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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
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10 **VIRGINIA DUNCAN, PATRICK**
11 **LOVETTE, DAVID MARGUGLIO,**
12 **CHRISTOPHER WADDELL, and**
13 **CALIFORNIA RIFLE & PISTOL**
ASSOCIATION, INC., a California
corporation,

14 Plaintiffs,

15 v.

16 **ROB BONTA, in his official capacity**
17 **as Attorney General of the State of**
18 **California; and DOES 1-10,**

19 Defendants.
20

Case No. 17-cv-1017-BEN (JLB)

ORDER

SPREADING THE MANDATE

AND CONTINUING THE

PRELIMINARY INJUNCTION

21 On June 29, 2017, this Court preliminarily enjoined enforcement of
22 California Penal Code § 32310 (c) & (d) requiring persons to dispossess themselves
23 of magazines able to hold more than 10 rounds lawfully acquired and possessed.
24 The preliminary injunction was affirmed on appeal. *Duncan v. Becerra*, Appeal
25 No. 17-56081 (9th Cir. July 17, 2018). On March 29, 2019, on summary judgment,
26 this Court concluded that California Penal Code § 32310 is unconstitutional. On
27 April 4, 2019, this Court made the preliminary injunction on subsections (c) and (d)
28 permanent but stayed, pending appeal, the injunction of § 32310 (a) & (b).


1 This Court was again affirmed on appeal. *Duncan v. Becerra*, Appeal No.
2 19-55376 (9th Cir. Aug. 14, 2020). The Ninth Circuit granted rehearing *en banc*,
3 vacated its opinion, and entered an opinion reversing the judgment of this Court.
4 *Duncan v. Bonta*, Appeal No. 19-55376 (9th Cir. Nov. 30, 2021). The United
5 States Supreme Court granted certiorari and vacated the opinion of the Ninth
6 Circuit and remanded for further consideration. *Duncan v. Bonta*, No. 21-1194,
7 142 S. Ct. 2895 (June 30, 2022). The Ninth Circuit now remands the case to this
8 Court for further proceedings in light of *New York State Rifle & Pistol Assn., Inc. v.*
9 *Bruen*, 142 S. Ct. 2111 (2022) and the mandate has issued.

10 This Court hereby spreads the mandate upon the minutes of this Court.

11 The Defendant shall file any additional briefing that is necessary to decide
12 this case in light of *Bruen* within 45 days of this Order. Plaintiffs shall file any
13 responsive briefing within 21 days thereafter. This Court will then decide the case
14 on the briefs and the prior record or schedule additional hearings.

15 The previously entered preliminary injunction enjoining enforcement of
16 California Penal Code § 32310 (c) and (d) for magazines able to hold more than ten
17 rounds *shall remain in effect* for all those who previously acquired and possessed
18 magazines legally (including those persons and business entities who acquired
19 magazines between March 29, 2019 and April 5, 2019), pending further Order of
20 this Court.

21 Dated: September 26, 2022

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23 ROGER T. BENITEZ
24 UNITED STATES DISTRICT JUDGE
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