Court Report

By Michel & Associates

This report provides an overview of just some of the efforts being taken to protect the rights of California gun owners. Although litigation plays an extremely important role in the fight for the right to keep and bear arms, there are many other tremendous and equally important endeavors toward this cause throughout California and across the nation.

Protecting the Second Amendment requires an enormous amount of resources and involvement in all levels of California's government, including all 58 counties, all 482 municipalities and all state and local agencies tasked with enforcing the myriad of complex and ever-expanding gun laws.

The digital version of this report, complete with links to relevant documents and additional information, can be found on NRA-ILA's California webpage at ***standandfightCalifornia.com*** *and CRPA's webpage at* ***crpa.org.***

California and 9th Circuit Litigation Matters

Issue	Case Name	Case Status	What's Next
Challenge to California's ammunition sales restrictions	*Rhode v. Becerra*	The case was filed on April 26, 2018, in response to Proposition 63 and Senate Bill 1235's restrictions regarding the sale and transfer of ammunition in California. The lawsuit challenges these restrictions as a violation of the Second Amendment, Commerce Clause and Equal Protection Clause of the United States Constitution, as well as a violation of the Firearm Owner's Protection Act.	The State filed a motion to dismiss, which was denied by the district court. The case is now in the discovery phase of litigation.
Challenge to California's "assault weapon" restrictions	*Rupp v. Becerra*	The case was filed on April 24, 2017, in response to SB 880 and AB 1135. It challenges California's entire "assault weapon" ban as violating the Second Amendment, due process and takings clauses of the U.S. Constitution. Plaintiffs filed a preliminary injunction motion to prevent the State from requiring individuals to provide the date they acquired their firearms and the name and address of the person from whom they acquired them, as a condition of registration, but that motion was denied on May 9, 2018.	Plaintiffs and the State filed cross-motions for summary judgment in late March 2019. The federal court heard oral argument on May 31, 2019. Plaintiffs also have filed multiple motions to disqualify several of the State's expert witnesses.
Challenge to California's ban on standard capacity magazines	*Duncan v. Becerra*	The case was filed in response to SB 1446 and Prop 63. It challenges California's ban on the acquisition and possession of magazines over 10 rounds. On June 29, the district court granted plaintiffs' motion for a preliminary injunction, halting enforcement of the newly enacted possession ban while the case is litigated. The State immediately appealed the injunction order. In July 2018, the 9th Cir. upheld the issuance of the injunction.	The federal District Court, where Judge Benitez presides, granted plaintiffs' summary judgment motion, which permanently enjoined Penal Code Sec. 32310 on March 29, 2019. This legalized the acquisition of large-capacity magazines. However, the court entered a stay of the injunction, effective 5:00 p.m. on April 5, 2019. The State has appealed to the 9th Cir.

California and 9th Circuit Litigation Matters

Issue	Case Name	Case Status	What's Next
Challenge to DOJ's recently enacted "assault weapon" registration regulations	*Villanueva v. Becerra*	The case was filed on September 8, 2017, in response to California DOJ adopting regulations concerning newly classified "assault weapons" under SB 880 and AB 1135. It challenges the regulations under California's Administrative Procedure Act, because they were enacted without legislative authority and without any input from members of the public.	On May 30, 2018, the court issued an order upholding the regulations as valid. Plaintiffs appealed and filed their opening brief in California's 5th District Court of Appeal in late March 2019. The State's brief is currently due in July 2019.
Challenge to CA and Los Angeles firearm carry restrictions that prohibit both open and concealed carry	*Flanagan v. Becerra* *(Formerly Flanagan v. Harris)*	The case was filed on August 17, 2016, as a direct response to *Peruta*. It seeks to force the court to decide whether it is willing to uphold a complete prohibition on the right of law-abiding citizens to carry a firearm for self-defense. The parties filed cross-motions for summary judgment. In May 2018, the court issued a decision granting defendant's motion for summary judgment.	The 9th Cir. rejected the State's petition to have the case heard initially by an 11-judge "en banc" panel along with the *Young v. Hawaii* lawsuit. Parties are now waiting for the 9th Cir. to schedule a date for oral argument before a regular 3-judge panel.
Challenges DOJ's use of DROS surplus to fund APPS as an illegal tax	*Gentry v. Becerra* *(Formerly Gentry v. Harris)*	Plaintiffs filed an amended complaint alleging that the DROS fee is an invalid tax. On August 9, 2017, the district court issued a ruling granting plaintiffs' request to prohibit DOJ from using DROS fees to fund unrelated law enforcement efforts and requiring DOJ to perform its statutorily required review of the current $19 fee to determine whether it is "no more than necessary to fund" DOJ's costs for processing DROS transactions.	Trial was held in January 2019. The court recently entered an order that will be incorporated into a forthcoming final judgment upholding the DROS fee as a legitimate regulatory fee. Plaintiffs argue that the court's finding contradicts established law regarding regulatory fees. Plaintiffs started the appeal process by filing a notice of appeal on June 4, 2019.

California and 9th Circuit Litigation Matters

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Vagueness challenge to AB 962's "handgun ammunition" sales registration requirement and mail order ban	*Parker v. California*	In December 2016, because of Prop 63, the California Supreme Court dismissed its review of a Court of Appeal opinion affirming the trial court's order striking down AB 962. The Court of Appeal's decision is now the final opinion, and plaintiffs are seeking their attorneys' fees against the State.	After the trial court partially granted the plaintiffs' motion for attorneys' fees for work in the trial court, parties negotiated an agreement regarding a total fee award. Parties are now coordinating the execution of that negotiated agreement.
Challenge to Los Angeles' refusal to disclose public records regarding firearms in law enforcement custody	*CRPA v. City of Los Angeles*	CRPA filed a lawsuit challenging Los Angeles City's refusal to disclose records related to secretly obtained disposition orders used by LAPD to justify the destruction of firearms in its possession. Rather than litigate, the City agreed to settle the lawsuit and turn over the records to CRPA.	The City agreed to pay $35,000 to cover CRPA's attorneys' fees as a result of the lawsuit. The case is now closed.

NRA and CRPA also provide consulting advice and prepare *amicus curiae* or "friend of the court" briefs in firearm- and Second Amendment-related cases.

California and 9th Circuit Amicus or Consulting Support

Issue	Case Name	Case Status	What's Next
California Handgun Roster	*Pena v. Lindley (Horan)*	The federal district court upheld the Roster in 2015. Plaintiffs appealed, and oral arguments were held on March 16, 2017. NRA and CRPA filed an amicus brief in the case on July 27, 2015. On August 3, 2018, the 9th Cir. upheld the Roster.	Plaintiffs docketed their petition for writ of certiorari to the U.S. Supreme Court on January 3, 2019. It is now up to the Supreme Court to determine whether it will take or decline the case.
1st Amendment challenge to handgun ad prohibition	*Tracy Rifle and Pistol v. Becerra* *(Formerly Tracy Rifle and Pistol v. Harris)*	In July 2015, the district court denied a request to prohibit enforcement while the case proceeds. That decision was appealed, and in February 2016, the 9th Cir. upheld the lower court's order within two weeks of oral arguments. However, following the appeal of the preliminary injunction, the district court issued a permanent injunction.	As a result of the permanent injunction, California is now prohibited from enforcing its arbitrary and ineffective handgun ad ban.
State Court challenge to California's micro-stamping requirements	*NSSF v. California*	In December 2016, the California Court of Appeal issued a ruling in favor of NSSF, allowing the lawsuit to proceed in the lower court. But in June 2018, the California Supreme Court reversed, upholding the trial court's judgment in favor of the State. NSSF petitioned the Supreme Court to reconsider its opinion, but that petition was denied in August 2018.	As a result of the California Supreme Court opinion, the case is now closed. Another case challenging the micro-stamping requirement/roster, *Pena v. Lindley*, may be heard by the U.S. Supreme Court.
Challenge to San Jose's refusal to return seized firearms	*Rodriguez v. City of San Jose*	Following the City of San Jose's refusal to return firearms seized by law enforcement, a lawsuit was filed alleging violations of the Second, Fourth, Fifth and Fourteenth Amendments. In September 2017, a federal district court upheld the City's refusal as constitutional. Plaintiff has	Oral arguments before the 9th Cir. were held on January 14, 2019. A decision is currently pending.

California and 9th Circuit Amicus or Consulting Support

Issue	Case Name	Case Status	What's Next
		appealed, with CRPA filing an important amicus brief on March 6, 2018.	

NRA and CRPA also litigate and assist in critical Second Amendment cases across the country that could set precedent for future challenges to California gun laws.

National Cases with California Interest

Issue	Case Name	Case Status	What's Next
Challenge to federal firearm restriction due to non-violent, decades-old felony conviction	*Sessions v. Hatfield*	Having suffered a lifetime firearm restriction due to a non-violent felony, plaintiff filed suit challenging the restriction as unconstitutional. On April 26, 2018, a federal district court struck down the restriction as unconstitutional as applied to the plaintiff. The government has appealed, with CRPA filing an important amicus brief on October 12, 2018.	The 7th Cir. Court of Appeals issued an opinion on June 6, 2019, reversing the district court's favorable ruling. At the moment, it is unclear what the next development will be.
Challenges Washington D.C.'s "good reason" requirement for the issuance of a CCW permit	*Grace v. District of Columbia*	On July 25, 2017, the D.C. Cir. declared Washington D.C.'s "good reason" requirement for the issuance of a CCW was a violation of the Second Amendment. The court also issued a permanent injunction prohibiting D.C. from enforcing the requirement. On September 28, 2017, the D.C. Cir. denied Washington D.C.'s request for rehearing.	Because the decision was not petitioned to the United States Supreme Court for review, Washington D.C. is now effectively a "shall-issue" jurisdiction.