



THE DIGUISEPPE LAW FIRM, P.C.

Office Address: 116 N. Howe Street, Suite A, Southport, NC 28461

Mailing Address: P.O. Box 10790, Southport, North Carolina 28461

(tel.) 910-713-8804 / (fax) 910-672-7705 / (email) law.rmd@gmail.com

**Principal Attorney Raymond DiGuiseppe is licensed to practice in CA, D.C., N.C., and N.Y.*

May 15, 2023

Molly C. Dwyer
Clerk of the Court
U.S. Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

Re: Roger Palmer, et al. v. Joseph M. Lombardo, et al., Case No.: 22-15645
Response to Defendants-Appellees' Notice of Supplemental Authority
Pursuant to FRAP 28(j) and Circuit Rule 28-6

Dear Hon. Clerk Dwyer:

Defendants-Appellees cite 27 C.F.R. §§ 478.92(a)(2), (4)(iii)(D), 478.125(i), and 478.11 as authority that “federal regulations permit or require licensees to mark” “unserialized firearms assembled from kits,” presumably in support of their claim at oral argument that the existence of a post-AB 286 pathway to serialization means two things: (1) Nevadans who built their own firearms pre-AB 286 may lawfully retain them by obtaining serialization now; and (2) Nevadans may continue lawfully making “unserialized firearms assembled from kits.”

First, the provisions of the regulation on which Defendants-Appellees primarily rely to claim the existence of this pathway for serialization, 27 C.F.R. § 478.92, did not even become effective until August 24, 2022, eight months after the effective date of the dispossession mandate on January 1, 2022, by which time everyone was already compelled to dispossess themselves of all such “unserialized” firearms. *See* Federal Register, Definition of “Frame or Receiver” and Identification of Firearm, (<https://www.federalregister.gov/documents/2022/04/26/2022-08026/definition-of-frame-or-receiver-and-identification-of-firearms>), 87 Fed. Reg. at 24652. These regulations are clearly no answer to the State’s ban against *pre*-AB 286 firearms.



THE DIGUISEPPE LAW FIRM, P.C.

Office Address: 116 N. Howe Street, Suite A, Southport, NC 28461

Mailing Address: P.O. Box 10790, Southport, North Carolina 28461

(tel.) 910-713-8804 / (fax) 910-672-7705 / (email) law.rmd@gmail.com

**Principal Attorney Raymond DiGuiseppe is licensed to practice in CA, D.C., N.C., and N.Y.*

Second, Defendants-Appellees' reliance on 27 C.F.R. § 478.92 to push the notion that Nevadans may lawfully make "unserialized firearms assembled from kits" *post*-AB 286 contradicts their previous concessions that Nevadans may continue self-manufacturing firearms only *on the condition that* they "start with a *serialized*" frame or receiver. Ans. Brf. at 18, n. 9, 19 (*italics added*). Obviously, the components of any kit from which a person produces an "*unserialized*" firearm are themselves unserialized. AB 286 has *outlawed* any such unserialized precursor parts by making it generally illegal to "possess, purchase, transport or receive" any "*unfinished*" frames or receivers, and generally illegal for any licensed dealer to "sell, offer to sell or transfer" them.

Third, even if people could lawfully buy, possess, and use such components to build their own arms, AB 286 makes it illegal to "possess, sell, offer to sell, transfer, purchase, transport or receive" the finished product, and it provides no exception for the possession, transfer, or transport of "unserialized firearms assembled from kits" for purposes of obtaining any post-build serialization that is or might become available.

Respectfully submitted,

/s/ Raymond M. DiGuiseppe

Raymond M. DiGuiseppe

Counsel for Plaintiffs-Appellants