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16 **UNITED STATES DISTRICT COURT**

17 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

18 JAMES MILLER, et al.,

19 Plaintiffs,

20 vs.

21 XAVIER BECERRA, in his official
22 capacity as Attorney General of
23 California, et al.,

24 Defendants.

Case No. 3:19-cv-01537-BEN-JLB

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR PRELIMINARY
INJUNCTION**

Complaint filed: August 15, 2019
Amended Complaint filed:
September 27, 2019

Date: Thursday, January 16, 2020
Time: 10:00 a.m.
Department: Courtroom 5A (5th floor)

1 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF
2 RECORD: Notice is hereby given that on January 16, 2020, at 10:00 a.m. in
3 Courtroom 5A (5th floor) of the above-captioned Court, located at 221 W.
4 Broadway, San Diego, California 92101, Plaintiffs will move for preliminary
5 injunction under Rule 65(a) of the Federal Rules of Civil Procedure. Specifically,
6 Plaintiffs will seek an order enjoining Defendants Attorney General Xavier
7 Becerra and his agent, servants, employees, and those working in active concert
8 with him, from enforcing or giving effect to California Penal Code sections 30515
9 (a) and (b), 30600, 30605, 30800, 30910, 30915, 30925, 30945, 30950, 31000, and
10 31005, as well as Title 11, California Code of Regulations section 5460 and 5471
11 during the pendency of this action.
12

13 Plaintiffs bring this motion on the grounds that California Penal Code
14 sections 30515 (a) and (b), 30600, 30605, 30800, 30910, 30915, 30925, 30945,
15 30950, 31000, and 31005, as well as Title 11, California Code of Regulations
16 section 5460 and 5471 apply a categorical ban on common semiautomatic firearms
17 with common characteristics in violation of the Second Amendment of the U.S.
18 Constitution. The criminalization of the Plaintiffs and other law-abiding
19 individuals from, inter alia, keeping, bearing, buying, selling, transferring,
20 possessing, transporting, or passing down to heirs or other by bequest of so-called
21 “assault weapons” infringes on the Second Amendment’s core right of the
22 individual right to keep and bear arms for self defense and other lawful purposes.
23

24 The motion is based on this notice of motion and motion, the memorandum
25 of points and authorities filed concurrently with this motion, and the supporting
26 and concurrently filed Declarations of Jim Miller, Neil Rutherford, Ryan Peterson,
27 Adrian Sevilla, John Phillips, Wendy Hauffen, Michael A. Schwartz, Gene
28

1 Hoffman, Alan Gottlieb, Brandon Combs, Adam Kraut, Allen Youngman, Ashley
2 Hlebinsky, Emanuel Kapelsohn, George A. Mocsary, James Curcuruto, and Dr.
3 John Lott. This motion is also based on the Second Amended Complaint,
4 pleadings, and records already on file, and on any further matters the Court deems
5 appropriate at or before the time of the hearing.
6

7 December 6, 2019

SEILER EPSTEIN LLP

GATZKE DILLON & BALLANCE LLP

Attorneys for Plaintiffs

/s/ John W. Dillon

John W. Dillon