

Cooper & Kirk

Lawyers

A Professional Limited Liability Company

David H. Thompson
dthompson@cooperkirk.com

1523 New Hampshire Avenue, N.W.
Washington, D.C. 20036

(202) 220-9600
Fax (202) 220-9601

June 10, 2026

Via Appellate Case Management System

Molly Dwyer, Clerk of Court
Office of the Clerk
U.S. Court of Appeals for the Ninth Circuit
111 South 10th Street
P.O. Box 193939
San Francisco, CA 94119-3939

Re: *Sanchez v. Bonta*, No. 24-5566, Appellant's Response to Appellee's Citation of Supplemental Authority (argued and submitted to Bybee, Lee, and De Alba, JJ., on November 18, 2025)

Dear Ms. Dwyer,

The Government argues that *United States v. DeBorba*, No. 24-3304, 2026 WL 1587553 (9th Cir. Jun. 3, 2026), is "pertinent" to whether suppressors are covered by the Second Amendment's plain text. Dkt.67. As the Government implicitly concedes, *DeBorba* does not control the outcome of this appeal.

First, while *DeBorba* concluded that suppressors are unnecessary for operation of firearms *generally*, see 2026 WL 1587553, at *4, it did not address whether they are necessary for operation of *suppressed* firearms, the proper question under *Duncan v. Bonta*, 133 F.4th 852 (9th Cir. 2025). Just as a magazine is necessary to operate firearms that require magazines, *id.* at 867-68, suppressors are necessary to operate suppressed firearms. See Opening.Br.20.

Second, *DeBorba* did not address Appellant's alternative theory that banning suppressors "meaningfully constrains" the exercise of Second Amendment rights

Cooper & Kirk

Lawyers

Molly Dwyer, Clerk

June 10, 2026

Page 2 of 3

by denying access to the hearing and disorientation benefits provided by suppressors and therefore implicates the Amendment's plain text. *See B&L Prods., Inc. v. Newsom*, 104 F.4th 108, 119 (9th Cir. 2024); Opening.Br.3-4, 35-37; OA at 0:58-3:00. That theory thus remains an open one.

This Court should not overread *DeBorba's* brief plain text discussion. The issue was not disputed because the United States conceded that the plain text covers suppressors. Appellee's.Suppl.Br. at 5-6, *United States v. DeBorba*, No. 24-3304 (9th Cir. May 30, 2025), Dkt.No.53.1. Nor was *DeBorba's* plain text discussion essential to its outcome, as *DeBorba* also rested on an independent holding. *See* 2026 WL 1587553, at *5.

Nevertheless, if the panel concludes that *DeBorba* binds it notwithstanding these arguments but it would have resolved the plain-text issue differently were it not so bound, or if the panel believes the issue deserves more fulsome treatment than *DeBorba* gave it, the panel could: (a) propose to the *DeBorba* panel that it amend its opinion to not address the plain-text issue, *cf. United States v. Peterson*, 161 F.4th 331 (5th Cir. 2025); *see* CA9 IOP 5.3(b); (b) call for this appeal to be heard initially en banc, *see* CA9 IOP 5.2; or (c) call for *DeBorba* to be reheard en banc, *see* CA9 IOP 5.4(c).

Respectfully submitted,

/s/ David H. Thompson

David H. Thompson

Peter A. Patterson

Athanasia O. Livas

COOPER & KIRK, PLLC

1523 New Hampshire Avenue, N.W.

Washington, DC 20036

(202) 220-9600

dthompson@cooperkirk.com

C.D. Michel

Anna M. Barvir

Konstadinos T. Moros

MICHEL & ASSOCIATES, PC

180 E Ocean Boulevard

Suite 200

Long Beach, CA 90802

cmichel@michellawyers.com

Cooper & Kirk
Lawyers

Molly Dwyer, Clerk
June 10, 2026
Page 3 of 3

cc: All counsel of record (via ACMS)