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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

13 Lana Rae Renna; Danielle Jaymes;
14 Laura Schwartz; Michael Schwartz;
15 John Klier; Justin Smith; John Phillips;
16 Cheryl Prince; Darin Prince; Ryan
17 Peterson; PWGG, L.P.; North County
18 Shooting Center, Inc.; Gunfighter
19 Tactical, LLC; Firearms Policy
20 Coalition, Inc.; San Diego County Gun
21 Owners PAC; Citizens Committee for
22 the Right to Keep and Bear Arms;
23 Second Amendment Foundation; and
24 National Rifle Association of America,
25 Plaintiffs,

26 vs.

27 Robert Bonta, Attorney General of
28 California; and Allison Mendoza,¹
Director of the California Department
of Justice Bureau of Firearms,
Defendants.

Case No.: 20-cv-2190-DMS-DEB

**FOURTH AMENDED
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

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28 ¹ Allison Mendoza is substituted for Blake Graham. *See* Fed. R. Civ. P. 25(d).

1 Plaintiffs Lana Rae Renna, Danielle Jaymes, Laura Schwartz, Michael
2 Schwartz, John Klier, Justin Smith, John Phillips, Cheryl Prince, Darin Prince, and
3 Ryan Peterson (collectively the “Individual Plaintiffs”), PWGG, L.P., North County
4 Shooting Center, Inc., and Gunfighter Tactical, LLC, (collectively, the “Retailer
5 Plaintiffs”), Firearms Policy Coalition, Inc., San Diego County Gun Owners PAC,
6 Citizens Committee for the Right to Keep and Bear Arms, Second Amendment
7 Foundation, and National Rifle Association of America (collectively the
8 “Institutional Plaintiffs”) (altogether collectively “Plaintiffs”), by and through
9 counsel of record, bring this complaint for injunctive and declaratory relief against
10 Individual Defendants California Attorney General Robert Bonta and California
11 Department of Justice Bureau of Firearms Director Blake Graham (collectively
12 “Defendants”), and allege as follows:

13 **INTRODUCTION**

14 1. The Second Amendment to the United States Constitution guarantees
15 “the right of the people to keep and bear Arms.” U.S. CONST. AMEND. II. Plaintiffs,
16 and all similarly situated members of Institutional Plaintiffs, who are all eligible to
17 exercise their Second Amendment rights, wish to keep and bear constitutionally
18 protected arms for self-defense and other lawful purposes.

19 2. But because of Defendants’ enforcement of the laws, regulations,
20 policies, practices, and customs underlying the State of California’s ban on the
21 purchase (Cal. Penal Code §§ 31900, *et seq.* and 32000, *et seq.*)² of common and
22 constitutionally protected handguns that the State deems presumptively “unsafe” and
23 thus illegal for commercial sale under its “roster” of “Handguns Certified for Sale”
24 (“Handgun Roster”), Plaintiffs, and all similarly situated members of Institutional
25 Plaintiffs, cannot purchase new constitutionally protected arms without suffering

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27 ² All Penal Code references are to the California Penal Code except where otherwise
28 indicated.

1 criminal liability (the “Handgun Ban”), in violation of the Second and Fourteenth
2 Amendments to the United States Constitution.

3 3. In *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 142 S. Ct. 2111, the United
4 States Supreme Court expressly rejected all interest balancing and the Ninth
5 Circuit’s prior “two-step” approach in the context of Second Amendment claims.

6 4. Indeed, “*Heller* and *McDonald* do not support applying means-end
7 scrutiny in the Second Amendment context. Instead, the government must
8 affirmatively prove that its firearms regulation is part of the historical tradition that
9 delimits the outer bounds of the right to keep and bear arms.” 142 S. Ct. at 2127.
10 Ultimately, “*Heller* ... demands a test rooted in the Second Amendment’s text, as
11 informed by history.” *Id.*

12 5. *Bruen* did not create a new test but instead applied the very test the
13 Court established in *Heller* in 2008. “The test that we set forth in *Heller* and apply
14 today requires courts to assess whether modern firearms regulations are consistent
15 with the Second Amendment’s text and historical understanding.” *Id.*, at 2131.

16 6. “*Heller*’s methodology centered on constitutional text and history.
17 Whether it came to defining the character of the right (individual or militia
18 dependent), suggesting the outer limits of the right, or assessing the constitutionality
19 of a particular regulation, *Heller* relied on text and history. It did not invoke any
20 means-end test such as strict or intermediate scrutiny.” *Id.* at 2128-29.

21 7. The plain text of the Second Amendment covers the conduct Plaintiffs,
22 and all similarly situated members of Institutional Plaintiffs, wish to engage in
23 (“keep and bear arms”) and the arms they wish to keep and bear. *Id.* at 2132 (“the
24 Second Amendment extends, prima facie, to all instruments that constitute bearable
25 arms”).

26 8. Since the conduct is covered by the Second Amendment’s plain text,
27 the government must justify its regulations as consistent with this Nation’s tradition
28 of firearm regulation.

1 9. “When the Second Amendment’s plain text covers an individual’s
2 conduct, the Constitution presumptively protects that conduct. To justify its
3 regulation, the government . . . must demonstrate that the regulation is consistent
4 with this Nation’s tradition of firearm regulation.” *Bruen*, 142 S. Ct. at 2126.

5 10. *Heller* has already established the relevant contours of the tradition:
6 Bearable arms that are presumptively protected by the Second Amendment cannot
7 be banned unless they are both dangerous *and* unusual. *District of Columbia v.*
8 *Heller*, 554 U.S. 570, 627 (2008).

9 11. And the Second Amendment’s “reference to ‘arms’ does not apply
10 ‘only [to] those arms in existence in the 18th century.’ ” *Bruen*, 142 S. Ct. at 2132
11 (quoting *Heller*, 554 U.S. at 582). “Just as the First Amendment protects modern
12 forms of communications, and the Fourth Amendment applies to modern forms of
13 search, the Second Amendment extends, *prima facie*, to all instruments that
14 constitute bearable arms, even those that were not in existence at the time of the
15 founding.” *Id.* (citations omitted).

16 12. “Semiautomatic weapons,” such as those proscribed under the Handgun
17 Ban, “traditionally have been widely accepted as lawful possessions.” *Staples v.*
18 *United States*, 511 U.S. 600, 612 (1994)).

19 13. And “[w]hatever the likelihood that handguns were considered
20 dangerous and unusual during the colonial period, they are indisputably in common
21 use for self-defense today. They are, in fact, the quintessential self-defense weapon.”
22 *Bruen*, 142 S. Ct. at 2143 (quoting *Heller*, 554 U.S. at 629) (cleaned up).

23 14. “Thus, even though the Second Amendment’s definition of ‘arms’ is
24 fixed according to its historical understanding, that general definition covers modern
25 instruments that facilitate armed self-defense.” *Id.* (citing *Caetano v. Massachusetts*,
26 577 U.S. 411, 411-412 (2016) (*per curiam*), concerning stun guns).

27 15. In *Bruen*, the Supreme Court made clear that the Ninth Circuit’s former
28 two-step approach and interest-balancing applied in *Peña v. Lindley*, 898 F.3d 969

1 (9th Cir. 2018), which previously upheld a prior version of some of the laws
2 challenged herein, are inapplicable and improper in Second Amendment cases.

3 16. In this case, the analysis is straightforward: Plaintiffs, and all similarly
4 situated members of Institutional Plaintiffs, are not prohibited from exercising their
5 right to keep and bear arms. The Second Amendment’s text covers the conduct
6 Plaintiffs, and all similarly situated members of Institutional Plaintiffs, wish to
7 engage in and the arms they wish to acquire and possess. The arms that Plaintiffs,
8 and all similarly situated members of Institutional Plaintiffs, wish to acquire but that
9 the State seeks to ban are not dangerous and unusual today and are in fact in common
10 use for lawful purposes. There is no analogous history supportive of the State’s ban.
11 Under the Supreme Court’s precedents, the constitutionally relevant history, and the
12 proper analysis, Plaintiffs, and all similarly situated members of Institutional
13 Plaintiffs, must prevail.

14 **PARTIES**

15 **Individual Plaintiffs**

16 ***Plaintiff Renna***

17 17. Plaintiff Lana Rae Renna is a natural person and a citizen of the State
18 of California, residing in San Diego County, California. Plaintiff Renna is not
19 disqualified from exercising Second Amendment rights nor prohibited under state or
20 federal law from possessing, receiving, owning, or purchasing a firearm. Plaintiff
21 Renna is a member and supporter of Plaintiffs FPC, SDCGO, CCRKBA, and SAF.

22 18. Plaintiff Renna has a damaged tendon in her right thumb that impacts
23 her ability to apply physical force. The Smith & Wesson M&P® 380 SHIELD™
24 EZ® is specifically designed for those with limited hand strength. On the website
25 for the Smith & Wesson M&P® 380 SHIELD™ EZ®, online at [https://www.smith-](https://www.smith-wesson.com/firearms/mp-380-shield-ez-0)
26 [wesson.com/firearms/mp-380-shield-ez-0](https://www.smith-wesson.com/firearms/mp-380-shield-ez-0), it states that the firearm is “Built for
27 personal protection and every-day carry, the M&P380 Shield EZ is chambered in
28 380 Auto and is designed to be easy to use, featuring an easy-to-rack slide, easy-to-

1 load magazine, and easy-to-clean design. Built for personal and home protection, the
2 innovative M&P380 Shield EZ pistol is the latest addition to the M&P M2.0 family
3 and provides an easy-to-use protection option for both first-time shooters and
4 experienced handgunners alike.” The Smith & Wesson M&P® 380 SHIELD™ EZ®
5 that Plaintiff Renna wishes to purchase is a constitutionally protected handgun that
6 is in common use for self-defense and other lawful purposes and widely sold and
7 possessed outside of California.

8 19. But for the Handgun Ban and Defendants’ active enforcement thereof,
9 Plaintiff Renna would, for self-defense and other lawful purposes, purchase new
10 from a licensed retailer a constitutionally protected handgun not currently on or
11 eligible under the Handgun Ban to be added to Defendants’ Handgun Roster,
12 including but not limited to a Smith & Wesson M&P® 380 SHIELD™ EZ®.

13 ***Plaintiff Jaymes***

14 20. Plaintiff Danielle Jaymes is a natural person and a citizen of the State
15 of California, residing in San Diego County, California. Plaintiff Jaymes is not
16 disqualified from exercising Second Amendment rights nor prohibited under state or
17 federal law from possessing, receiving, owning, or purchasing a firearm. Plaintiff
18 Jaymes possesses a valid COE issued by the Defendants’ Department of Justice
19 Bureau of Firearms. Plaintiff Jaymes is a member and supporter of Plaintiffs FPC,
20 SDCGO, CCRKBA, SAF, and NRA.

21 21. But for the Handgun Ban and Defendants’ active enforcement thereof,
22 Plaintiff Jaymes would, for self-defense and other lawful purposes, purchase new
23 from a licensed retailer a constitutionally protected handgun not currently on or
24 eligible under the Handgun Ban to be added to Defendants’ Handgun Roster,
25 including but not limited to a Sig 365, G43X, Glock 19 Gen5, Sig P320, and/or
26 Nighthawk Lady Hawk, which is a constitutionally protected handgun in common
27 use for self-defense and lawful purposes.

28 ***Plaintiff L. Schwartz***

1 22. Plaintiff Laura Schwartz (“L. Schwartz”) is a natural person and a
2 citizen of the State of California, residing in San Diego County, California. Plaintiff
3 L. Schwartz is not disqualified from exercising Second Amendment rights nor
4 prohibited under state or federal law from possessing, receiving, owning, or
5 purchasing a firearm. Plaintiff L. Schwartz holds an active license to carry a
6 concealed weapon (“CCW”) issued by her county sheriff, after proving “good cause”
7 and “good moral character” to her licensing authority, successfully completing a
8 course of training on the law and firearms proficiency under California Penal Code
9 section 26165, and passing an extensive Live Scan-based background check and
10 placement into the State’s system for monitoring law enforcement contact, arrests,
11 and criminal convictions (“Rap Back”). Plaintiff L. Schwartz is a member and
12 supporter of Plaintiffs FPC, SDCGO, CCRKBA, SAF, and NRA.

13 23. But for the Handgun Ban and Defendants’ active enforcement thereof,
14 Plaintiff L. Schwartz would, for self-defense and other lawful purposes, purchase
15 new from a licensed retailer a constitutionally protected handgun not currently on or
16 eligible under the Handgun Ban to be added to Defendants’ Handgun Roster,
17 including but not limited to a Glock 19 Gen5 and/or Springfield Armory Hellcat,
18 which are constitutionally protected handguns in common use for self-defense and
19 lawful purposes.

20 ***Plaintiff M. Schwartz***

21 24. Plaintiff Michael Schwartz (“M. Schwartz”) is a natural person and a
22 citizen of the State of California, residing in San Diego County, California. Plaintiff
23 M. Schwartz is not disqualified from exercising Second Amendment rights nor
24 prohibited under state or federal law from possessing, receiving, owning, or
25 purchasing a firearm. Plaintiff M. Schwartz holds an active license to carry a
26 concealed weapon (“CCW”) issued by his county sheriff, after proving “good cause”
27 and “good moral character” to his licensing authority, successfully completing a
28 course of training on the law and firearms proficiency under California Penal Code

1 section 26165 and passing an extensive Live Scan-based background check and
2 placement into the State’s system for monitoring law enforcement contact, arrests,
3 and criminal convictions (“Rap Back”). Plaintiff M. Schwartz is the Executive
4 Director of Plaintiff San Diego County Gun Owners PAC. Plaintiff M. Schwartz is
5 a member and supporter of Plaintiffs FPC, SDCGO, CCRKBA, SAF, and NRA.

6 25. But for the Handgun Ban and Defendants’ active enforcement thereof,
7 Plaintiff M. Schwartz would, for self-defense and other lawful purposes, purchase
8 new from a licensed retailer a constitutionally protected handgun not currently on or
9 eligible under the Handgun Ban to be added to Defendants’ Handgun Roster,
10 including but not limited to a Glock 19 Gen5 and/or Springfield Armory Hellcat,
11 which are constitutionally protected handguns in common use for self-defense and
12 other lawful purposes.

13 ***Plaintiff Klier***

14 26. Plaintiff John Klier is a natural person and a citizen of the State of
15 California, residing in San Diego County, California. Plaintiff Klier is not
16 disqualified from exercising Second Amendment rights nor prohibited under state or
17 federal law from possessing, receiving, owning, or purchasing a firearm. Plaintiff
18 Klier is a veteran of the Navy, having been disabled and honorably discharged after
19 serving in Iraq as a “Seabee” member of the United States Naval Construction
20 Battalions. Plaintiff Klier is a trained firearms instructor who owns and operates
21 Active Shooter Defense School (“ASDS”), which “employs the best instructors in
22 the industry,” with “former [Navy] SEALs, Rangers, engineers, SWAT officers,
23 combatives instructors and current top performing competitive shooters on staff to
24 ensure students master each technique being taught.” ASDS’s “mission is to provide
25 the most up to date tactical weapons training available to the public, law enforcement

1 and military.”³ Plaintiff Klier is a member and supporter of Plaintiffs FPC, SDCGO,
2 CCRKBA, and SAF.

3 27. But for Handgun Ban and Defendants’ active enforcement thereof,
4 Plaintiff Klier would, for self-defense and other lawful purposes, purchase new from
5 a licensed retailer a constitutionally protected handgun not currently on or eligible
6 under Handgun Ban to be added to Defendants’ Handgun Roster, including but not
7 limited to a Glock 19 Gen5, which is a constitutionally protected handgun in
8 common use for self-defense and other lawful purposes.

9 ***Plaintiff Smith***

10 28. Plaintiff Justin Smith is a natural person and a citizen of the State of
11 California, residing in San Diego County, California. Plaintiff Justin Smith is not
12 disqualified from exercising Second Amendment rights nor prohibited under state or
13 federal law from possessing, receiving, owning, or purchasing a firearm. Plaintiff
14 Smith is a member and supporter of Plaintiffs FPC, SDCGO, CCRKBA, and SAF.

15 29. But for the Handgun Ban and Defendants’ active enforcement thereof,
16 Plaintiff Smith would, for self-defense and other lawful purposes, purchase new
17 from a licensed retailer a constitutionally protected handgun not currently on or
18 eligible under the Handgun Ban to be added to Defendants’ Handgun Roster,
19 including but not limited to a CZ P10, Walther Q5 SF, and/or Glock 19 Gen4 and/or
20 Gen5, which are constitutionally protected handguns in common use for self-
21 defense and other lawful purposes.

22 ***Plaintiff Phillips***

23 30. Plaintiff John Phillips is a natural person and a citizen of the State of
24 California, residing in San Diego County, California. Plaintiff Phillips is not
25 disqualified from exercising Second Amendment rights nor prohibited under state or
26

27 ³ See “Meet our Team” on ASDS’s website, online at [https://asdschool.com/asds-](https://asdschool.com/asds-instructors)
28 instructors.

1 federal law from possessing, receiving, owning, or purchasing a firearm. Plaintiff
2 Phillips possesses a current COE issued by the Defendants’ Department of Justice
3 Bureau of Firearms. Plaintiff Phillips is the President of Plaintiff PWG, a proprietor
4 of the business, and the individual licensee associated with the dealership and range
5 facility, including by and through Defendants and their Bureau of Firearms. Plaintiff
6 Phillips holds an active license to carry a concealed weapon (“CCW”) issued by his
7 county sheriff, after proving “good cause” and “good moral character” to his
8 licensing authority, successfully completing a course of training on the law and
9 firearms proficiency under Penal Code section 26165, and passing an extensive Live
10 Scan-based background check and placement into the State’s system for monitoring
11 law enforcement contact, arrests, and criminal convictions (“Rap Back”). Plaintiff
12 Phillips is a trained firearms instructor. Plaintiff Phillips is a member and supporter
13 of Plaintiffs FPC, SDCGO, CCRKBA, SAF, and NRA.

14 31. But for the Handgun Ban and Defendants’ active enforcement thereof,
15 Plaintiff Phillips would, for self-defense and other lawful purposes, purchase new
16 from a licensed retailer a constitutionally protected handgun not currently on or
17 eligible under the Handgun Ban to be added to Defendants’ Handgun Roster,
18 including but not limited to a Sig Sauer P365, Sig Sauer P320 M17, Glock 17 Gen5
19 MOS, Fabrique National Herstal 509, and/or Fabrique National Herstal FNX-9,
20 which are constitutionally protected handguns in common use for self-defense and
21 other lawful purposes.

22 ***Plaintiff C. Prince***

23 32. Plaintiff Cheryl Prince (“C. Prince”) is a natural person and a citizen of
24 the State of California, residing in San Diego County, California. Plaintiff C. Prince
25 is not disqualified from exercising Second Amendment rights nor prohibited under
26 state or federal law from possessing, receiving, owning, or purchasing a firearm.
27 Plaintiff C. Prince holds an active license to carry a concealed weapon (“CCW”)
28 issued by her county sheriff, after proving “good cause” and “good moral character”

1 to her licensing authority, successfully completing a course of training on the law
2 and firearms proficiency under Penal Code section 26165, and passing an extensive
3 Live Scan-based background check and placement into the State’s system for
4 monitoring law enforcement contact, arrests, and criminal convictions (“Rap Back”).
5 Plaintiff C. Prince is a member and supporter of Plaintiffs FPC, SDCGO, CCRKBA,
6 and SAF.

7 33. But for the Handgun Ban and Defendants’ active enforcement thereof,
8 Plaintiff C. Prince would, for self-defense and other lawful purposes, purchase new
9 from a licensed retailer a constitutionally protected handgun not currently on or
10 eligible under the Handgun Ban to be added to Defendants’ Handgun Roster,
11 including but not limited to a Sig Sauer P365, which is a constitutionally protected
12 handgun in common use for self-defense and other lawful purposes.

13 ***Plaintiff D. Prince***

14 34. Plaintiff Darin Prince (“D. Prince”) is a natural person and a citizen of
15 the State of California, residing in San Diego County, California. Plaintiff D. Prince
16 is not disqualified from exercising Second Amendment rights nor prohibited under
17 state or federal law from possessing, receiving, owning, or purchasing a firearm.
18 Plaintiff D. Prince possesses a current COE issued by the Defendants’ Department
19 of Justice Bureau of Firearms. Plaintiff D. Prince is an owner and manager of
20 Plaintiff NCSC, the proprietor of the business, and the individual licensee associated
21 with the dealership, including by and through the Defendants and their Bureau of
22 Firearms. Plaintiff D. Prince holds an active license to carry a CCW issued by his
23 county sheriff under Penal Code section 26150, *et seq.*, after proving “good cause”
24 and “good moral character” to that licensing authority, successfully completing a
25 course of training on the law and firearms proficiency under section 26165, passing
26 an extensive Live Scan-based Department of Justice background check, and
27 placement into the “Rap Back” system for monitoring law enforcement contact,
28 arrests, and criminal convictions. Plaintiff D. Prince is a member of Plaintiffs FPC,

1 SDCGO, CCRKBA, SAF, and NRA.

2 35. But for the Handgun Ban and Defendants’ active enforcement thereof,
3 Plaintiff D. Prince would, for self-defense and other lawful purposes, purchase new
4 from a licensed retailer a constitutionally protected handgun not currently on or
5 eligible under the Handgun Ban to be added to Defendants’ Handgun Roster,
6 including but not limited to a Sig Sauer P320 AXG Scorpion, which is a
7 constitutionally protected handgun in common use for self-defense and other lawful
8 purposes.

9 ***Plaintiff Peterson***

10 36. Plaintiff Ryan Peterson is a natural person and a citizen of the State of
11 California, residing in San Diego County, California. Plaintiff Peterson is not
12 disqualified from exercising Second Amendment rights nor prohibited under state or
13 federal law from possessing, receiving, owning, or purchasing a firearm. Plaintiff
14 Peterson possesses a current COE issued by the Defendants’ Department of Justice
15 Bureau of Firearms. Plaintiff Peterson is the proprietor of and an individual licensee
16 associated with Plaintiff Gunfighter Tactical. Plaintiff Peterson is a DOJ Certified
17 Instructor. Plaintiff Peterson is a member and supporter of Plaintiffs FPC, SDCGO,
18 CCRKBA, and SAF.

19 37. Ironically, Plaintiff Peterson, who owns and operates a gun store
20 (Plaintiff Gunfighter Tactical), is highly trained in the safe handling of firearms, is a
21 DOJ Certified Instructor, sells handguns not on the Defendants’ Roster to those who
22 can lawfully purchase them (which excludes Individual Plaintiffs), and keeps for
23 lawful purposes including self-defense a Fabrique Nationale 509 Tactical handgun
24 while physically inside Gunfighter Tactical. However, he cannot lawfully transfer
25 that same firearm to himself—or to any other law-abiding citizen not exempt from
26 the Handgun Ban—even for self-defense in the home.

27 38. But for the Handgun Ban and Defendants’ active enforcement thereof,
28 Plaintiff Peterson would, for self-defense and other lawful purposes, purchase new

1 from a licensed retailer a constitutionally protected handgun not currently on or
2 eligible under the Handgun Ban to be added to Defendants’ Handgun Roster,
3 including but not limited to a Fabrique National Herstal 509 Tactical, Sig Sauer P220
4 Legion (10mm), Staccato 2011, Glock 19 Gen5, Glock 17 Gen5 MOS, and Wilson
5 Combat Elite CQB 1911 (9mm), which are constitutionally protected handguns in
6 common use for self-defense and other lawful purposes.

7 **Retailer Plaintiffs**

8 ***Plaintiff PWG***

9 39. Plaintiff PWGG, L.P. (“PWG”), a California limited partnership doing
10 business as “Poway Weapons & Gear” and “PWG Range,” is a licensed firearms
11 retailer, shooting range, and training facility in the City of Poway, within San Diego
12 County, California. Plaintiff PWG is a member and supporter of Plaintiffs FPC,
13 SDCGO, CCRKBA, SAF, and NRA.

14 40. Plaintiffs Phillips and PWG are a firearms dealer in Defendants’
15 Department of Justice Centralized List of Firearms Dealers, and are federally
16 licensed by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) as
17 a Federal Firearms Licensee (“FFL”).

18 41. Many customers and prospective customers of Plaintiffs Phillips and
19 PWG are interested in, have, and continue to seek to purchase for self-defense and
20 other lawful purposes constitutionally protected handguns not currently on or
21 eligible under the Handgun Ban to be added to Defendants’ Handgun Roster.

22 42. But for the Handgun Ban and Defendants’ active enforcement thereof,
23 Plaintiffs Phillips and PWG would make available for sale to their adult customers
24 all of the constitutionally protected new handguns on the market that are available
25 outside of California but not currently on or eligible under the Handgun Ban to be
26 added to Defendants’ Handgun Roster, and sell and transfer them to their adult
27 customers who are not disqualified from exercising Second Amendment rights.

28 ***Plaintiff NCSC***

1 43. Plaintiff North County Shooting Center, Inc. (“NCSC”), a California
2 corporation, is a licensed firearms retailer, shooting range, and training facility in the
3 City of San Marcos, within San Diego County, California. Plaintiff NCSC is a
4 federally and state-licensed firearms retailer in San Marcos, California. Plaintiff
5 NCSC is a member of Plaintiffs FPC, SDCGO, CCRKBA, SAF, and NRA.

6 44. Plaintiffs D. Prince and NCSC are a firearms dealer in Defendants’
7 Department of Justice Centralized List of Firearms Dealers, and are federally
8 licensed by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) as
9 a Federal Firearms Licensee (“FFL”).

10 45. Many customers and prospective customers of Plaintiffs D. Prince and
11 NCSC are interested in, have, and continue to seek to purchase for self-defense and
12 other lawful purposes constitutionally protected handguns not currently on or
13 eligible under the Handgun Ban to be added to Defendants’ Handgun Roster.

14 46. But for the Handgun Ban and Defendants’ active enforcement thereof,
15 Plaintiffs D. Prince and NCSC would make available for sale to their adult customers
16 all of the constitutionally protected new handguns on the market that are available
17 outside of California but not currently on or eligible under the Handgun Ban to be
18 added to Defendants’ Handgun Roster, and sell and transfer them to their adult
19 customers who are not disqualified from exercising Second Amendment rights.

20 ***Plaintiff Gunfighter Tactical***

21 47. Plaintiff Gunfighter Tactical, LLC (“Gunfighter Tactical”), a California
22 limited liability corporation doing business as “Gunfighter Tactical,” is a licensed
23 firearms retailer in the City of San Diego within San Diego County, California.
24 Plaintiff Gunfighter Tactical is a member of Plaintiffs FPC, SDCGO, CCRKBA, and
25 SAF.

26 48. Plaintiffs Peterson and Gunfighter Tactical are a firearms dealer in
27 Defendants’ Department of Justice Centralized List of Firearms Dealers, and are
28 federally licensed by the Bureau of Alcohol, Tobacco, Firearms, and Explosives

1 (“ATF”) as a Federal Firearms Licensee (“FFL”).

2 49. Many customers and prospective customers of Plaintiffs Peterson and
3 Gunfighter Tactical are interested in, have, and continue to seek to purchase for self-
4 defense and other lawful purposes constitutionally protected handguns not currently
5 on or eligible under the Handgun Ban to be added to Defendants’ Handgun Roster.

6 50. But for the Handgun Ban and Defendants’ active enforcement thereof,
7 Plaintiffs Peterson and Gunfighter Tactical would make available for sale to their
8 adult customers all of the constitutionally protected new handguns on the market that
9 are available outside of California but not currently on or eligible under the Handgun
10 Ban to be added to Defendants’ Handgun Roster, and sell and transfer them to their
11 adult customers who are not disqualified from exercising Second Amendment rights.

12 **Institutional Plaintiffs**

13 ***Plaintiff FPC***

14 51. Plaintiff Firearms Policy Coalition, Inc. (“FPC”) is a nonprofit
15 organization incorporated under the laws of Delaware with a place of business in
16 Clark County, Nevada. The purposes of FPC include defending and promoting the
17 People’s rights, especially First and Second Amendment rights, advancing
18 individual liberty, and restoring freedom. FPC serves its members and the public
19 through legislative advocacy, grassroots advocacy, litigation and legal efforts,
20 research, education, outreach, and other programs. FPC has members in the State of
21 California, including Individual Plaintiffs who desire to purchase new
22 constitutionally protected arms for self-defense or other lawful purposes which are
23 not currently on or eligible under the Handgun Ban to be added to Defendants’
24 Handgun Roster, and Retailer Plaintiffs who desire to sell the same to their eligible
25 law-abiding customers. These members would each undertake the desired and
26 protected activity but for the criminal liability that they face under the laws,
27 regulations, policies, practices, and customs being challenged in this action. The
28 interests that FPC seeks to protect in this lawsuit are germane to the organization’s

1 purposes.

2 ***Plaintiff SDCGO***

3 52. Plaintiff San Diego County Gun Owners PAC (“SDCGO”) is a local
4 political organization whose purpose is to protect and advance the Second
5 Amendment rights of residents of San Diego County, California, through their
6 efforts to support and elect local and state representatives who support the Second
7 Amendment right to keep and bear arms. SDCGO’s membership and donors consist
8 of Second Amendment supporters, people who own guns for self-defense and sport,
9 firearms dealers, shooting ranges, and elected officials who want to restore and
10 protect the right to keep and bear arms in California. SDCGO’s members include
11 Individual Plaintiffs who desire to purchase new constitutionally protected arms for
12 self-defense or other lawful purposes which are not currently on or eligible under the
13 Handgun Ban to be added to Defendants’ Handgun Roster, and Retailer Plaintiffs
14 who desire to sell the same to their eligible law-abiding customers. These members
15 would each undertake the desired and protected activity but for the criminal liability
16 that they face under the laws, regulations, policies, practices, and customs being
17 challenged in this action. The interests that SDCGO seeks to protect in this lawsuit
18 are germane to the organization’s purposes.

19 ***Plaintiff CCRKBA***

20 53. Plaintiff Citizens Committee for the Right to Keep and Bear Arms
21 (“CCRKBA”) is a nonprofit organization incorporated under the laws of Washington
22 with its principal place of business in Bellevue, Washington. CCRKBA is dedicated
23 to promoting the benefits of the right to bear arms. CCRKBA has members and
24 supporters nationwide, including thousands of members in California and in the
25 County of San Diego, California. CCRKBA’s members include Individual Plaintiffs
26 who desire to purchase new constitutionally protected arms for self-defense or other
27 lawful purposes which are not currently on or eligible under the Handgun Ban to be
28 added to Defendants’ Handgun Roster and Retailer Plaintiffs who desire to sell the

1 same to their eligible law-abiding customers. These members would each undertake
2 the desired and protected activity but for the criminal liability that they face under
3 the laws, regulations, policies, practices, and customs being challenged in this action.
4 The interests that CCRKBA seeks to protect in this lawsuit are germane to the
5 organization's purposes.

6 ***Plaintiff SAF***

7 54. Plaintiff Second Amendment Foundation ("SAF") is a nonprofit
8 educational foundation incorporated under the laws of Washington with its principal
9 place of business in Bellevue, Washington. SAF seeks to preserve the effectiveness
10 of the Second Amendment through education, research, publishing, and legal action
11 programs focused on the Constitutional right to possess firearms, and the
12 consequences of gun control. SAF has over 650,000 members and supporters
13 nationwide, including thousands of members in California and in the County of San
14 Diego, California. SAF's members include Individual Plaintiffs who desire to
15 purchase new constitutionally protected arms for self-defense or other lawful
16 purposes which are not currently on or eligible under the Handgun Ban to be added
17 to Defendants' Handgun Roster, and Retailer Plaintiffs who desire to sell the same
18 to their eligible law-abiding customers. These members would each undertake the
19 desired and protected activity but for the criminal liability that they face under the
20 laws, regulations, policies, practices, and customs being challenged in this action.
21 The interests that SAF seeks to protect in this lawsuit are germane to the
22 organization's purposes.

23 ***Plaintiff NRA***

24 55. Plaintiff National Rifle Association of America ("NRA") is a nonprofit
25 membership organization devoted to protecting the right to keep and bear arms.
26 Founded in 1871, it is America's oldest civil rights organization and America's
27 leading provider of firearms marksmanship and safety training for both civilians and
28 law enforcement. The NRA has millions of members across the nation, including

1 thousands of members in California and in the County of San Diego, California.
2 NRA’s members include Individual Plaintiffs who desire to purchase new
3 constitutionally protected arms for self-defense or other lawful purposes which are
4 not currently on or eligible under the Handgun Ban to be added to Defendants’
5 Handgun Roster, and Retailer Plaintiffs who desire to sell the same to their eligible
6 law-abiding customers. These members would each undertake the desired and
7 protected activity but for the criminal liability that they face under the laws,
8 regulations, policies, practices, and customs being challenged in this action. The
9 interests that NRA seeks to protect in this lawsuit are germane to the organization’s
10 purposes.

11 **Defendants**

12 ***Defendant Bonta***

13 56. Defendant Robert Bonta is the Attorney General of the State of
14 California, and is sued herein in his official capacity. Under Article 5, § 13 of the
15 California Constitution, Attorney General Bonta is the “chief law officer of the
16 State,” with a duty “to see that the laws of the state are uniformly and adequately
17 enforced.” Defendant Bonta is the head of the California Department of Justice
18 (“DOJ”). Defendant Bonta’s DOJ and its Bureau of Firearms regulate and enforce
19 state law related to the sales, transfer, possession and ownership of firearms. The
20 Attorney General and DOJ maintain an office in San Diego, California.

21 ***Defendant Graham***

22 57. Defendant Blake Graham is the Director of the DOJ’s Bureau of
23 Firearms. On information and belief, Defendant Graham reports to Attorney General
24 Bonta, and he is responsible for the various operations of the Bureau of Firearms,
25 including the implementation and enforcement of the statutes, regulations, and
26 policies regarding firearm and ammunition sales, possession, and transfers.
27 Defendant Graham is sued in his official capacity.

28 **JURISDICTION AND VENUE**

1 constitutes a misdemeanor)—as well as loss of the necessary licenses to engage in
2 any lawful firearm-related business.

3 63. “Where neither party to [a] [firearm] transaction holds a dealer’s license
4 issued pursuant to Sections 26700 to 26915, inclusive, the parties to the transaction
5 shall complete the sale, loan, or transfer of that firearm through a licensed firearms
6 dealer pursuant to Chapter 5 (commencing with Section 28050).” Pen. Code §
7 27545.

8 64. A license to transact in firearms “is subject to forfeiture for a breach of
9 any of the prohibitions and requirements of [Article 2, Penal Code §§ 26800 –
10 26915]” (with some exceptions that do not apply in the instant matter). Pen. Code §
11 26800.

12 65. Penal Code § 28220(a) states: “Upon submission of firearm purchaser
13 information, the Department of Justice shall examine its records, as well as those
14 records that it is authorized to request from the State Department of State Hospitals
15 pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine
16 if the purchaser is a person described in subdivision (a) of Section 27535, or is
17 prohibited by state or federal law from possessing, receiving, owning, or purchasing
18 a firearm.”⁴

19 66. Defendants’ Department of Justice participates in the National Instant
20 Criminal Background Check System (NICS). Pen. Code § 28220(a).

21 67. A “Certificate of Eligibility” (“COE”) “means a certificate which states
22 that the Department has checked its records and the records available to the
23 Department in the National Instant Criminal Background Check System and
24 determined that the applicant is not prohibited from acquiring or possessing firearms
25 pursuant to Penal Code sections 18205, 29800, 29805, 29815 through 29825, and
26

27 ⁴ The DOJ’s multi-step, acronym-heavy background check process for firearms is
28 detailed in *Silvester v. Harris*, 41 F.Supp.3d 927, 947–952 (E.D. Cal. 2014).

1 29900, or Welfare and Institutions Code sections 8100 and 8103, or Title 18, sections
2 921 and 922 of the United States Code, or Title 27, Part 478.32 of the Code of
3 Federal Regulations at the time the check was performed and which ensures that a
4 person who handles, sells, delivers, or has under his or her custody or control any
5 ammunition, is eligible to do so pursuant to Penal Code section 30347.” 11 CCR §
6 4031(d). *See also* Pen. Code § 26710 and 11 CCR § 4030, *et seq.*

7 68. “The initial COE application process includes a firearms eligibility
8 criminal background check and issuance of a certificate, which is valid for one year.
9 Thereafter, the COE must be renewed annually. A COE can be revoked, at any time,
10 if the COE holder becomes prohibited from owning/possessing firearms and
11 ammunition.” *See* Defendants’ website at [https://oag.ca.gov/firearms/cert-](https://oag.ca.gov/firearms/cert-eligibility)
12 [eligibility](https://oag.ca.gov/firearms/cert-eligibility).

13 69. On information and belief, a COE issued by Defendants’ Department
14 of Justice Bureau of Firearms places the certificate holder in their “Rap Back” file,
15 which would notify them immediately should the certificate holder be arrested or
16 otherwise prohibited from purchasing or possessing firearms.

17 **B. The Handgun Ban and “Roster”**

18 70. Defendants’ California Department of Justice compiles, publishes, and
19 maintains “a roster listing all of the handguns that have been tested by a certified
20 testing laboratory, have been determined not to be unsafe handguns, and may be sold
21 in this state pursuant to this part.” Pen Code § 32015.

22 71. Additional information on the Handgun Roster can be found in
23 Defendants’ regulations at California Code of Regulations, title 11, section 4070.

24 72. On information and belief, Defendants’ Roster of Certified Handguns
25 available for sale to law-abiding citizens not exempt from the Handgun Purchase
26 Ban is a small fraction of the total number of handgun makes and models
27 commercially available throughout the vast majority of the United States, all of
28 which are constitutionally protected arms in common use for lawful purposes.

1 73. On information and belief, at the end of 2013, there were 1,273 makes
2 and models of approved handguns, including 883 semiautomatics, on Defendants’
3 Roster. Since then, the Defendants’ Roster has continued to shrink because of the
4 Defendants’ enforcement of the Handgun Purchase Ban.

5 74. As of October 24, 2022, there were only “815 handguns found”—*total*,
6 of all makes, models, and permutations—on Defendants’ Roster.

7 75. Inevitably hastening the rate of shrinkage, effective January 1, 2021,
8 the State amended California’s Handgun Ban under Assembly Bill No. 2847 (2019
9 – 2020 Reg. Sess.) (“AB 2847”), which now expressly requires that, for every single
10 new firearm added to the Roster, Defendants’ Department of Justice must *remove*
11 three firearms added before July 1, 2022, that are not compliant with its current
12 requirements.⁵ Pen. Code. § 31910(b)(7).

13 76. Moreover, of the handguns “certified” for Roster inclusion, on
14 information and belief, “about one-third of the Roster’s total listings are comprised
15 of makes and models that do not offer consumers substantive and material choices
16 in the physical attributes, function, or performance of a handgun relative to another
17 listing (*i.e.*, a base model),” because many of the approved handguns are merely the
18 same handgun make and model as another approved model with cosmetic
19 difference(s). *See, e.g., California’s Handgun Roster: How big is it, really?*, online
20 at <https://www.firearmspolicy.org/california-handgun-roster> (showing the results of
21 a detailed analysis of the Roster as of January 30, 2019).

22
23 ⁵ *See* Alexei Koseff, “Bullet-tracing bill by [California Assembly-member] David
24 Chiu aims to force issue on gunmakers,” *San Francisco Chronicle* (March 16,
25 2020), at <https://www.sfchronicle.com/politics/article/Assemblyman-Chiu-pushes-firearms-industry-to-15132278.php>.

26 *See also* Alexei Koseff, “[California Governor] Newsom signs bill that compels
27 gunmakers to adopt bullet-tracing technology,” *San Francisco Chronicle* (Sept. 29,
28 2020), at <https://www.sfchronicle.com/politics/article/Newsom-signs-bill-that-compels-gunmakers-to-adopt-15607657.php>.

1 77. The Handgun Ban, as it stands today, not only forces and requires the
2 Handgun Roster to virtually shrink into oblivion, but, on information and belief, even
3 minor changes to manufacturing processes, materials, and suppliers will cause a
4 previously certified handgun to be removed from the Handgun Roster by Defendants
5 under the State’s laws and Defendants’ policies and enforcement practices.

6 78. Worse, certified handgun models are removed from the Roster by
7 Defendants if the manufacturer does not pay an annual fee to maintain the model on
8 the Roster. Penal Code § 32015(b)(2). On information and belief, due to the Handgun
9 Ban, just as hundreds of handgun makes and models have already been removed
10 from Defendants’ Roster, more handgun makes and models will “drop off” the
11 Roster as manufacturers choose to update their products—as well as their materials,
12 processes, and supply chains—to make them more competitive in the broader
13 civilian market throughout the United States and/or refusing to continue to pay
14 California’s extortive annual renewal fees, making them ineligible to renew on the
15 Roster, further reducing the availability of constitutionally protected arms that
16 individual adults not disqualified from exercising Second Amendment rights have a
17 fundamental right to acquire and possess.

18 79. Indeed, Defendants’ list of “De-Certified Handguns” shows hundreds
19 of handgun models have been removed from the Roster since December of 2001,
20 including 33 this year alone, (last visited October 24, 2022), whereas just one
21 handgun model has been “recently added” this month according to Defendants’ list
22 of “Recently Added Handgun Models,” [https://oag.ca.gov/firearms/certified-](https://oag.ca.gov/firearms/certified-handguns/recently-added)
23 [handguns/recently-added](https://oag.ca.gov/firearms/certified-handguns/recently-added) (last visited October 24, 2022).

24 80. Handguns that have passed California’s tests and were certified by
25 Defendants do not become “unsafe”—much less lose their constitutional
26 protection—simply because a manufacturer does not pay an annual fee.

27 81. Handguns that do not have one or all of the “safety” devices as required
28 under the Handgun Ban are neither “dangerous” nor “unusual” and are instead in

1 common use for lawful purposes throughout the United States.

2 82. Handguns that do not have chamber load indicators are neither
3 “dangerous” nor “unusual” and are instead in common use for lawful purposes
4 throughout the United States.

5 83. Handguns that do not have magazine disconnect mechanisms are
6 neither “dangerous” nor “unusual” and are instead in common use for lawful
7 purposes throughout the United States.

8 84. Handguns that do not have “microstamping” technology are neither
9 “dangerous” nor “unusual” and are instead in common use for lawful purposes
10 throughout the United States.

11 85. Any of the attributes, systems, and “safety” devices required under the
12 Handgun Ban can fail or be altered or removed by a handgun’s possessor, and the
13 absence of one or all of them does not strip the protection for otherwise
14 constitutionally protected arms.

15 86. The attributes, systems, and “safety” devices required under
16 California’s Handgun Ban are not sufficient to guarantee a handgun’s safe use.

17 87. The attributes, systems, and “safety” devices required under the
18 Handgun Ban cannot replace safe and responsible gun handling.

19 88. Microstamping technology is not a safety device.

20 89. Microstamping technology has not been shown to viably support any
21 law enforcement purpose.

22 90. On information and belief, as of November 8, 2020, there were no
23 commercially available semiautomatic handguns manufactured in the United States
24 that have the microstamping technology required under the Handgun Ban.

25 91. On information and belief, as of January 4, 2021, there are no
26 commercially available semiautomatic handguns manufactured in the United States
27 that have the microstamping technology required under the Handgun Ban.

28 92. On information and belief, as of November 8, 2020, there were no

1 commercially available semiautomatic handguns manufactured in the United States
2 that met all of the requirements under the Handgun Ban.

3 93. On information and belief, as of January 4, 2021, there were no
4 commercially available semiautomatic handguns manufactured in the United States
5 that meet all of the requirements under the Handgun Ban.

6 94. On information and belief, as of October 24, 2022, there are still no
7 commercially available semiautomatic handguns manufactured in the United States
8 that meet all of the requirements under the Purchase Ban.

9 95. California law requires that handgun purchasers successfully complete
10 a test, pay a fee, and acquire a valid FSC before they purchase and take possession
11 of any firearm, including handguns. Penal Code § 31610, *et seq.*⁶

12 96. Defendants’ publicly available Firearms Safety Certificate (“FSC”)
13 Study Guide, a document published by the Office of the Attorney General and
14 California Department of Justice Bureau of Firearms, Defendants’ Spanish-language
15 version of the FSC Study Guide, and Defendants’ FSC “MANUAL for California
16 Firearms Dealers and DOJ Certified Instructors” are available on Defendants’
17 website at <https://oag.ca.gov/firearms/fsc>.

18 97. In their publicly available FSC Study Guide, Defendants state, in red
19 type: “**REMEMBER: Ignorance and carelessness can result in firearm accidents.**
20 **Basic gun safety rules must be applied ALL OF THE TIME.**” (Color and
21 capitalization in original.)

22 98. In the first section of Chapter 1 of Defendants’ FSC Study Guide
23 (captioned “THE SIX BASIC GUN SAFETY RULES”), the Guide states: “There
24 are six basic gun safety rules for gun owners to understand and practice at all times:
25 1. Treat all guns as if they are loaded. 2. Keep the gun pointed in the safest possible
26

27 ⁶ See also 11 CCR § 4250, *et seq.*, and Defendants’ website at
28 <https://oag.ca.gov/firearms/fscfaqs>.

1 direction. 3. Keep your finger off the trigger until you are ready to shoot. 4. Know
2 your target, its surroundings, and beyond. 5. Know how to properly operate your
3 gun. 6. Store your gun safely and securely to prevent unauthorized use. Guns and
4 ammunition should be stored separately.” (Line breaks removed.)

5 99. Under common rules of firearm safety, and within the knowledge
6 required for the State’s FSC and safe handling demonstration, is the fundamental
7 rule that all firearms must always be treated as though they are loaded.

8 100. It is irresponsible and unsafe to rely on “safety” devices required under
9 the Handgun Ban.

10 101. Additionally, Defendants’ require firearm purchasers, the retailer, and
11 the DOJ Certified Instructor licensed and permitted to proctor the test, to conduct,
12 successfully pass, and certify in a “Safe Handling Demonstration Affidavit” (online
13 at <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/hscaff.pdf>) signed
14 under penalty of perjury, that the purchaser or transferee “performed the safe
15 handling demonstration as required in Penal Code sections 26850, 26853, 26856,
16 26859, or 26860, as applicable, with the firearm (or one of the same make and model)
17 referenced” on the Dealer’s Record of Sale (DROS) number associated with the
18 purchase or transfer.

19
20 **COUNT ONE**
21 **42 U.S.C. § 1983**
22 **RIGHT TO KEEP AND BEAR ARMS**
23 **U.S. CONST., AMENDS. II AND XIV**

24 102. Plaintiffs incorporate herein by reference the foregoing paragraphs as if
25 fully set forth herein.

26 103. There is an actual and present controversy between the parties.

27 104. The Second Amendment to the United States Constitution guarantees
28 “the right of the people to keep and bear Arms.” U.S. CONST. AMEND. II.
Plaintiffs, and all similarly situated members of Institutional Plaintiffs, who are all

1 eligible to exercise their Second Amendment rights, wish to keep and bear
2 constitutionally protected arms for self-defense and other lawful purposes.

3 105. The Fourteenth Amendment to the United States Constitution provides
4 in pertinent part:

5
6 No state shall make or enforce any law which shall abridge the
7 privileges or immunities of citizens of the United States; nor shall any
8 state deprive any person of life, liberty, or property, without due process
9 of law; nor deny to any person within its jurisdiction the equal
10 protection of the laws.

11 106. The Second Amendment is fully applicable to the States through the
12 Fourteenth Amendment’s Due Process and Privileges or Immunities Clauses.
13 *McDonald v. City of Chicago*, 561 U.S. 742, 750 (2010); *id.* at 805 (Thomas, J.,
14 concurring).

15 107. Because of the Defendants’ enforcement of the laws, regulations,
16 policies, practices, and customs underlying the purchase prohibitions of the Handgun
17 Ban, Plaintiffs, and all similarly situated members of Institutional Plaintiffs, cannot
18 purchase new constitutionally protected arms without suffering criminal liability.

19 108. Nothing in the “Nation’s historical tradition of firearm regulation”
20 supports the heavy-handed purchase restrictions here. *Bruen*, 142 S. Ct. at 2130.

21 109. Individuals in California have a right to keep and bear arms, including
22 but not limited to, buying, selling, transferring, self-manufacturing or assembling,
23 transporting, carrying, and practicing safety and proficiency with, firearms,
24 ammunition, magazines, and appurtenances, under the Second and Fourteenth
25 Amendments to the United States Constitution.

26 110. This fundamental, individual right to keep and bear firearms includes
27 the right to acquire modern handguns in common use for lawful purposes—indeed,
28 arms that are lawfully sold and possessed throughout the United States—such as
those the Handgun Ban prevents common law-abiding citizens from purchasing at a

1 licensed retailer.

2 111. The text of the Second Amendment, which guarantees “the right of the
3 people to keep and bear Arms,” implicitly includes the right to so acquire firearms.
4 Further, the “right to keep arms, necessarily involves the right to purchase them, to
5 keep them in a state of efficiency for use, and to purchase and provide ammunition
6 suitable for such arms.” *See Andrews v. State*, 50 Tenn. 165, 178 (1871); *accord*
7 *Teixeira v. County of Alameda*, 873 F.3d 670, 678 (2017).

8 112. Further, without constitutional protections for the acquisition as well as
9 the manufacturing of firearms, the “right of the people to keep and bear Arms” would
10 be in jeopardy. *See Ezell*, 651 F.3d at 704 (clarifying that “[t]he right to possess
11 firearms for protection implies a corresponding right to acquire and maintain
12 proficiency in their use; the core right wouldn’t mean much without the training and
13 practice that make it effective.”); *Ill. Ass’n of Firearms Retailers v. City of Chicago*,
14 961 F. Supp. 2d 928, 930, 938 (N.D. Ill. 2014) (holding that “the right to keep and
15 bear arms for self-defense under the Second Amendment . . . must also include the
16 right to acquire a firearm . . .”).

17 113. Contrary to the regulations like those in Penal Code sections 31900, *et*
18 *seq.* and 32000, *et seq.*, underlying the Handgun Ban and related Handgun Roster,
19 no founding era precedent exists for declaring “unsafe” and prohibiting the
20 commercial sale of firearms otherwise widely available and in common use for
21 lawful purposes among ordinary law-abiding citizens; such regulations only exist in
22 a handful of jurisdictions and all of them are of recent origin—the *earliest* was
23 Maryland’s, enacted in 1988. Md. Code Ann., Pub. Safety § 5-405.

24 114. The purchase prohibitions of the Handgun Ban prevent law-abiding
25 citizens, like and including Plaintiffs, and all similarly situated members of
26 Institutional Plaintiffs, from acquiring and thus possessing for lawful purposes
27 “instruments that constitute bearable arms” protected under the Second Amendment.

28 115. These unprecedented regulations are plainly inconsistent with the

1 “Nation’s historical tradition of firearm regulation.” *See Bruen*, 142 S. Ct. at 2130.
2 Accordingly, these restrictions on the purchase and acquisition of firearms fall
3 directly within—and are proscribed by—the Second Amendment’s “unqualified
4 command.” *Bruen*, 142 S. Ct. at 2130 (quoting *Konigsberg*, 366 U.S. at 50, n.10).

5 116. The Handgun Ban’s prohibition on the purchase of constitutionally
6 protected arms and maintenance of the Roster for purposes of enforcing this
7 proscription in the absence of the necessary historical precedent fails full stop under
8 *Bruen*, rendering them unconstitutional both facially and as applied in this case.

9 117. “The very enumeration of the [Second Amendment] right takes out of
10 the hands of government . . . the power to decide on a case-by-case basis whether
11 the right is *really worth* insisting upon.” *Heller*, 554 U.S. at 635 (emphasis in
12 original).

13 118. The Second Amendment is not a “second-class right, subject to an
14 entirely different body of rules than the other Bill of Rights guarantees,” *McDonald*,
15 561 U.S. 742, 780, and it cannot “be singled out for special—and especially
16 unfavorable—treatment.” *Id.* at 778–79.

17 119. *Bruen*, 142 S. Ct. 2111, made this clear by expressly rejecting all
18 interest balancing and the Ninth Circuit’s prior “two-step” approach in the context
19 of Second Amendment claims.

20 120. “*Heller* and *McDonald* do not support applying means-end scrutiny in
21 the Second Amendment context. Instead, the government must affirmatively prove
22 that its firearms regulation is part of the historical tradition that delimits the outer
23 bounds of the right to keep and bear arms.” 142 S. Ct. at 2127. Rather, “*Heller* ...
24 demands a test rooted in the Second Amendment’s text, as informed by history. *Id.*”

25 121. Thus, *Bruen* makes clear that the Ninth Circuit’s former two-step
26 approach and interest-balancing applied in *Peña v. Lindley*, 898 F.3d 969 (9th Cir.
27 2018), which previously upheld a prior version of some of the laws challenged
28 herein, are inapplicable and improper in Second Amendment cases.

1 122. *Bruen* did not create a new test but instead applied the very test the
2 Court established in *Heller* in 2008. “The test that we set forth in *Heller* and apply
3 today requires courts to assess whether modern firearms regulations are consistent
4 with the Second Amendment’s text and historical understanding.” *Id.*, at 2131.

5 123. “*Heller*’s methodology centered on constitutional text and history.
6 Whether it came to defining the character of the right (individual or militia
7 dependent), suggesting the outer limits of the right, or assessing the constitutionality
8 of a particular regulation, *Heller* relied on text and history. It did not invoke any
9 means-end test such as strict or intermediate scrutiny.” *Id.*, at 2128-29.

10 124. The plain text of the Second Amendment covers the conduct the
11 Plaintiffs, and all similarly situated members of Institutional Plaintiffs, wish to
12 engage in (“keep and bear arms”) and the arms they wish to keep and bear. “[T]he
13 Second Amendment extends, prima facie, to all instruments that constitute bearable
14 arms,” *Bruen*, 142 S. Ct., at 2132 (quoting *Heller*, 554 U. S., at 582).

15 125. Since the conduct is covered by the Second Amendment’s plain text,
16 “the Constitution presumptively protects that conduct. To justify its regulation, the
17 government . . . must demonstrate that the regulation is consistent with this Nation’s
18 tradition of firearm regulation.” *Bruen*, 142 S. Ct. at 2126.

19 126. *Heller* has already established the relevant contours of the tradition:
20 Bearable arms that are presumptively protected by the Second Amendment cannot
21 be banned unless they are both dangerous *and* unusual.

22 127. The Second Amendment’s “reference to ‘arms’ does not apply ‘only
23 [to] those arms in existence in the 18th century.’ ” *Bruen*, 142 S. Ct., at 2132 (quoting
24 *Heller*, 554 U. S., at 582). “Just as the First Amendment protects modern forms of
25 communications, and the Fourth Amendment applies to modern forms of search, the
26 Second Amendment extends, prima facie, to all instruments that constitute bearable
27 arms, even those that were not in existence at the time of the founding.” *Id.* (citations
28 omitted).

1 128. And “[w]hatever the likelihood that handguns were considered
2 dangerous and unusual during the colonial period, they are indisputably in common
3 use for self-defense today. They are, in fact, the quintessential self-defense weapon.”
4 *Bruen*, 142 S. Ct. 2111, at 2143 (quoting *Heller*, 554 U. S., at 629, 128 S. Ct. 2783,
5 171 L. Ed. 2d 637) (cleaned up).

6 129. “Thus, even though the Second Amendment’s definition of ‘arms’ is
7 fixed according to its historical understanding, that general definition covers modern
8 instruments that facilitate armed self-defense. *Cf. Caetano v. Massachusetts*, 577 U.
9 S. 411, 411-412, 136 S. Ct. 1027, 194 L. Ed. 2d 99 (2016) (*per curiam*) (stun guns).”
10 *Id.*

11 130. Millions of handguns prohibited for sale to the State’s law-abiding
12 citizens are commonly possessed and used for self-defense and other lawful purposes
13 in the vast majority of states, securing their protection from such regulation.

14 131. In the approximately 400-year history of the colonies and later the
15 United States, no regulations at all like the Handgun Ban appeared until recently in
16 only a few states. That is hardly a historical tradition of such regulations.

17 132. To reiterate, the Second Amendment to the United States Constitution
18 provides: “A well-regulated Militia being necessary to the security of a free State,
19 the right of the people to keep and bear Arms *shall not* be infringed.”

20 133. Defendants are individually and collectively responsible for the
21 formulation, issuance, implementation, and/or enforcement of the laws, regulations,
22 policies, practices, and customs underlying the purchase prohibitions of the Handgun
23 Ban.

24 134. Defendants have enforced and will continue to enforce the purchase
25 prohibitions under the Handgun Ban against Individual Plaintiffs, Retailer Plaintiffs
26 and their customers, and similarly situated Institutional Plaintiffs’ members.

27 135. Defendants’ enforcement of the purchase prohibitions under the
28 Handgun Ban has prevented and continues to prevent Individual Plaintiffs, Retailer

1 Plaintiffs’ customers, and similarly situated Institutional Plaintiffs’ members from
2 purchasing new constitutionally protected handguns in violation of their rights
3 protected under the Second and Fourteenth Amendments to the United States
4 Constitution.

5 136. Individual Plaintiffs, Retailer Plaintiffs and their customers, and
6 similarly situated Institutional Plaintiffs’ members reasonably fear that Defendants
7 will enforce the purchase prohibitions under the Handgun Ban, including associated
8 criminal laws and civil penalties, against them should they violate the same.

9 137. 42 U.S.C. § 1983 creates a cause of action against state actors who
10 deprive individuals of federal constitutional rights under color of state law.

11 138. Defendants, individually and collectively, and under color of State law
12 at all relevant times, have deprived the fundamental constitutional rights, privileges,
13 and immunities of citizenship of adult persons in the State of California not
14 disqualified from exercising their fundamental, individual right to keep and bear
15 arms, including Individual Plaintiffs, Retailer Plaintiffs’ customers, and similarly
16 situated Institutional Plaintiffs’ members, through Defendants’ enforcement and
17 implementation of the purchase prohibitions under the Handgun Ban, which has
18 denied, and will continue to infringe upon and prevent by criminal sanction, the
19 exercise of the fundamental right to keep and bear arms unless and until redressed
20 through the relief Plaintiffs seek herein.

21 139. For all the reasons asserted herein, Defendants have acted in violation
22 of, and continue to act in violation of, 42 U.S.C. § 1983, compelling the relief
23 Plaintiffs seek.

24 140. Because Defendants’ enforcement of the purchase prohibitions under
25 the Handgun Ban violates Plaintiffs’ rights under the Second and Fourteenth
26 Amendments to the United States Constitution, Plaintiffs are entitled to declaratory
27 and injunctive relief.

28 **PRAYER FOR RELIEF**

1 WHEREFORE, Plaintiffs pray for the following relief:

2 1. A declaratory judgment that Defendants’ enforcement of the laws,
3 regulations, policies, practices, and customs underlying the purchase prohibitions of
4 the Handgun Ban prevent Individual Plaintiffs, Retailer Plaintiffs’ customers, and
5 similarly situated Institutional Plaintiffs’ members who are not disqualified from
6 exercising Second Amendment rights from purchasing new constitutionally
7 protected arms, in violation of their right to keep and bear arms protected under the
8 Second and Fourteenth Amendments to the United States Constitution;

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10

11 2. An injunction restraining Defendants and their officers, agents,
12 servants, employees, and all persons in concert or participation with them, and all
13 persons who have notice of the injunction, from enforcing the purchase prohibitions
14 of the Handgun Ban;

15 3. Attorney’s fees and costs pursuant to 42 U.S.C. § 1988 and any other
16 applicable law;

17 4. That this Court retain jurisdiction after judgment for the purposes of
18 resolving any future fee disputes between the parties and issuing further appropriate
19 injunctive relief if the Court’s declaratory judgment(s) is/are violated; and,

20 5. All other and further legal and equitable relief, including injunctive
21 relief, against Defendants as necessary to effectuate the Court’s judgment, or as the
22 Court otherwise deems just and equitable.

23 Respectfully submitted,

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Dated: March 27, 2026

Respectfully submitted,

s/ Bradley A. Benbrook
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