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9 IN THE UNITED STATES DISTRICT COURT  
 10 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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<p>13 <b>JANE ROE #1, et al,</b></p> <p>14</p> <p style="text-align: right;">Plaintiffs,</p> <p>15</p> <p style="text-align: center;">v.</p> <p>16</p> <p>17 <b>UNITED STATES OF AMERICA, et al,</b></p> <p>18</p> <p style="text-align: right;">Defendants.</p>	<p>1:19-cv-00270</p> <p><b>DEFENDANT CALIFORNIA          ATTORNEY GENERAL'S JOINDER IN          FEDERAL DEFENDANTS' MOTION TO          DISMISS PLAINTIFFS' TENTH          AMENDMENT CLAIM (ECF NO. 37)</b></p> <p>Date: May 19, 2020          Time: 9:30 a.m.          Dept: 5          Judge: Hon. Dale A. Drozd          Action Filed: Feb. 27, 2019</p>
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1 Defendant Xavier Becerra, in his official capacity as the California Attorney General,  
2 hereby joins in the Federal Defendants’ Motion to Dismiss Plaintiffs’ Tenth Amendment Claim,  
3 ECF No. 37. The California Attorney General agrees with the arguments made by the Federal  
4 Defendants with regard to the Tenth Amendment Claim asserted in the First Amended Complaint  
5 (FAC), ECF No. 36. In addition to those arguments, the California Attorney General makes three  
6 additional points for the Court’s awareness:

7 **First**, Plaintiffs’ Motion for Leave to Amend Operative Complaint, ECF No. 33, avers that  
8 “California has approved all Plaintiffs to purchase firearms under state law (i.e., Plaintiffs have  
9 had their rights restored under state law).” *Id.* ¶ 9(c). It is thus not clear why Plaintiffs believe  
10 that any state law is preventing them from purchasing a firearm, or how the Plaintiffs have  
11 asserted justiciable challenges to state laws that Plaintiffs themselves acknowledge are not  
12 stopping them from purchasing firearms. Despite the numerous legal theories alleged, this case  
13 appears to be a constitutional challenge to 18 U.S.C. 922(g)(4). *See* FAC ¶¶ 45-65. The  
14 California Attorney General will adhere to any binding precedent interpreting or evaluating that  
15 law, and is thus not a necessary party in this case.

16 **Second**, Plaintiffs somewhat confusingly assert their Tenth Amendment Claim against the  
17 California Attorney General. *See* FAC ¶¶ 63-65. The California Attorney General is not aware  
18 of any authority holding that a party can assert a legally cognizable Tenth Amendment claim  
19 against a state or state officials. Even if the FAC had alleged a viable Tenth Amendment claim  
20 (and it does not), the federal government, or appropriate implementing official(s), would be the  
21 proper party or parties. *Cf. Bond v. United States*, 564 U.S. 211, 225 (2011) (explaining that  
22 Tenth Amendment expresses restrictions on the federal government’s power).

23 **Third**, the Ninth Circuit has held that “Congress may regulate possession of firearms  
24 without violating the Tenth Amendment.” *United States v. Andaverde*, 64 F.3d 1305, 1310 (9th  
25 Cir. 1995) (rejecting Tenth Amendment challenge to 18 U.S.C. § 922(g)(1)); *Enos v. Holder*, No.  
26 2:10-CV-2911-JAM-EFB, 2011 WL 2681249, at \*6 (E.D. Cal. July 8, 2011) (granting motion  
27 to dismiss Tenth Amendment challenge to 18 U.S.C. §§ 921(a)(33), 922(d)(9), (g)(9)). That  
28 binding precedent should control the outcome here.

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Dated: April 16, 2020

Respectfully Submitted,

XAVIER BECERRA  
Attorney General of California  
ANTHONY R. HAKL  
Supervising Deputy Attorney General

*/s/ Nelson Richards*  
NELSON R. RICHARDS  
Deputy Attorney General  
*Attorneys for Defendant Xavier Becerra*

## CERTIFICATE OF SERVICE

Case Name: **Jane Roe #1, et al. v. United  
States of America, et al.**

No. **1:19-cv-00270**

I hereby certify that on April 16, 2020, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**DEFENDANT CALIFORNIA ATTORNEY GENERAL'S JOINDER IN FEDERAL  
DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' TENTH AMENDMENT CLAIM  
(ECF NO. 37)**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 16, 2020, at Sacramento, California.

Tracie L. Campbell

Declarant

*/s/ Tracie Campbell*

Signature