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12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE EASTERN DISTRICT OF CALIFORNIA
14 SACRAMENTO DIVISION
15

16
17 **WILLIAM WIESE, et al.,**

18 Plaintiff,

19 v.

20 **XAVIER BECERRA, et al.,**

21 Defendant.
22

2:17-cv-00903-WBS-KJN

**JOINT STATUS REPORT RE: STAY
OF PROCEEDINGS PENDING
DUNCAN v. BONTA**

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24 Pursuant to this Court’s Order of October 18, 2023 [Dkt. 141], the parties to the above-
25 captioned action hereby submit this Joint Status re: the Ninth Circuit’s decision in *Duncan, et. al.*,
26 *v. Bonta*, Case No. 23-55805, as follows:
27
28

1 **PLAINTIFFS' POSITION**

2 The Ninth Circuit's recent en banc decision in *Duncan v. Bonta*, --- F.4th ----, 2025 WL
3 867583 (9th Cir. March 20, 2025), held that the very same provisions of California law at issue in
4 this case are constitutional under the Second Amendment. Plaintiffs respectfully disagree with
5 that decision, and plan to seek to have it reviewed and overturned by a court competent to do so.
6 But that is not this Court. This Court is bound to follow *Duncan*. And so, without waiving any
7 argument that *Duncan* was wrongly decided and that California's laws banning certain firearm
8 ammunition magazines based on capacity are unconstitutional, Plaintiffs respectfully submit that
9 the Court is bound to enter final judgment in this case in favor of Defendants.

10 Plaintiffs assert that there is no reason to hold this case pending possible certiorari
11 proceedings in *Duncan*. Of course, any circuit precedent may be overturned by the Supreme
12 Court. But it is not this Court's place to hold up all suits where there is a sliver of possibility of
13 that happening—it is to apply the law as the Ninth Circuit has interpreted it. It should do so
14 immediately.

15 **DEFENDANTS' POSITION**

16 The issues decided in the appeal in *Duncan* are nearly identical to the issues presented in
17 this case, and the record in *Duncan* closely matches the record submitted on the cross-motions for
18 summary judgment in this case. As such, the decision from the en banc panel in *Duncan* informs
19 the proper disposition of the claims asserted by Plaintiffs here. Defendants agree that the decision
20 in *Duncan* requires that the pending cross-motions for summary judgment be resolved in
21 Defendants' favor. At the same time, while the mandate has not yet issued in *Duncan*, the *Duncan*
22 plaintiffs have indicated that they intend to file a petition for writ of certiorari with the Supreme
23 Court, See Chuck Michel (@CRPAPresident) March 20, 2025, 10:36 a.m., available at
24 <https://x.com/CRPAPresident/status/1902773809268265316> (attorney for *Duncan* plaintiffs
25 stating, “[*Duncan*] result is what we expected. SCOTUS bound. More soon.”); see also Evan
26 Symon, *Appeals Court Finds California's Large Capacity Magazine Ban Doesn't Violate 2nd*
27 *Amendment*, CALIFORNIA GLOBE, March 21, 2025, 2:55 a.m., available at
28 <https://californiaglobe.com/fr/appeals-court-finds-californias-large-capacity-magazine-ban->

1 [doesnt-violate-2nd-amendment/](#) (attorney for *Duncan* plaintiffs stating that “[w]e will seek
2 review from the Supreme Court immediately”).

3 Thus, while it may best serve the interests of efficiency and judicial economy for the Court
4 to continue the stay in this case pending a resolution of the anticipated petition for writ of
5 certiorari in *Duncan*, Defendants do not oppose the Court lifting the stay and granting summary
6 judgment in favor of Defendants. In Defendants’ view, this can be done either on Plaintiffs’
7 concession that *Duncan* requires entry of judgment in Defendants’ favor or following a hearing
8 on the cross-motions. In either event, Defendants request an appropriate order, consistent with
9 *Duncan*, that there is no genuine dispute of material fact that Defendants are entitled to judgment
10 as a matter of law at both stages of the Supreme Court’s test in Second Amendment cases under
11 *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, (2022) and *United States v. Rahimi*, 602
12 U.S. 680 (2024).

13 Respectfully submitted,

14 Dated: April 3, 2025

SEILER EPSTEIN LLP

15 /s/ George M. Lee

16

George M. Lee

17 *Attorneys for Plaintiffs*

18 Dated: April 3, 2025

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