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 in his official capacity as Interim Director of
 the Department of Justice Bureau of
 7 Firearms*

11 IN THE UNITED STATES DISTRICT COURT
 12 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

15 **JAMES MILLER; PATRICK RUSS;
 WENDY HAUFFEN; NEIL
 16 RUTHERFORD; ADRIAN
 SEVILLA; RYAN PETERSON;
 17 GUNFIGHTER TACTICAL, LLC;
 JOHN PHILLIPS; PWGG, L.P.; SAN
 18 DIEGO COUNTY GUN OWNERS
 PAC; CALIFORNIA GUN RIGHTS
 19 FOUNDATION; SECOND
 AMENDMENT FOUNDATION; and
 20 FIREARMS POLICY COALITION,
 INC.,**

21 Plaintiffs,

22 v.

24 **CALIFORNIA ATTORNEY
 GENERAL XAVIER BECERRA;
 25 and DOJ BUREAU OF FIREARMS
 DIRECTOR BRENT ORICK,**

26 Defendants.
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19-cv-1537 BEN-JLB

**DEFENDANTS' NOTICE OF
 MOTION AND MOTION TO
 DISMISS CERTAIN CLAIMS IN
 FIRST AMENDED COMPLAINT**

[Fed. R. Civ. P. 12(b)(1), 12(b)(6)]

Date: December 16, 2019
 Time: 10:30 a.m.
 Courtroom: 5A
 Judge: Hon. Roger T. Benitez
 Trial Date: None Set
 Action Filed: August 15, 2019

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NOTICE OF MOTION AND MOTION TO DISMISS

PLEASE TAKE NOTICE that, on December 16, 2019, at 10:30 a.m., or as soon thereafter as the matter may be heard before the Honorable Roger T. Benitez in Courtroom 5A of the Edward J. Schwartz U.S. Courthouse, located at 221 West Broadway, San Diego, California 92101, Defendants Xavier Becerra, in his official capacity as Attorney General of the State of California, and Brent E. Orick, in his official capacity as Interim Director of the Department of Justice Bureau of Firearms (together, “Defendants”) will and presently do move this Court to dismiss certain claims asserted in the First Amended Complaint for Declaratory and Injunctive Relief (the “FAC”) (Dkt. 9), filed on September 27, 2019 by Plaintiffs James Miller, Patrick Russ, Wendy Hauffen, Neil Rutherford, Adrian Sevilla, Ryan Peterson, Gunfighter Tactical, LLC, John Phillips, PWGG, L.P., San Diego County Gun Owners PAC, California Gun Rights Foundation, Second Amendment Foundation, and Firearms Policy Coalition, Inc. (collectively, “Plaintiffs”).

Defendants move to dismiss Plaintiffs’ Second Amendment claim under Federal Rule of Civil Procedure 12(b)(1) for lack of standing under Article III of the United States Constitution to the extent Plaintiffs seek to declare as unconstitutional and to enjoin California Penal Code sections 30800, 30915, 30925, 30945, 30950, 31000, and 31005.

Defendants also move to dismiss Plaintiffs’ Second Amendment claim under Federal Rule of Civil Procedure 12(b)(6) to the extent Plaintiffs seek to declare as unconstitutional and to enjoin California Penal Code sections 30800, 30915, 30925, 30945, 30950, 31000, and 31005 on the ground that the FAC fails to state a claim upon which relief can be granted.

1 This motion is based on this filing, the concurrently filed Memorandum of
2 Points and Authorities in Support of Defendants’ Motion to Dismiss Certain Claims
3 in First Amended Complaint, and the papers and pleadings on file in this action.

4 Dated: October 25, 2019

Respectfully Submitted,

5 XAVIER BECERRA
6 Attorney General of California
7 MARK R. BECKINGTON
8 Supervising Deputy Attorney General

9 /s/ John D. Echeverria
10 JOHN D. ECHEVERRIA
11 Deputy Attorney General
12 *Attorneys for Defendants Xavier*
13 *Becerra, in his official capacity as*
14 *Attorney General of the State of*
15 *California, and Brent E. Orick, in his*
16 *official capacity as Interim Director*
17 *of the Department of Justice Bureau*
18 *of Firearms*

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