104 F.4th at 112, n.6 (emphasis added). This Court, in its preliminary  
3 injunction order, similarly recognized that Plaintiffs’ equal protection claim “‘rise[s]  
4 and fall[s] with the First Amendment claims” Order Granting Pls.’ Mot. Prelim. Inj.  
5 at 28 (quoting *OSU Stud. All. v. Ray*, 699 F.3d 1053, 1067 (9th Cir. 2012)). But  
6 because this Court (correctly) held that the Challenged Statutes infringe speech and  
7 that Plaintiffs were “likely to prevail on their First Amendment claims that  
8 Defendants are ‘engaging in viewpoint discrimination,’” *id.* (quoting *ACLU of Nev.*  
9 *v. City of Las Vegas*, 466 F.3d 784, 798 (9th Cir. 2006), this Court held Plaintiffs  
10 were “also likely to prevail on their Equal Protection claim ‘for differential  
11 treatment that trenched upon a fundamental right,’” *id.* (quoting *ACLU of Nev.*, 466  
12 F.3d at 798). It thus held it was “unnecessary for the Court to reach the question of  
13 whether Plaintiffs can prevail under a “class-of-one” theory under their Equal  
14 Protection claim.” *Id.* (citing *Vill. of Willowbrook v. Olech*, 528 U.S. 562 (2000)).  
15 With their SAC, Plaintiffs seek to clarify that their equal protection claim rests, at  
16 least in part, on a class-of-one theory—which is not dependent on the viability of  
17 their First or Second Amendment claims. Amendment is not futile because the Ninth  
18 Circuit decision neither decides nor forecloses Plaintiffs’ class-of-one theory; in  
19 fact, it doesn’t even address it.

20 In *Village of Willowbrook*, the Supreme Court allowed a plaintiff to proceed  
21 to fact-finding and trial on a class-of-one theory, recognizing that an equal  
22 protection claim is sufficient where a “plaintiff alleges that she has been  
23 intentionally treated differently from others similarly situated and there is no rational  
24 basis for the difference in treatment.” 528 U.S. at 564. Plaintiffs have sufficiently  
25 alleged the animus to gun shows that has been on display by Defendants, and they  
26 would seek to supplement those public statements through discovery.

27 In the Ninth Circuit, a class-of-one plaintiff also bears the burden of showing  
28 that the proposed comparators are similarly situated to them in all material respects.

1 *SmileDirectClub, LLC v. Tippins*, 31 F.4th 1110, 1122-23 (9th Cir. 2022). The  
2 comparators that Plaintiffs will seek to show are “similarly situated to them” are  
3 other event promoters and merchants of regulated goods that still have access to  
4 state-owned properties for commercial and non-commercial activities. Plaintiffs  
5 include a gun show promoter and licensed retail sellers of legal consumer goods  
6 operating in a regulated market. Other licensed retailers selling lawful but  
7 potentially dangerous products—such as automobiles, off-road vehicles, alcohol,  
8 pools, and hot tubs—are similarly situated in all material respects relevant to  
9 Defendants’ regulatory objectives here. Each sells lawful products to the public.  
10 Each is subject to licensure and oversight. And each faces risks of downstream  
11 misuse by third parties beyond the seller’s control. Yet Defendants have imposed  
12 unique restrictions on Plaintiffs’ use of public property that they do not impose on  
13 these comparable businesses.

14 Defendants lack any rational basis for singling Plaintiffs out for disparate  
15 treatment in this way. Generalized concerns about public safety cannot explain why  
16 comparable regulatory tools are sufficient for other high-risk industries but  
17 apparently inadequate here. Public safety is a legitimate interest, but it must be  
18 pursued evenhandedly and through means reasonably related to *actual* risks. The  
19 State cannot single out sellers of lawful firearms and ammunition for uniquely  
20 punitive burdens simply because misuse is possible, when it tolerates equal or  
21 greater misuse risks in other retail sectors.

22 Further, if this Court finds that Plaintiffs’ First Amendment or Second  
23 Amendment claims are viable under the theories above and in light of the new facts  
24 alleged, Plaintiffs’ equal protection claim “for differential treatment that trenched  
25 upon a fundamental right” (and this Court’s analysis of that claim) are also restored.  
26 Order Granting Pls.’ Mot. Prelim. Inj. at 28 (citing *ACLU of Nev.*, 466 F.3d at 784).

## 27 CONCLUSION

28 For these reasons, and those argued in Plaintiffs’ moving papers, this Court

1 should grant Plaintiffs leave to file the proposed Second Amended Complaint.

2 Dated: February 13, 2026

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

3

*/s/ Anna M. Barvir*

4

Anna M. Barvir

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Counsel for Plaintiffs B&L Productions, Inc.,  
California Rifle & Pistol Association,

6

Incorporated, Gerald Clark, Eric Johnson, Chad

7

Littrell, Jan Steven Merson, Asian Pacific  
American Gun Owner Association, Second  
Amendment Law Center, Inc.

8

9 Dated: February 13, 2026

**LAW OFFICES OF DONALD KILMER, APC**

10

*/s/ Donald Kilmer*

11

Donald Kilmer

12

Counsel for Plaintiff Second Amendment  
Foundation

13

**CERTIFICATE OF COMPLIANCE**

14

The undersigned, counsel of record for Parties, certifies that this brief contains

15

3,808 words, which complies with the word limit of L.R. 11-6.1.

16

Date: February 13, 2026

*/s/ Anna M. Barvir*

17

Anna M. Barvir

18

**ATTESTATION OF E-FILED SIGNATURES**

19

I, Anna M. Barvir, am the ECF User whose ID and password are being used

20

to file this REPLY TO OPPOSITION TO PLAINTIFFS' MOTION FOR LEAVE

21

TO FILE SECOND AMENDED COMPLAINT. In compliance with Central District

22

of California L.R. 5-4.3.4, I attest that all signatories are registered CM/ECF filers

23

and have concurred in this filing.

24

Dated: February 13, 2026

*/s/ Anna M. Barvir*

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Anna M. Barvir

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

Case Name: *B & L Productions, Inc., et al. v. Newsom, et al.*  
Case No.: 8:22-cv-01518 JWH (JDEx)

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:

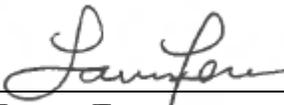
**REPLY TO OPPOSITION TO PLAINTIFFS’ MOTION FOR LEAVE TO  
FILE SECOND AMENDED COMPLAINT**

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

Nicole J. Kau, Deputy Attorney General  
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Los Angeles, CA 90013-1230  
*Attorney for Defendants*

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed February 13, 2026.

  
\_\_\_\_\_  
Laura Fera