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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW JONES; THOMAS FURRH;
KYLE YAMAMOTO; PWGG, L.P. (d.b.a.
POWAY WEAPONS AND GEAR and
PWG RANGE); NORTH COUNTY
SHOOTING CENTER, INC.; BEEBE
FAMILY ARMS AND MUNITIONS LLC
(d.b.a. BFAM and BEEBE FAMILY
ARMS AND MUNITIONS); FIREARMS
POLICY COALITION, INC.; FIREARMS
POLICY FOUNDATION; CALIFORNIA
GUN RIGHTS FOUNDATION and
SECOND AMENDMENT
FOUNDATION,

Plaintiffs,

v.

XAVIER BECERRA, in his official
capacity as Attorney General of the
State of California, et al.,

Defendant.

Case No.: 3:19-cv-01226-L-AHG

ORDER:

**(1) DENYING GIFFORDS LAW
CENTER TO PREVENT GUN
VIOLENCE’S MOTION FOR
LEAVE TO FILE AMICUS BURIAE
BRIEF [Doc. 26]**

**(2) DENYING EVERYTOWN FOR
GUN SAFETY SUPPORT FUND’S
MOTION FOR LEAVE TO FILE
AMICUS CURIAE BRIEF [Doc. 27]**

**(3) DENYING BRADY CENTER TO
PREVENT GUN VIOLENCE’S
MOTION TO PARTICIPATE AS
AMICUS CURIAE [Doc. 33]**

1 Pending before the Court are three separate motions for leave seeking to
2 participate in the litigation regarding Plaintiffs' currently-pending Motion for
3 Preliminary Injunction [doc. 21]. Docs. 26, 27, 33. After reviewing each motion, the
4 Court DENIES each motion.

5 A "district court has broad discretion to appoint *amici curiae*." *Hoptowit v.*
6 *Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982), *abrogated on other grounds*, *Sandin v.*
7 *Conner*, 515 U.S. 472 (1995). "[T]he consideration of an amicus brief is solely within
8 the discretion of the court and is seldom appropriate at the level of the trial level
9 where the parties are adequately represented by experienced counsel. *ForestKeeper*
10 *v. Elliott*, 50 F.Supp.3d 1371, 1380 (E.D. Cal. 2014) (citing *Ryan v. CFTC*, 125 F.3d
11 1062, 1063 (7th Cir. 1997).

12 Giffords Law Center to Prevent Gun Violence ("Giffords Law Center") seeks
13 leave to file an *amicus curiae* brief in support of Defendant's Opposition to Plaintiffs'
14 Motion for Preliminary Injunction [doc. 25]. Doc. 26 at 2. Giffords Law Center is a
15 non-profit policy organization dedicated to defending laws to effectively reduce gun
16 violence. *Id.* As such, the Court finds the Giffords Law Center is more akin to a
17 partisan advocate than an objective third party. In fact, the instant motion asserts that
18 the *amicus* brief "present[s] data and social science that support California's
19 restrictions on 18-to-20-year-olds' ability to purchase an possess firearms." Doc. 26
20 at 4. While this Court recognizes that "[t]here is no rule . . . that amici must be totally
21 disinterested[,]" Plaintiffs' objection demonstrates that the Giffords Law Center's
22 position should be more accurately termed friend to Defendant Xavier Becerra than a
23 friend to the Court. Accordingly, the Court will not consider the Giffords Law
24 Center's *amicus* brief as its' usefulness is diminished at the trial level due to its
25 obvious partisanship. Therefore, Giffords Law Center's motion for leave to file an
26 *amicus curiae* brief [doc. 26] is DENIED.

1 Everytown for Gun Safety Support Fund (“Everytown”) similarly requested
2 leave to file an *amicus curiae* brief in support of Defendant’s opposition to Plaintiffs’
3 preliminary injunction motion. *See* Doc. 27. Everytown contends that its brief will
4 provide the Court with the historical backdrop necessary to evaluate the Second
5 Amendment challenges to firearms regulations. *Id.* at 3. However, this is not a
6 perspective beyond what Defendant’s attorneys could provide on their own.
7 Moreover, like Giffords Law Center, Everytown’s partisanship is apparent. The
8 Court finds that the *amicus* brief may prejudice Plaintiffs on the trial level because
9 the brief allows Defendant to have a proverbial “another bite of the apple” due to
10 partisan influence. *See* Eugene Temchenko, Discovering the Truth Behind an
11 Amicus Brief, 94 N.D. L. Rev. 95, 104 (2019) (“[A]n amicus brief would focus the
12 court’s attention on the relevant piece of evidence as well as amplify its effect.
13 Moreover, the very language that an amicus uses can influence the court.”)
14 Accordingly, Everytown’s motion for leave to file an *amicus curiae* brief [doc. 27] is
15 DENIED.

16 Brady also seeks leave to participate as *amicus curiae* and to file a Brief in
17 support of Defendant’s Opposition to Plaintiffs’ Motion for a Preliminary Injunction.
18 *See* Doc. 33. Unlike the other movants, Brady conferred with the parties’ counsel
19 and obtained Plaintiffs’ counsel’s consent to file the *amicus* brief on the following
20 conditions: (1) the Court’s permission; (2) a filing deadline of January 3, 2020; (3) a
21 13-page limit on Brady’s brief; and (4) allowing Plaintiffs to either file a separate
22 opposition to the Brady’s brief not to exceed seven (7) pages or file one reply brief
23 not to exceed seventeen (17) pages in order to address both the opposition and *amicus*
24 brief. *Id.* at 4. The Supreme Court recognizes that “district courts have the inherent
25 authority to manage their dockets and courtrooms with a view toward the efficient
26 and expedient resolution of cases.” *Dietz v. Boudin*, 135 S.Ct. 1885, 1892 (2016)

1 (citations omitted). The Court finds that allowance of Brady’s *amicus* brief and
2 proposed briefing schedule would disrupt the efficient administration of this case at
3 the trial level as granting this motion would necessarily mandate Plaintiffs to submit
4 filing in violation of this Court’s Local Rules. Civil L.R. 7.1.h. (“No reply
5 memorandum will exceed ten (10) pages without leave of the judge.”). As such, the
6 Court DENIES Brady’s motion [doc. 33] in its inherent authority to manage its
7 docket and its discretion regarding *amicus* filings.

8 Moreover, the Court hereby DENIES five (5) Requests to Appear Pro Hac
9 Vice [docs. 41-45] submitted by attorneys attempting to make appearance for
10 Everytown. The Court will not be considering Everytown’s *amicus* brief for the
11 reasons stated above. Additionally, the Clerk’s Office approved these requests in
12 error as the form applications are incomplete. Each request fails to disclose that the
13 requesting attorney has requested pro hac vice status previously which was denied.
14 As such, these requests shall not be approved. The Clerk’s Office is instructed to
15 again deny these requests.

16 **IT IS SO ORDERED.**

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18 Dated: January 14, 2020

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20 Hon. M. James Lorenz
21 United States District Judge
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