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12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 B&L PRODUCTIONS, INC., d/b/a
CROSSROADS OF THE WEST;
15 GERALD CLARK; ERIC JOHNSON;
CHAD LITRELL; JAN STEVEN
16 MERSON; CALIFORNIA RIFLE &
PISTOAL ASSOCIATION,
INCORPORATED; ASIAN PACIIC
17 AMERICAN GUN OWNERS
ASSOCIATION; SECOND
18 AMENDMENT LAW CENTER, INC.;
and SECOND AMENDMENT
19 FOUNDATION,

20 Plaintiffs,

21 v.

22 GAVIN NEWSOM, in his official
capacity as Governor of the State of
23 California; ROB BONTA, in his official
capacity as Attorney General of the
State of California; KAREN ROSS, in
24 her official capacity as Secretary of
California Department of Food &
25 Agriculture and in his personal capacity;
TODD SPITZER, in his official capacity
26 as District Attorney of Orange County;
32nd DISTRICT AGRICULTURAL
27 ASSOCIATION; DOES 1-10;

28 Defendants.

CASE NO:

**COMPLAINT FOR DECLARATORY
& INJUNCTIVE RELIEF**

**(1) VIOLATION OF 42 U.S.C. § 1983
[FREE SPEECH - POLITICAL];**

**(2) VIOLATION OF 42 U.S.C. § 1983
[FREE SPEECH-MIXED POLITICAL/
COMMERCIAL];**

**(3) VIOLATION OF 42 U.S.C. § 1983
[FREE SPEECH-COMMERCIAL];**

**(4) VIOLATION OF 42 U.S.C. § 1983
[PRIOR RESTRAINT ON SPEECH];**

**(5) VIOLATION OF 42 U.S.C. § 1983
[RIGHT TO ASSEMBLY];**

**(6) VIOLATION OF 42 U.S.C. § 1983
[EQUAL PROTECTION]**

DEMAND FOR JURY TRIAL

**NOTICE OF
UNCONSTITUTIONALITY OF
STATE STATUTE**

INTRODUCTION

1
2 1. Plaintiff B & L PRODUCTIONS, INC., d/b/a CROSSROADS OF THE
3 WEST has operated popular, safe, heavily regulated, legal, and family-friendly gun
4 shows as a business in California for over 30 years, including at the Orange County
5 Fair & Event Center (“the Fairgrounds”).

6 2. Crossroads produces gun shows at the Fairgrounds where like-minded
7 individuals gather to engage in commerce related to, and necessary for, the lawful
8 and regulated exercise of Second Amendment rights for themselves, their exhibitors,
9 their patrons, their customers, and the general public. This safe and regulated
10 marketplace promotes public safety, even for people who do not attend gun shows
11 because it will tend to reduce the unregulated transfer of firearms within Orange
12 County. Furthermore, by providing a convenient forum for Californians to exercise
13 their right to acquire firearms locally, gun shows at the Fairgrounds will have the
14 tendency to discourage the sale and importation of firearms from other states with
15 less strict gun laws than California.

16 3. Plaintiffs Gerald Clark, Eric Johnson, Chad Littrell, Jan Steven Merson,
17 California Rifle & Pistol Association, Incorporated, Second Amendment Law
18 Center, Inc., Asian Pacific American Gun Owners Association, and Second
19 Amendment Foundation, Inc., attend and participate in the Crossroads gun show to
20 engage in First Amendment activities that are both necessary and essential to the
21 open, robust, and lawful exercise of their Second Amendment rights. CRPA also has
22 members who attend gun shows and sell ammunition, firearms, and precursor parts.

23 4. At the gun show, Plaintiffs associate with like-minded people,
24 participate in public discussions, attend informational forums, distribute and collect
25 information, provide training, make offers for sale, make offers to buy, and engage
26 in legal and political discussions related to the Second Amendment, which are all
27 forms of speech protected by the First Amendment. Discussions include, but are not
28 limited to, firearms and ammunition, firearm technology, firearm safety, and firearm

1 law and politics. Participants also exchange information about where to hunt and
2 where to practice shooting, where and from whom to receive training, gunsmithing,
3 gun repair, gun art, and many other topics that arise from the right to acquire, own,
4 possess, enjoy, and celebrate arms as a quintessentially American artifact with
5 constitutional significance.

6 5. Defendants are government actors who, through the adoption and
7 enforcement of Senate Bill 264 (Min), codified at California Penal Code section
8 27575,¹ which prohibits the sale of firearms, ammunition, and “firearm precursor
9 parts” at the Fairgrounds with the intention and effect of shuttering gun show events
10 altogether, have engaged in and will continue to engage in action that violates
11 Plaintiffs’ constitutional rights to free speech, assembly, and equal protection. Their
12 actions also constitute prior restraint.

13 6. This action seeks declaratory and injunctive relief against Defendants
14 for violating the United States Constitution. It also seeks damages for lost profits,
15 lost opportunities, and diminished marketing value, and reimbursement for
16 reasonable attorney’s fees, costs, and other expenses in bringing this action.

17 JURISDICTION AND VENUE

18 7. The Court has original jurisdiction of this civil action under 28 U.S.C. §
19 1331 because the action arises under the Constitution and laws of the United States,
20 thus raising federal questions. The Court also has jurisdiction under 28 U.S.C. §
21 1343(a)(3) and 42 U.S.C. § 1983 since this action seeks to redress the deprivation,
22 under color of the laws, statutes, ordinances, regulations, customs and usages of the
23 State of California and political subdivisions thereof, of rights, privileges or
24 immunities secured by the United States Constitution and by Acts of Congress

25 8. Plaintiffs’ claims for declaratory and injunctive relief are authorized by
26 28 U.S.C. §§ 2201 and 2202, respectively, and their claim for attorneys’ fees is

27 _____
28 ¹ Plaintiffs refer to the challenged law, California Penal Code section 27575, as
SB 264 throughout this complaint.

1 authorized by 42 U.S.C. § 1988.

2 9. Venue is proper in this Court under 28 U.S.C. § 1391(b)(2) because the
3 32nd District Agricultural Association is located within this district and a substantial
4 part of the events or omissions giving rise to Plaintiffs' claims occurred in this
5 district. Further, the state of California maintains an office for service of process on
6 the Attorney General in Los Angeles County at 300 South Spring Street, Los
7 Angeles, CA 90013-1230.

8 **PARTIES**

9 **[Plaintiffs]**

10 10. Plaintiff B&L PRODUCTIONS, INC., d/b/a CROSSROADS OF THE
11 WEST, is a for-profit event promoter operating in several western states. Crossroads
12 is in the business of promoting and organizing trade shows throughout the state of
13 California and other western states, including their long-running gun show events
14 held at the Orange County Fair & Event Center ("the Fairgrounds") operated under
15 the d/b/a Crossroads of the West ("Crossroads"). Before the adoption and
16 enforcement of SB 264, Crossroads was the largest vendor of gun show events in
17 California and at the Fairgrounds. Typically, thousands of people attend the gun
18 show on each of the weekends they are held. Crossroads provides the space for these
19 like-minded people to assemble. They have successfully produced and operated
20 multiple safe, legal, and family-friendly gun show events in California and at the
21 Fairgrounds every year for over 30 years. But for Defendants' adoption and
22 enforcement of SB 264, Plaintiff Crossroads would immediately resume producing
23 and promoting gun show events at the Fairgrounds.

24 11. Plaintiff GERALD CLARK is a resident of Santa Ana, California, and
25 he is an NRA certified instructor. Before the implementation of SB 264, he regularly
26 attended gun shows at the Fairgrounds to purchase firearms, ammunition, parts for
27 firearms already owned, and materials to help him with his training and as a gun
28 owner to be more proficient. He has taught gun safety and training courses for 12

1 years and has taught those courses at the Crossroads gun show at the Fairgrounds as
2 a Chief Range Safety Officer and Certified Trainer. During the training courses, he
3 talks to others about their rights, the importance of membership in the CRPA, and
4 the Second Amendment. SB 264 burdens his right to engage in otherwise lawful
5 commercial speech in a public forum and restricts his ability to purchase
6 ammunition, firearms, and parts for lawful purposes. And because the ban is
7 intended to make gun shows less profitable and effectively shutter them, it also
8 restricts his right to engage in the unique types of political, educational, and
9 commercial speech that takes place at the gun show. But for Defendants' adoption
10 and enforcement of SB 264, Plaintiff Clark would continue attending and
11 participating in the Crossroads gun show events at the Fairgrounds.

12 12. Plaintiff ERIC JOHNSON is a resident of Whittier, California, and he
13 is a Certified Trainer, Range Safety Expert, retired coach, and Chief Range Safety
14 Officer. Before the implementation of SB 264, he regularly attended gun shows at
15 the Fairgrounds to purchase firearms, ammunition reloading supplies, ammunition,
16 parts for the firearms he owns, materials for caring for his firearms, and much more.
17 Plaintiff Johnson also attended the Crossroads gun show at the Fairgrounds to
18 engage in expressive activities with like-minded people, including discussions
19 related to firearms, ammunition, and firearm accessories, the shooting sports,
20 politics, and the Second Amendment. He regularly sets up and works the CRPA
21 booths at gun shows. SB 264 burdens his right to engage in otherwise lawful
22 commercial speech in a public forum and restricts his ability to purchase
23 ammunition, firearms, and parts for lawful purposes. And because the ban is
24 intended to make gun shows less profitable and effectively shutter them, it also
25 restricts his right to engage in the unique types of political, educational, and
26 commercial speech that takes place at the gun show. But for Defendants' adoption
27 and enforcement of SB 264, Plaintiff Johnson would continue attending and
28 participating in the Crossroads gun show events at the Fairgrounds.

1 13. Plaintiff CHAD LITTRELL is a resident of La Habra, CA and owns
2 Vytamenc 22 Tactical. Before the implementation of SB 264, his company was a
3 regular vendor at the Crossroads gun shows at the Fairgrounds. At these events, he
4 would sell uppers, precursor parts and AR-15 rifles and discuss issues regarding
5 firearms, ammunition, and gun safety with customers of the gun show. Plaintiff
6 Littrell also attended the Crossroads gun show at the Fairgrounds to engage in
7 expressive activities with like-minded people, including discussions related to
8 firearms, ammunition, and firearm accessories, the shooting sports, politics, and the
9 Second Amendment. SB 264 burdens his right to engage in otherwise lawful
10 commercial speech in a public forum and restricts his ability to purchase
11 ammunition, firearms, and parts for lawful purposes. And because the ban is
12 intended to make gun shows less profitable and effectively shutter them, it also
13 restricts his right to engage in the unique types of political, educational, and
14 commercial speech that takes place at the gun show. Because of the essential
15 shutting down of gun shows at the Fairgrounds, Plaintiff Littrell had to close his
16 business. But for Defendants' adoption and enforcement of SB 264, Plaintiff Clark
17 would re-open his business and continue attending and participating in the
18 Crossroads gun show events at the Fairgrounds.

19 14. Plaintiff JAN STEVEN MERSON is a resident of Fullerton, California,
20 and he owns Merson's Machining Tool Making and Gunsmithing. Before the
21 implementation of SB 264, his company (then known as Merson's Custom Tooling
22 & Gunsmith) was a regular vendor at the Crossroads gun shows at the Fairgrounds.
23 At these events, he would sell "firearm precursor parts"—which are legal products
24 in California and are not considered firearms by legal definition. Plaintiff Merson
25 also attended the Crossroads gun show at the Fairgrounds to engage in expressive
26 activities with like-minded people, including discussions related to firearms,
27 ammunition, and firearm accessories, the shooting sports, politics, and the Second
28 Amendment. SB 264 burdens his right to engage in otherwise lawful commercial

1 speech in a public forum and restricts his ability to purchase ammunition, firearms,
2 and parts for lawful purposes. And because the ban is intended to make gun shows
3 less profitable and effectively shutter them, it also restricts his right to engage in the
4 unique types of political, educational, and commercial speech that takes place at the
5 gun show. But for Defendants' adoption and enforcement of SB 264, Plaintiff
6 Merson would continue attending and participating in the Crossroads gun show
7 events at the Fairgrounds.

8 15. Plaintiff ASIAN PACIFIC AMERICAN GUN OWNERS
9 ASSOCIATION ("APAGOA") is a nonprofit organization incorporated under the
10 laws of Texas and registered with the California Secretary of State to do business in
11 the state of California. APAGOA is a community of gun owners with an Asian
12 Pacific American ("APA") heritage. It's core focus is to promote safe and
13 responsible gun ownership within the APA community by providing educational
14 materials and other resources to its members and other interested parties. APAGOA
15 advocates for firearm safety, education, and community-building initiatives. And it
16 strives to educate and empower the APA gun owner community so they can use
17 their firearms safely and responsibly. It brings this action on behalf of its
18 approximately 270 members and supporters who reside in California and, but for the
19 implementation of SB 264, would attend and participate in the Crossroads gun show
20 events at the Fairgrounds.

21 16. Plaintiff CALIFORNIA RIFLE & PISTOL ASSOCIATION,
22 INCORPORATED ("CRPA") is a nonprofit membership organization incorporated
23 under the laws of California, with headquarters in Fullerton, California. Among its
24 other activities, CRPA works to preserve and expand constitutional and statutory
25 rights of gun ownership, including the right to self-defense and the right to keep and
26 bear arms. CRPA accomplishes this through its educational offerings, publications,
27 member engagement events, and legislative advocacy and initiatives. CRPA has
28 individual members and business affiliates that attend gun shows. Before the

1 implementation of SB 264, CRPA and some of its members were regular vendors at
2 the Crossroads gun shows at the Fairgrounds, where they engaged the public in
3 discussions about the organization and its purposes, the shooting sports, firearms
4 and firearm safety, and the Second Amendment and other political issues. CRPA
5 also attended gun shows at the Fairgrounds to sell organization memberships,
6 advertise its events, distribute its publications, and sell its merchandise, some of
7 which includes expressly pro-gun messaging. Members of CRPA would attend to
8 advertise events, distribute publications, sell merchandise, ammunition, and
9 firearms, some of which includes expressly pro-gun messaging. CRPA has also
10 hosted political rallies, educational seminars, and range safety officer training at gun
11 shows throughout the state, including those at the Fairgrounds. SB 264 directly
12 burdens the right of CRPA, its officers, employees, volunteers, members, and
13 supporters, to engage in otherwise lawful commercial speech in a public forum and
14 to access firearms, ammunition, and parts for lawful purposes. And because the ban
15 on sales of firearms, ammunition, and parts is intended to make gun shows less
16 profitable and effectively shutter them, it restricts the right of CRPA, its officers,
17 employees, volunteers, members, and supporters, to engage in the unique types of
18 political, educational, and commercial speech that takes place at the gun show. But
19 for Defendants' adoption and enforcement of SB 264, Plaintiff CRPA would
20 continue attending and participating in the Crossroads gun show events at the
21 Fairgrounds. Through this lawsuit, CRPA represents not only its own interests as a
22 gun show vendor, but also the interests of its members as gun show vendors and
23 attendees and supporters of the right to keep and bear arms for lawful purposes.

24 17. Plaintiff SECOND AMENDMENT LAW CENTER, INC. ("2ALC"),
25 is a nonprofit organization, incorporated under the laws of Nevada with headquarters
26 in Henderson, Nevada, and registered with the California Secretary of State to do
27 business in the state of California. 2ALC works to advance Second Amendment
28 jurisprudence across the country while educating the public, participating in

1 scholarly research, and providing thought-provoking writings and content to help
2 advance the Second Amendment. 2LC works to support and protect Second
3 Amendment rights across the country, and they distribute materials at gun shows in
4 California to inform the public about their work. Because the ban on sales of
5 firearms and ammunition at the Fairgrounds is intended to make gun shows less
6 profitable and effectively shutter them, it restricts the rights of 2ALC to share
7 education and training materials with gun owners and those that attend gun show
8 events. In this lawsuit, 2ALC represents its interests as a gun show attendee and
9 purveyor of educational materials.

10 18. Plaintiff SECOND AMENDMENT FOUNDATION, INC. (“SAF”) is a
11 non-profit membership organization. It is incorporated under the laws of the state of
12 Washington and was founded in 1974. SAF has over 700,000 members and
13 supporters nationwide, including thousands of members in California. The purposes
14 of SAF include education, research, publishing, and litigation. It is critical to the
15 success of SAF that its promotional material, publications, and messages about the
16 “right to keep and bear arms” reach demographic groups that are saturated with gun
17 owners, gun buyers, and people of the “gun culture.” Gun Shows like the one
18 threatened by the Defendants’ actions interfere with this effort. SAF is dedicated to
19 promoting a better understanding about our constitutional heritage to privately own
20 and possess firearms through educational and legal action programs designed to
21 better inform the public about gun control issues. SAF has been a pioneer in
22 innovative defense of the right to keep and bear arms, through its publications and
23 public education programs like the Gun Rights Policy Conference. Those
24 publications and other SAF materials and information are offered at gun show
25 events. Second Amendment Foundation also expends significant sums of money
26 sponsoring public interest litigation to defend its own interests to disseminate
27 information to like-minded individuals, in an individualized setting like a gun show,
28 but SAF also seeks to defend the interests of its member in lawsuits like this present

1 effort.

2 **[Defendants]**

3 19. Defendant GAVIN NEWSOM is the Governor of the State of
4 California. As Governor, he is vested with “the supreme executive power” of the
5 state and “shall see that the law is faithfully executed.” Cal. Const. art. 5, §1.
6 Defendant Newsom is sued in his official capacity.

7 20. Defendant ROB BONTA is the Attorney General of the State of
8 California. He is the “chief law officer” of the state and has the duty to ‘see that the
9 laws of the State are uniformly and adequately enforced.” Cal. Const. art. 5, § 1.
10 Additionally, Defendant Bonta has “direct supervision over every district attorney”
11 within the State. *Id.* If, at any point a district attorney of the State fails to enforce
12 adequately “any law of the State,” Defendant Bonta must “prosecute any violations
13 of the law.” *Id.* Finally, Defendant Bonta, as Attorney General of the State of
14 California, “shall assist any district attorney in the discharge” of duties when
15 “required by the public interest or directed by the Governor. . . .” *Id.* Defendant
16 Bonta is sued in his official capacity.

17 21. Defendant TODD SPITZER is the District Attorney responsible for
18 enforcing the law within the county of Orange. Under the California Government
19 Code, the district attorney must prosecute “all actions for the recovery” of fines and
20 penalties. Cal. Gov’t Code § 26521. Defendant Spitzer is sued in his official
21 capacity.

22 22. Defendant KAREN ROSS is the Secretary of the California Department
23 of Food & Agriculture—the entity responsible for the policy oversight of the
24 network of California fair venues, which includes the Orange County Fair & Event
25 Center. Through the Department, Defendant Ross issues guidance for governance
26 and contracting to all agricultural districts throughout California (including
27 Defendant District) and requires reporting from the districts on operational issues.
28 The Department maintains an office of legal counsel for any actions brought against

1 Agricultural Association Districts in the state. Defendant Ross is sued in her official
2 capacity.

3 23. Defendant 32nd DISTRICT AGRICULTURAL ASSOCIATION
4 (“District”) is a Governor-appointed Board of Directors that manages the state-
5 owned Orange County Fair & Event Center public venue. The District is governed
6 by a nine-member board, each member serving a four-year term. The District Board
7 of Directors appoints a CEO charged with the daily operations of the facilities but
8 maintains control over activities not delegated to the CEO, including contracting
9 with those seeking to host events, including gun shows, at the Fairgrounds. It is
10 responsible for ensuring that all state laws governing gun shows at the Fairgrounds,
11 including SB 264, are faithfully enforced. Defendant District refused to consider
12 contracts for the gun show by refusing to place the question of contract approval on
13 monthly meeting agendas when considering other similar contracts.

14 24. The true names and capacities of Defendants named as DOES 1
15 through 10, inclusive, are individual, corporate, associate or otherwise, and are
16 unknown to Plaintiffs. They are, however, believed to be responsible in some way
17 for Plaintiffs’ loss and damages. Each Doe Defendant is, and at all times mentioned
18 here was, a partner, agent, principal, co-conspirator, or are otherwise vicariously or
19 directly responsible for the acts or omissions of the other defendants or themselves.
20 They are each sued individually and are joined as party defendants. Plaintiffs thus
21 sue each Doe Defendant under rules 15 and 21 of the Federal Rules of Civil
22 Procedure. Plaintiffs are informed and believed that the Doe Defendants are all
23 California residents. Plaintiffs will amend this complaint to show such true names
24 and capacities of Doe Defendants when they have been ascertained.

25 **FACTUAL ALLEGATIONS**

26 **[The First Amendment Rights to Free Speech, Association, & Assembly]**

27 25. The First Amendment provides, in part, that “Congress shall make no
28 law . . . abridging the freedom of speech,” U.S. Const. amend. I. It is incorporated

1 and made applicable to the states by the Fourteenth Amendment to the United States
2 Constitution and by 42 U.S.C. § 1983.

3 26. Political and ideological speech—including speech concerning
4 “politics, nationalism, religion, or other matters of opinion”—has long been
5 considered the core of the First Amendment. *W. Va. State Bd. of Educ. v. Barnette*,
6 319 U.S. 624, 642 (1943).

7 27. Public property made available for lease by community groups to
8 engage in expressive activity must thus be available without regard to the viewpoint
9 sought to be expressed *Cinevision Corp. v. City of Burbank*, 745 F.2d 560 (9th Cir.
10 1984). Such venues cannot be opened to some and closed to others, suppressing
11 protected expression, absent a compelling government interest. *Id.* at 571.

12 28. The First Amendment does not tolerate the suppression of speech based
13 on what some may label an unpopular viewpoint of the speaker. *John J. Hurley and*
14 *S. Boston Allied War Vets. Council v. Irish-Am. Gay, Lesbian & Bisexual Group of*
15 *Boston*, 515 U.S. 557 (1995). Indeed, “*above all else*, the First Amendment means
16 that the government has no power to restrict expression because of its message, its
17 ideas, its subject matter, or its content.” *Mosley*, 408 U.S. at 95 (emphasis added);
18 *see also Ashcroft*, 535 U.S. at 573.

19 29. A content-based restriction that implicates political or ideological
20 speech must generally survive “strict scrutiny,” where the government must show
21 that the law is narrowly tailored to achieve a compelling government interest. *See*
22 *Reed v. Town of Gilbert*, 576 U.S. 155 (2015); *see also Lorillard Tobacco Co. v.*
23 *Reilly*, 533 U.S. 525 (2001) (holding that tobacco marketing restrictions – even
24 those purposed to protecting minors -- must be the narrowest means of achieving an
25 asserted state interest); *Brown v. Entm’t Merchs. Ass’n*, 564 U.S. 786 (2011)
26 (overturing California law banning sale or rental of “violent video games” to
27 minors); *see also Tracy Rifle & Pistol LLC v. Harris*, 339 F. Supp. 3d 1007, 1018
28 (E.D. Cal. 2018) (holding that a California law prohibiting the display of a handgun,

1 an imitation handgun, or a placard advertising the sale of a handgun in a manner that
2 is visible from the outside of a gun dealer’s premises is unconstitutional).

3 30. Even purely commercial speech—speech that “does no more than
4 propose a commercial transaction” or relates solely to the economic interests of the
5 speaker and audience—receives First Amendment protection if it is not misleading
6 and concerns a lawful activity. *Cent. Hudson Gas & Elec. Corp. v. Public Serv.*
7 *Comm’n*, 447 U.S. 557 (1980).

8 31. “An offer to sell firearms or ammunition” is constitutionally protected
9 commercial speech. *Nordyke v. Santa Clara*, 110 F.3d 707, 710 (9th Cir. 2009).

10 32. Government restrictions on protected commercial speech are
11 constitutional *only* if they directly advance a substantial government interest and are
12 not broader than necessary to serve that interest. *Cent. Hudson*, 447 U.S. 557.²

13 33. The First Amendment protects not only the right of free speech, but
14 also “the right of the people peaceably to assemble.” U.S. Const., amend. I. The
15 right to assemble often merges with the right to free expression. For “[e]ffective
16 advocacy of both public and private points of view, particularly controversial ones,
17 is undeniably enhanced by group association.” *NAACP v. Patterson*, 357 U.S. 449,
18 462 (1958). “Governmental action which may have the effect of curtailing the
19 freedom to associate is subject to the *closest* scrutiny.” *Id.* at 461-62.

20 **[The Fourteenth Amendment Right to Equal Protection Under the Law]**

21 34. The Fourteenth Amendment to the United States Constitution,
22 enforceable under 42 U.S.C. § 1983, provides that no state shall deny to any person
23

24 ² Though this is currently the controlling test for so-called “commercial speech,”
25 modern case law is trending toward extending *full* First Amendment protection to all
26 speech, including “commercial speech.” See *Sorrell v. IMS Health, Inc.*, 564 U.S.
27 552 (moving toward providing commercial speech the same level of heightened
28 protection long accorded to political speech); see also *44 Liquormart, Inc. v. Rhode
Island*, 517 U.S. 484, 523 (1996) (Thomas, J., concurring in part and concurring in
judgment) (“I do not see a philosophical or historical basis for asserting that
‘commercial’ speech is of ‘lower value’ than ‘noncommercial’ speech. Indeed, some
historical materials suggest to the contrary.”).

1 within its jurisdiction the equal protection of the laws.

2 35. Singling out speakers because of the content of their speech also
3 violates their fundamental rights under the Equal Protection Clause. U.S. Const.
4 amend. XIV.

5 36. If unequal treatment occurs in the context of exercising a fundamental
6 right, or the government is motivated by animus toward a disfavored group, courts
7 apply heightened scrutiny. *See Loving v. Virginia*, 388 U.S. 1, 11 (1967); *see also*
8 *Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432 (1985); *Romer v. Evans*, 517
9 U.S. 620 (1996). Indeed, “[b]ecause the right to engage in political expression is
10 fundamental to our constitutional system, statutory classifications impinging upon
11 that right must be narrowly tailored to serve a compelling governmental interest.”
12 *Austin v. Mich. Chamber of Commerce*, 494 U.S. 652, 666 (1990), *rev’d on other*
13 *grounds, Citzs. United v. Fed. Elec. Comm’n*, 558 U.S. 310, 130 S. Ct. 876 (2010).

14 **[Regulation of Gun Show Events in California]**

15 37. The state of California has the most rigorous regulatory regime for
16 commerce in firearms and ammunition in the United States. That regulatory regime
17 applies to the operation of gun show events throughout California. The laws related
18 to the acquisition and sale of firearms are arguably stricter at gun shows than at
19 brick-and-mortar stores or internet sales.

20 38. Only state approved, licensed gun show producers may operate gun
21 shows in California.

22 39. All gun show producers, including Plaintiff Crossroads, must have an
23 individual (the “promoter”) who holds a valid Certificate of Eligibility issued by the
24 California Department of Justice.

25 40. Gun show producers must also, among other things:

- 26 a. Certify that they are familiar with all California laws regarding
27 gun shows, Cal. Penal Code § 27200;
28 b. Possess a minimum of \$1,000,000 liability insurance, *id.*;

- 1 c. Provide an annual list of shows or events to be held to the
- 2 California Department of Justice, *id.*; and
- 3 d. Notify the California Department of Justice no later than 30 days
- 4 prior to the gun show or event of any changes to the above, *id.*
- 5 e. Make available to law enforcement a complete and accurate list
- 6 of all vendors that will participate in the show to sell, lease, or
- 7 transfer firearms. Cal. Penal Code § 27205.

8 41. Gun show producers must submit an annual event and security plan and
9 schedule to the California Department of Justice and any local law enforcement
10 agency. The plan must include:

- 11 a. Type of show or event;
- 12 b. Estimated number of vendors offering for sale or display
- 13 firearms;
- 14 c. Estimated number of attendees;
- 15 d. Number of entrances and exits at the event;
- 16 e. Location, dates, and times of the event;
- 17 f. Contact person and telephone number for both promoter and
- 18 facility;
- 19 g. Number of sworn peace officers employed by the producer or
- 20 facility who will be present at the event;
- 21 h. Number of non-sworn security personnel employed by the
- 22 producer or the facility who will be present at the event; and
- 23 i. Promoters must inform all prospective vendors of all California
- 24 laws regarding gun shows.

25 Cal. Penal Code §§ 27210, 27215.

26 42. Gun show producers must also provide a list of all prospective vendors
27 and designated firearm transfer agents who are licensed firearm dealers to the
28 California Department of Justice no later than seven days prior to the event for the

1 purpose of determining whether the vendor possess a valid license and are thus
2 eligible to participate in the event. Cal. Penal Code § 27220.

3 43. If a vendor is not approved by the California Department of Justice or
4 fails to comply with all applicable California laws, they cannot participate. Cal.
5 Penal Code § 27220.

6 44. If a gun show producers fails to inform all prospective vendors of
7 California's state laws or fails to submit a list of all prospective vendors to the
8 California Department of Justice, the event cannot commence. Cal. Penal Code §
9 27230.

10 45. Gun show producers must have written contracts with each vendor
11 selling firearms at the event. Cal. Penal Code § 27235.

12 46. Gun show producers must post signs in a readily visible location at
13 each public entrance to the event that includes all of the following notices:

- 14 • "This gun show follows all federal, state, and local firearms and
15 weapons laws, without exception."
- 16 • "Any firearm carried onto the premises by any member of the public
17 will be checked, cleared of any ammunition, and secured in a manner
18 that prevents it from being operated, and an identification tag or sticker
19 will be attached to the firearm before the person is allowed admittance
20 to the show."
- 21 • "No member of the public under the age of 18 years shall be admitted
22 to the show unless accompanied by a parent, grandparent, or legal
23 guardian."
- 24 • "All firearm transfers between private parties at the show shall be
25 conducted through a licensed dealer in accordance with applicable state
26 and federal laws."
- 27 • "Persons possessing firearms in this facility must have in their
28 immediate possession government-issued photo identification and

1 display it upon the request to any security officer or any peace officer,
2 as defined in Section 830.”

3 Cal. Penal Code § 27240(a).

4 47. Gun show producers must also post signs in a readily visible location at
5 each entrance to the parking lot stating: “The transfer of firearms on the parking lot
6 of this facility is a crime.” Cal. Penal Code § 27240(b).

7 48. A willful failure of a producer to comply with any of California’s
8 applicable laws is a misdemeanor punishable with a fine of up to \$2,000 dollars and
9 would render the producer ineligible for a gun show producer license for up to one
10 year, which could cost a producer hundreds of thousands of dollars in lost revenue
11 for a willful infraction. Cal. Penal Code § 27245(c).

12 49. Except in very limited exceptions applicable only to law enforcement,
13 actual firearm transfers are already prohibited from taking place at any gun show in
14 California.³ The firearm sale can be started through an on-site licensed “transfer
15 dealer,” but it cannot be completed on site. Instead, purchasers must pick up their
16 purchase at a licensed firearm retailer at a different licensed location--but only after
17 a 10-day waiting period and background check. There is no “Gun Show Loophole”
18 at gun shows operated in accordance with California Law.

19 50. The Gun Show Act of 2000, California Penal Code sections 27200-
20 27245, places even more restrictions on the operation of a gun show in California by
21 requiring that:

22 a. Vendors do not display, possess, or offer for sale any firearms,
23 knives, or weapons for which possession or sale is prohibited;

24
25 ³ Cal. Penal Code § 27310 (requiring all firearm transfers at gun shows to comply
26 with state and federal law); *id.* § 26805 (prohibiting the sale and transfer of a firearm
27 by a licensed dealer at any location other than the dealer’s premises as listed on their
28 license but allowing dealer to prepare documents at a gun show in preparation for
completion of the sale at the dealer’s premises); *id.* § 27545 (requiring all firearm
transactions to be processed through a licensed dealer when neither party is a
licensed firearm dealer).

- 1 b. Vendors acknowledge that they are responsible for knowing and
- 2 complying with all applicable federal, state, and local laws
- 3 dealing with the possession and transfer of firearms;
- 4 c. Vendors will not engage in activities that incite or encourage hate
- 5 crimes;
- 6 d. Vendors will process all transfers of firearms through licensed
- 7 firearms dealers as required by state law;
- 8 e. Vendors will verify that all firearms in their possession will be
- 9 unloaded and that the firearms will be secured in a manner that
- 10 prevents them from being operated except for brief periods, when
- 11 the mechanical condition of the firearm is being demonstrated to
- 12 prospective buyer;
- 13 f. Vendors provide all required information under Penal Code §
- 14 27320;
- 15 g. Vendors will not display or possess black powder or offer it for
- 16 sale;
- 17 h. Ammunition only be displayed in closed original factory boxes
- 18 or other closed containers, with the only exception for showing
- 19 the ammunition to a prospective buyer. On July 1, 2019,
- 20 additional state-law restrictions on the sale of ammunition will
- 21 become effective and gun shows must comply;
- 22 i. No member of the public under 18 years old may enter a gun
- 23 show unless accompanied by a parent or legal guardian;
- 24 j. No person other than security personnel or law enforcement
- 25 possess both a firearm and ammunition for that firearm at the
- 26 same time, with the exception of vendors who are selling both.

27 51. Plaintiff Crossroads diligently operates all of its gun shows in
28 accordance with state law, and it takes immediate remedial measures if irregularities

1 are discovered.

2 52. Vendors at Crossroads gun shows are some of the same licensed
3 vendors that have brick and mortar stores in the community or operate legally over
4 the internet and are registered with the state as lawful businesses.

5 53. Vendors at Crossroads gun shows sell legal products and enjoy being
6 able to attend gun shows so they can better interact with customers in a more
7 meaningful and intimate way.

8 54. Even with all of the state and federal regulations that promoters and
9 vendors must abide, through the adoption and enforcement of SB 264, Defendants
10 now seek to wholly prohibit constitutionally protected, highly regulated, and
11 otherwise perfectly legal activity.

12 **[The Gun Show Cultural Experience]**

13 55. Gun shows are a modern bazaar—a convention of like-minded
14 individuals who meet in this unique public forum that has been set aside by state and
15 local governments for all manner of commerce. This convention-like setting is of
16 incalculable benefit to the gun-buying consumer and promotes public safety.

17 56. Gun shows, in general, and the Orange County show, in particular, are
18 a celebration of America’s “gun culture” that is a natural and essential outgrowth of
19 the constitutional rights that flow from the Second Amendment to the United States
20 Constitution.

21 57. Gun shows, in general, and the Orange County show, in particular, are
22 a First Amendment forum where literature and information are shared, speakers
23 provide valuable lectures, classes are conducted, political forums are held where gun
24 rights discussions take place, and candidates for political office can meet to discuss
25 political issues, the government, and the constitution with constituents who are part
26 of the California gun culture.

27 58. Thousands of people attend gun shows on the weekends they are held at
28 the Fairgrounds. Many attend as new gun owners seeking information and

1 instruction. With over 1 million new gun owners in California in the past year, gun
2 shows offer the opportunity for these new gun owners to learn about firearms,
3 safety, and speak to expert firearm enthusiasts.

4 59. Gun shows place a huge emphasis on safety as citizens come together.
5 Gun shows are designed to offer a communal atmosphere of like-minded people that
6 one does not find in a store where people are running in to pick up one or two items.
7 Gun shows are designed so that people will congregate, take their time, engage each
8 other and the vendors, and learn in a way that they do not otherwise engage.

9 60. Gun shows also happen to include the exchange of products and ideas,
10 knowledge, services, education, entertainment, and recreation related to the lawful
11 uses of firearms. Those lawful uses include (but are not limited to): firearm safety
12 training; defense of self and others; defense community, state, and nation; hunting;
13 target shooting; gunsmithing; admiration of guns as art; appreciation of guns as
14 technological artifacts; and the study of guns as historical objects.

15 61. Gun shows, in general, and the Orange County show, in particular, are
16 cultural marketplaces for those members of the “gun culture” who attend to
17 celebrate their constitutional rights and to pass their beliefs in patriotism and the
18 rights of the individual on to the next generation. It is a place where parents take
19 their children and grandparents take their grandchildren to share with them, among
20 other things, a love of historic firearms, stories of American war heroes, and their
21 love of hunting.

22 62. Gun shows, in general, and the Orange County show, in particular, are
23 places where parents can learn to protect their families and their homes, and how to
24 stay in compliance with California’s ever-changing gun laws.

25 63. Gun shows, in general, and the Orange County show, in particular, are
26 places where people can discuss the positions of political candidates and whether
27 those values line up with their own beliefs in protecting the Second Amendment.

28 64. Gun shows, in general, and the Orange County show, in particular, are

1 held and promoted, and considerable investment is made, precisely to promote and
2 “normalize” the “gun culture” and the constitutional principles that gun show
3 participants hold dear.

4 65. This forum is vitally important especially in California where
5 government actors at all levels of government (federal, state, and local) are openly
6 hostile to the cultural values of the Second Amendment and where supporters of
7 those cultural values are not considered “mainstream.”

8 66. Participating in “gun culture” is an important reason people attend
9 Crossroads gun shows as vendors, exhibitors, customers, and guests (even if
10 particular vendors or attendees are not in the firearm business or in the market to
11 buy a gun at a particular event).

12 67. While less than 40% of vendors at Crossroads’ events offer firearms or
13 ammunition for sale (the remaining vendors offer accessories, collectibles, home
14 goods, lifestyle products, educational information, food, and other refreshments), the
15 principle draw of gun shows is the availability of firearms, ammunition, and firearm
16 parts and accessories for sale, as well as the ability to handle and inspect firearms
17 while in the presence of knowledgeable vendors.

18 68. Indeed, many people attend gun shows to learn about the technology
19 and use of various firearms and ammunition when they are considering whether to
20 buy or sell a firearm and to exchange knowledge with experienced dealers and
21 firearm enthusiasts that they cannot get anywhere else. *Teixeira v. County of*
22 *Alameda*, No. 13-17132 (9th Cir. 2017).⁴

23 69. Without the ability to buy and sell firearms and ammunition at gun
24 shows at the Fairgrounds, the events will no longer be able to draw many of its
25 vendors and attendees, making the events unprofitable and economically infeasible.

26 _____
27 ⁴ The *Teixeira* court did not answer whether the Second Amendment includes a
28 right to purchase a firearm. Plaintiffs allege, in good faith, that the right to keep and
bear arms *necessarily* includes the rights to purchase and sell them. Indeed, those
rights are a necessary predicate to the exercise of the Second Amendment.

1 When events are no longer profitable, producers and vendors cannot afford to attend
2 and host the shows or maintain the speech components of gun show.

3 70. Defendants wish to end this celebration of “gun culture” and Second
4 Amendment rights because they do not understand the culture or the people. To that
5 end, Defendants have attempted, through SB 264’s ban on sales of firearms,
6 ammunition, and “firearm precursor parts” at the Fairgrounds, to permanently
7 deprive Plaintiffs of their right to engage in constitutionally protected conduct at the
8 Fairgrounds.

9 **[The Orange County Fair & Event Center]**

10 71. The Fairgrounds is owned by the state of California and managed by
11 the Board of Directors of Defendant District, which must regularly report its
12 activities to the California Department of Food & Agriculture.

13 72. Among other things, Defendant District is charged with maintaining the
14 Fairgrounds and ensuring that is used for public purposes.

15 73. Defendant Ross, as the Secretary of the California Department of Food
16 & Agriculture, oversees the operation of the various agricultural districts in the state,
17 including Defendant District.

18 74. The California Department of Food & Agriculture, under Secretary
19 Ross, provides policies and guidance for the operation of all agricultural districts in
20 the state, including the use of facilities as directed by Department policy.

21 75. The California Department of Food & Agriculture maintains a *C DFA*
22 *Contracts Manual for Agricultural Districts* (“Manual”). Section 6.25 of the Manual
23 states that “[w]hether or not a fair rents out their facilities for gun shows is a policy
24 decision to be made by the fair board and their community.”

25 76. The Fairgrounds is a state-owned property maintained and opened for
26 use by the public. By virtue of being opened by the state for use by the public, it is a
27 “public forum,” from which the government may not generally exclude expressive
28 activity. *Cinevision*, 745 F.2d at 569 (quoting *Perry Educ. Ass’n v. Perry Local*

1 *Educators' Assn*, 460 U.S. 37, 45-46 (1983)).

2 77. The Fairgrounds is used by many different groups and is a major event
3 venue for large gatherings of people to engage in expressive activities, including
4 concerts, festivals, and industry shows. Indeed, "OC Fair & Event Center is a 150-
5 acre event venue that hosts over 150 events and attracts approximately 4.3 million
6 visitors annually. [Its] versatile multi-use property can be transformed to fit a variety
7 of events from small private events to large-scale trade shows and festivals." OC
8 Fair & Event Center, Event Space Sales, [https://ocfair.com/venue-rentals/venue-](https://ocfair.com/venue-rentals/venue-options/rental-property-brochure/)
9 [options/rental-property-brochure/](https://ocfair.com/venue-rentals/venue-options/rental-property-brochure/) (last visited Aug. 4, 2022) (attached as Exhibit 1).

10 78. The Fairgrounds actively promotes the use of the property by the public
11 through contracting for available space at the Fairgrounds. *Id.*; *see also* OC Fair &
12 Event Center, Venue Rentals, <https://ocfair.com/venue-rentals/> (last visited Aug. 4,
13 2022).

14 79. The Fairgrounds' Board of Directors Governing Manual states that
15 Defendant District's purpose is "(1) to hold fairs, expositions and exhibitions in
16 Orange County to exhibit the industries and industrial enterprises, resources, and
17 products of every kind or nature of the state, with a view toward improving,
18 exploiting, encouraging, and stimulating them; and (2) to construct, maintain, and
19 operate recreational and cultural facilities of general public interest in Orange
20 County. The 32nd DAA has adopted a mission statement to effectuate these
21 purposes, which is the celebration of Orange County's communities, interests,
22 agriculture and heritage." 32nd District Agricultural District, *Board of Directors*
23 *Governing Manual*, Introduction at 1, available at [https://s3.us-west-](https://s3.us-west-1.amazonaws.com/ocfair.com/wp-content/uploads/2021/02/02141413/Policy-Combo-All.pdf)
24 [1.amazonaws.com/ocfair.com/wp-content/uploads/2021/02/02141413/Policy-](https://s3.us-west-1.amazonaws.com/ocfair.com/wp-content/uploads/2021/02/02141413/Policy-Combo-All.pdf)
25 [Combo-All.pdf](https://s3.us-west-1.amazonaws.com/ocfair.com/wp-content/uploads/2021/02/02141413/Policy-Combo-All.pdf) (last visited Aug. 4, 2022).

26 80. The Fairgrounds has held non-gun-show events in which criminal
27 activity has taken place. These criminal incidents are no more likely to happen at a
28 gun show than at other types of events, but the Defendants have not banned these

1 promoters or their events.

2 **[Contracting for Use of the Fairgrounds]**

3 81. Defendant District has a process for securing returning contractors who
4 would like to secure specific dates into future years before the contracts can be
5 drafted and executed.

6 82. Each year, returning and regular contractors, including Plaintiff
7 Crossroads, submit preferred dates for the next calendar year, so Defendant District
8 can confirm availability and so that Plaintiff Crossroads can begin to reserve
9 vendors and materials for the show weekends.

10 83. Due to the size and extensive planning that goes into producing gun
11 show events, Defendant District has—for decades—provided and held preferred
12 dates for Plaintiff Crossroads, a long-time contractor, until the contracts can fully be
13 executed.

14 84. Defendant District’s “hold” system essentially operates as a right of
15 first refusal to the benefit of returning contractors. For example, if another contractor
16 wanted the same preferred dates as Plaintiff Crossroads, Defendant District would
17 not allow another vendor to come in and take those dates from Plaintiff Crossroads
18 even though there is no official contract in place yet.

19 85. The “hold” system also provides Defendant District with the security of
20 knowing its venue is booked with experienced and knowledgeable repeat contractors
21 that have a demonstrated record of running safe and profitable events at the
22 Fairgrounds.

23 86. The “hold” system also permits the promoter to spend advertising
24 dollars to promote its events, but when governments announce plans to ban gun
25 shows at particular venues, vendors and patrons rationally make plans to attend gun
26 show events at other venues or seek other states to conduct their commerce.

27 87. Defendant District also considers the “hold” dates and shows during
28 budget discussions which are typically held in the year before the contracts are

1 commenced.

2 88. Upon information and belief, Plaintiffs allege that the “hold” system is
3 widely used by similar state fair board venues and is standard industry practice.

4 89. Plaintiff Crossroads, after doing business in this customary manner for
5 more than 30 years, had no reason to doubt that Defendant District would continue
6 to honor such relationship with Plaintiff Crossroads.

7 **[Ban on Gun Shows at Other Fairgrounds & Resulting Litigation]**

8 90. Despite the long history that Plaintiff Crossroads has had in California,
9 operating safe and legal events, the political environment has become hostile toward
10 gun show events and (more generally) toward the “gun culture” in recent years.

11 91. Indeed, gun-show-banning activists are at work throughout the state
12 and the country to ban *all* gun shows *everywhere*, not because they are “dangerous
13 for the community,” but because they do not subscribe to the same values as gun
14 show promoters, vendors, and participants.

15 92. With increasing regularity, the same activists are making appearances
16 on Zoom board meetings held by fair boards across the state, and during each
17 appearance, they make the same claims in order to shut down lawful gun shows.

18 93. These activists rely on unfounded fears about the security of gun show
19 events, false claims that gun shows are inherently dangerous because they normalize
20 the “gun culture,” and peddle in false stereotypes about the people that attend gun
21 shows. *See City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432 (1985) (striking
22 an ordinance requiring a special permit for a group home for the intellectually
23 disabled and citing direct evidence of negative attitudes toward persons with
24 disabilities expressed by community members and recorded in the legislative
25 history).

26 94. In 2017, gun-show-banning activists using the same tactics described
27 above began pressuring the 22nd District Agricultural Association (“22nd DAA”),
28 which manages the Del Mar Fairgrounds in San Diego, to prohibit gun show events

1 at the Del Mar Fairgrounds. In response, the 22nd DAA began a series of meetings
2 and comment periods to determine whether it would continue to contract with
3 Plaintiff Crossroads or other gun show producers for the use of the Del Mar
4 Fairgrounds to host gun show events.

5 95. The 22nd DAA also engaged in communications with other
6 government agencies and with Crossroads to determine whether gun shows at the
7 Fairgrounds were operated in full compliance with state and federal law, and if the
8 events pose any real danger to the community.

9 96. On April 23, 2018, Defendant Newsom sent a letter to the 22nd DAA,
10 urging the Board to ban gun shows at the Fairgrounds, citing his concerns that
11 “[p]ermitting the sale of firearms and ammunition on state-owned property only
12 perpetuates America’s gun culture.” Letter from Governor Gavin Newsom to Board
13 Members of 22nd District Agricultural Association (April 23, 2018) (attached as
14 Exhibit 2).

15 97. On September 10, 2018, Assembly member Todd Gloria (D) sent a
16 letter to the 22nd DAA, stating his “firm belief that the State of California should in
17 no way help to facilitate the sale of firearms.” He also expressed his support for the
18 22nd DAA “willingness to consider options for limiting or eliminating these gun
19 shows” and vowed to “act by way of legislation should the 22nd DAA Board be
20 unable to take meaningful action.” Letter from Assembly Member Todd Gloria to
21 Board Members of 22nd District Agricultural Association (Sept. 10, 2018) (attached
22 as Exhibit 3).

23 98. At a public hearing on September 11, 2018, a fair board ad hoc
24 “Contracts Committee” recommended that the 22nd DAA “not consider any
25 contracts with the producers of gun shows beyond December 31st, 2018, until such
26 time as the [22nd DAA] has put into place a more thorough policy regarding the
27 conduct of gun shows.”

28 99. In testimony before the 22nd DAA at the September 11, 2018 hearing,

1 Patrick Kerins, who was then the Public Safety Director for the 22nd DAA, reported
2 on the laws that apply to gun shows in California, as well as Plaintiff Crossroads
3 history of events at the Fairgrounds.

4 100. During his comments at the September 11, 2018 hearing, Mr. Kerins
5 referenced a memorandum that he prepared for the 22nd DAA's Board of Directors
6 in 2016. In that memorandum, he reported that:

7 As Chief of Security for the 22nd DAA, I routinely inspect the
8 gun show and on a regular basis communicate with the San Diego
9 Sheriff's Department re: compliance with all the applicable laws and
10 regulations and the Security Plan required by the California
11 Department of Justice Firearms Division. I recently spoke to
12 Detective Jaime Rodriguez of the Sheriff's North Coastal Station
13 who supervises the four Deputies assigned to the gun show security
14 detail and Detective Stacey Smith who is assigned to the Sheriff's
15 Licensing Division. Both Detectives said the Crossroads of the West
16 Gun Show is in complete compliance with all the local, State and
17 Federal laws that govern gun shows and that there have not been any
18 violations of law. Both Detectives had high praise for the show
19 promoters and the 22 DAA staff.

20 Memorandum of Patrick Kerins, Public Safety Director, 22nd District Agricultural
21 Association, to Board of Directors, 22nd District Agricultural Association, at 17
22 (2016) (attached as Exhibit 4).

23 101. Mr. Kerins' 2016 memorandum continued:

24 In my considered opinion, as Chief of Security for the 22 DAA for
25 the last 17 years, the CROSSROADS OF THE WEST GUN
26 SHOWS (5 per year) are in compliance with all the local, state and
27 federal regulatory statutes and have operated without any violations
28 of those laws Under the laws of the State of California you must
comply with all the laws of purchasing, selling and/or transferring of
firearms at a gun show as you would at licensed gun dealer's store
Due to the strict California gun show regulations there are no so
called loop holes that you so often hear about in the media.

Ex. 4 at 17.

102. Ultimately, the lengthy process of meetings, public comment, and
communications with stakeholders resulted in **no finding** that allowing the (already
heavily regulated) gun show events to continue at the Del Mar Fairgrounds posed a
definite or unique risk to public safety. Indeed, the 22nd DAA presented *no*
evidence of any safety concerns within the community that could be linked to the

1 over-30-year-old gun show at the Del Mar Fairgrounds.

2 103. Nonetheless, relying on contrived possibilities of unknown dangers and
3 unfounded claims that prohibiting gun shows might prevent suicide and violent
4 crime because the “gun culture” would be censored, the 22nd DAA voted to impose
5 a one-year moratorium on gun show events at the Del Mar Fairgrounds.

6 104. Plaintiffs Crossroads, CRPA, SAF, and others sued the 22nd DAA,
7 Defendant Ross, and others in federal court under to prevent enforcement of the
8 moratorium, alleging violations of various constitutional rights, including the rights
9 to free speech, assembly, and equal protection. *See B&L Prods. v. 22nd Dist. Agric.*
10 *Ass’n*, 394 F. Supp. 3d 1226 (S.D. Cal. 2019) (“*B&L I*”) (attached as Exhibit 5).

11 105. Denying the 22nd DAA’s motion to dismiss and granting plaintiffs a
12 preliminary injunction—*sua sponte*—on the ground that plaintiffs were exceedingly
13 likely to succeed on the merits of their constitutional claims, the court in *B&L*
14 *Productions* temporarily enjoined the enforcement of the 22nd DAA’s gun show
15 moratorium and ordered the 22nd DAA to contract with Crossroads as it would any
16 other similar event promoter at the Fairgrounds. *Id.*

17 106. Shortly thereafter, the *B&L Productions* plaintiffs negotiated a
18 settlement with the 22nd DAA, represented by attorneys for the California
19 Department of Justice, permanently terminating the gun show moratorium,
20 reinstating Crossroads’ right to promote gun show events at the Fairgrounds, and
21 permanently barring the 22nd DAA from unilaterally halting B&L’s gun show
22 events at the Del mar Fairgrounds.

23 **[California’s Assembly Bill 893 (Gloria)]**

24 107. Making good on previous threats, and fully aware of the court’s
25 decision in *B&L I*, Assemblymember Gloria introduced Assembly Bill 893 (“AB
26 893”) on or about February 20, 2019. Assem. Bill 893, 2019-2020 Reg. Sess. (Cal.
27 2019) (attached as Exhibit 6).

28 108. AB 893, which added Section 4158 to the California Food &

1 Agricultural Code, bars any “officer, employee, operator, lessee, or licensee of the
2 [District]” from “contract[ing] for, authoriz[ing], or allow[ing] the sale of any
3 firearm or ammunition on the property or in the buildings that comprise the Del Mar
4 Fairgrounds.” Violation of the law is a misdemeanor. *Id.*

5 109. AB 893 does not bar the possession of firearms or ammunition on the
6 property or in the buildings that comprise the Del Mar Fairgrounds. *Id.*

7 110. The text of AB 893 expressly identifies the ongoing presence at the Del
8 Mar Fairgrounds of “marketplaces popularly known as ‘gun shows,’ at which
9 firearms and ammunition and other items are sold to the public approximately five
10 times a year.” *Id.*

11 111. AB 893 also clearly recognizes that “[p]romoters maintain relationships
12 with a core group of vendors, some selling guns and some selling other
13 merchandise, who travel as the schedule dictates from city to city and state to state
14 and in the West, for example, many of the same vendors can be seen at Crossroads
15 of the West Gun Shows from San Francisco, California, to Tucson, Arizona.” *Id.*

16 112. AB 893 failed to identify, however, any real public safety or security
17 concern specifically related to the existence of gun show events at the Fairgrounds.

18 113. To be sure, AB 893 claims, without support, that “[g]un shows bring
19 grave danger to a community” and that “dangerous incidents” have taken place at
20 guns shows at the Fairgrounds, including “an official vendor accused of trafficking
21 illegal firearms, sales of firearms to individuals registered in the Department of
22 Justice Bureau of Firearms Armed Prohibited Persons System, and illegal
23 importation of large-capacity magazines.” But AB 893 makes no effort to show that
24 these incidents are any more likely to occur at gun shows in California, which are
25 regulated at least as heavily as retailers operating out of brick-and-mortar stores.

26 114. Instead, AB 893’s legislative history reveals only general concerns
27 about gun violence occurring all over the country and legislators’ beliefs that the
28 state should not profit from sales of firearms and ammunition. *See* Matthew

1 Fleming, Assem. Comm. Pub. Safety, Bill Analysis Re: AB 893 (Gloria), 2019-2020
2 Reg. Sess., at 3 (Cal. 2019) (attached as Exhibit 7).

3 115. Indeed, AB 893 opens with a list of tragedies, including the horrific
4 mass murders that took place at Columbine High School, Sandy Hook Elementary
5 School, and Marjory Stoneman Douglas High School—none of which were carried
6 out with firearms traced to gun show events at the Fairgrounds. Ex. 6.

7 116. What’s more, a March 26, 2019, analysis of AB 893 presented to the
8 Assembly Committee on Public Safety quoted claims by Assemblymember Gloria,
9 the bill’s sponsor, that “[t]here is an ever-apparent link between the gun violence we
10 see virtually every week and the number of guns in our communities.” These
11 statements, however, made no attempt to link gun violence to gun shows, generally,
12 or to gun shows at the Fairgrounds, specifically. Ex. 7 at 2.

13 117. The Public Safety Committee’s March 26, 2019, analysis also quoted
14 Gloria as lamenting that “the State of California should not be profiting or
15 benefitting from the sale of firearms.” He continued, “[f]undamentally, I believe it is
16 wrong for the state of California to profit or to benefit from the sale of firearms and
17 ammunition.” Ex. 7 at 2.

18 118. The Public Safety Committee’s March 26, 2019, analysis also cited a
19 decade-old report from the Violence Prevention Research Program (VPRP) at the
20 UC Davis School of Medicine, identifying gun shows as a source of illegally
21 trafficked firearms. Ex. 7 at 3.

22 119. But neither the VPRP report nor AB 893’s legislative history links any
23 illegally trafficked firearm or gun used in crime to gun shows at the Fairgrounds (or
24 even to gun shows in California). See Garen Wintemute, MD, *Inside Gun Shows:
25 What Goes on When Everybody Thinks Nobody’s Watching*, ch. 1 (2009) (attached
26 as Exhibit 8). This is unsurprising because, as the study states, “[m]uch of the
27 concern about gun shows as a source of crime guns focuses on private party gun
28 sales, *since no background checks are conducted and no records are kept.*” *Id.* at 32.

1 But such concerns are simply irrelevant in California where private party transfers—
2 *even those initiated at gun shows*—must be processed by a licensed firearm dealer
3 and are subject to background checks and registration under state law.

4 120. The VPRP report cited by the Public Safety Committee’s analysis of
5 AB 893 also attempts to implicate licensed firearm retailers operating at gun shows
6 as sources of crime guns in America, claiming that “30% of dealers with gun show
7 sales, but 22% of all dealers, had previously had a crime gun traced to them.” But it
8 expressly recognizes that “in California, where both gun shows themselves and gun
9 commerce generally are regulated, *sales at gun shows are not a risk factor among*
10 *licensed retailers for disproportionate sales of crime guns.*” Ex. 8 at 33 (emphasis
11 added).

12 121. The Public Safety Committee’s March 26, 2019, analysis also cited a
13 report from the Government Accountability Office, claiming that a GAO report
14 “regarding gun trafficking to Mexico confirmed that many traffickers buy guns at
15 gun shows.” Ex. 7 at 3. But again, neither the BATFE report nor AB 893’s
16 legislative history links any illegally trafficked firearm to gun shows at the Del Mar
17 Fairgrounds (or even to gun shows in California). *See* U.S. Gov’t Accountability
18 Off., GAO-16-223, *Firearms Trafficking: U.S. Efforts to Combat Firearms*
19 *Trafficking to Mexico Have Improved, but Some Collaboration Challenges Remain*
20 (2016) (attached as Exhibit 9). To be sure, the GAO report identifies U.S. Southwest
21 border states, including Texas (41%), California (19%), and Arizona (15%), as the
22 largest sources of firearms illegally trafficked into Mexico from the United States.
23 Ex. 9 at 14. But it does not trace these illegally trafficked guns to licensed dealers,
24 generally, or to those operating at gun shows, specifically. Rather, it says only that
25 “there were about 10,134 licensed dealers and pawnbrokers in the four Southwest
26 border states, many of them along the border,” and that “these licensed dealers and
27 pawnbrokers can operate in locations such as gun shops, pawn shops, their own
28 homes, or gun shows.” *Id.*

1 Min promised “in my first 100 days in office, I promise to author legislation for a
2 *ban* on these gun shows at the OC Fair and Events Center once and for all.”
3 Anthony Pignataro, *SD-37 Candidate Min: Ban Gun Shows from OC Fair & Event*
4 *Center*, OC Weekly (Aug. 6, 2019), [https://www.ocweekly.com/sd-37-candidate-](https://www.ocweekly.com/sd-37-candidate-min-ban-gun-shows-from-oc-fair-event-center/)
5 [min-ban-gun-shows-from-oc-fair-event-center/](https://www.ocweekly.com/sd-37-candidate-min-ban-gun-shows-from-oc-fair-event-center/) (emphasis added). And he called on
6 the “governing board of the OC Fair to *end its contract* with Crossroads of the West
7 and other gun show marketers.” *Id.*

8 125. In response, Board Member Ashleigh Aitken, advocating for the known
9 safety of the Fairgrounds, noted that “[t]he gun show loophole does not exist in
10 California. No citizen can purchase a firearm at the gun show and walk off property
11 with it. The purchases are subject to the same background checks and waiting
12 periods as any other store purchase.” Aitken went on to note that “California’s legal
13 gun shows are not a priority as our state has the strictest gun laws in the country.”
14 Anthony Pignataro, *OC Fair Board Member Responds to Min’s Gun Show Ban Idea*
15 (Aug. 7, 2019), available at [https://www.ocweekly.com/oc-fair-board-member-](https://www.ocweekly.com/oc-fair-board-member-responds-to-mins-gun-show-ban-idea/)
16 [responds-to-mins-gun-show-ban-idea/](https://www.ocweekly.com/oc-fair-board-member-responds-to-mins-gun-show-ban-idea/).

17 126. Nevertheless, Senator Min introduced Senate Bill 264 (“SB 264”) on
18 January 27, 2021. Sen. B. 264, 2020-2021 Reg. Sess. (Cal. 2020) (attached as
19 Exhibit 11). SB 264, which added section 27575 to the California Penal Code, bars
20 any “officer, employee, operator, lessee, or licensee of the [District]” from
21 “contract[ing] for, authoriz[ing], or allow[ing] the sale of any firearm, firearm
22 precursor part, or ammunition on the property or in the buildings that comprise the
23 OC Fair and Events Center.” Violation of the law is a misdemeanor. *Id.*

24 127. SB 264 does not bar the possession of firearms, ammunition, or firearm
25 precursor parts on the property or in the buildings that comprise the Orange County
26 Fairgrounds. Ex. 10. And it provides exceptions for (1) gun buyback events held by
27 law enforcement, (2) the sale of a firearm by a public administrator, public
28 conservator, or public guardian in the course of their duties, (3) the sale of a firearm,

1 firearm precursor part, or ammunition on state property that occurs pursuant to a
2 contract that was entered into before January 1, 2022, and (4) the purchase of
3 ammunition on state property by a law enforcement agency in the course of its
4 regular duties. *Id.*

5 128. Like AB 893, SB 264 clearly recognizes that “[p]romoters maintain
6 relationships with a core group of vendors, some selling guns and some selling other
7 merchandise, who travel as the schedule dictates from city to city and state to state
8 and in the West, for example, many of the same vendors can be seen at Crossroads
9 of the West Gun Shows from San Francisco, California, to Tucson, Arizona.” *Id.*

10 129. SB 264 failed to identify, however, any real public safety or security
11 concern specifically related to the existence of gun show events at the Fairgrounds.
12 Indeed, without citing specific safety concerns related to the *Orange County*
13 Fairgrounds, the authors of SB 264 literally copied and pasted the same vague
14 “security concerns” related to the *Del Mar* Fairgrounds from the language of AB
15 893 to label the Orange County events a threat to the local community. *Id.*

16 130. To be sure, SB 264 claims that “[g]un shows bring grave danger to a
17 community” and that “dangerous incidents” have taken place at guns shows at the
18 Fairgrounds, including “*an official vendor accused of trafficking illegal firearms,*
19 *sales of firearms to individuals registered in the Department of Justice Bureau of*
20 *Firearms Armed Prohibited Persons System, and illegal importation of large-*
21 *capacity magazines.*” *Id.* But SB 264 makes no effort to show that these incidents
22 are any more likely to occur at the Orange County gun show or gun shows in
23 California in general, which are regulated at least as heavily as retailers operating
24 out of brick-and-mortar stores. What’s more, these incidents are identical to the
25 crimes alleged to have taken place at the Del Mar Fairgrounds—an odd coincidence
26 to be sure.

27 131. Instead, SB 264’s legislative history reveals only general concerns
28 about gun violence occurring all over the country, unrelated to California gun

1 shows, and legislators’ beliefs that the state should not profit from sales of firearms
2 and ammunition.

3 132. Indeed, SB 264 opens with a list of tragedies, including the horrific
4 mass murders that took place at Columbine High School, Sandy Hook Elementary
5 School, and Marjory Stoneman Douglas High School—none of which were carried
6 out with firearms traced to gun show events at the Fairgrounds. *Id.*

7 133. The Senate Committee on Public Safety’s March 15, 2021, analysis
8 cited a report from the Government Accountability Office, claiming that a GAO
9 report “regarding gun trafficking to Mexico confirmed that many traffickers buy
10 guns at gun shows.” Sen. Comm. Pub. Safety, Bill Analysis Re: SB 264 (Min),
11 2021-2022 Reg. Sess., at 4 (Cal. 2021) (attached as Exhibit 12). But again, neither
12 the BATFE report nor SB 264’s legislative history links any illegally trafficked
13 firearm to gun shows at the Orange County Fairgrounds (or even to gun shows in
14 California). *See* Ex. 9.

15 134. In comments to the Senate Public Safety Committee on March 16,
16 2021, Senator Min claimed that “SB 264 will ensure that the state is not profiting
17 from the sale of firearms and ammunition on state property or facilitating gun shows
18 that would undermine California’s strong firearm regulations.” Sen. Pub. Safety
19 Committee Hrg., Mar. 16, 2021, at 3:20:18, *available at*
20 [https://www.senate.ca.gov/media-archive/default?title=Public+Safety&startdate=](https://www.senate.ca.gov/media-archive/default?title=Public+Safety&startdate=03%2F16%2F2021&enddate=03%2F17%2F2021)
21 [03%2F16%2F2021&enddate=03%2F17%2F2021](https://www.senate.ca.gov/media-archive/default?title=Public+Safety&startdate=03%2F16%2F2021&enddate=03%2F17%2F2021) (last accessed Aug. 4, 2022).

22 135. In his remarks to the Senate Public Safety Committee, Senator Min
23 claimed that the carnival-like atmosphere of gun shows lends itself to “lots of gun
24 sales in the parking lot or by Venmo where the gun is delivered later.” No data was
25 presented to support these claims even when asked by Senator Bogh. Senator Min
26 ultimately conceded that he does not know how many firearms from gun shows
27 actually move into the stream of illegal commerce. *Id.* at 4:05:36. He went on to
28 state that even if there have zero unlawful acts at guns shows, “there is a principal

1 that taxpayers should not be utilized, and taxpayer venues should not be utilized to
2 promulgate the distribution of more guns in our communities.” *Id.* at 4:09:40.

3 136. Senator Min’s closing remarks to the Senate Public Safety Committee
4 recognized that SB 264 is “symbolic” and makes a statement that the state does not
5 want to give an endorsement of “our taxpayer venues being used to sell more guns
6 in our communities. *Id.* at 4:12:59.

7 137. Similarly, in his remarks to the Assembly Committee on Public Safety
8 on July 13, 2021, Senator Min said that ending gun shows and banning the sale of
9 firearms, ammunition, and precursor parts at state-owned properties is a value
10 statement that the state of California must make. *See* Assem. Pub. Safety Committee
11 Hrg., Mar. 16, 2021, at 4:01:22, *available at*
12 [https://www.assembly.ca.gov/media/assembly-public-safety-committee-](https://www.assembly.ca.gov/media/assembly-public-safety-committee-20210713/video)
13 [20210713/video](https://www.assembly.ca.gov/media/assembly-public-safety-committee-20210713/video) (last accessed Aug. 4, 2022). “Value statements” are made about
14 likes and dislikes, not about issues of public safety. Min’s candid remarks about the
15 intention of SB 264 clearly illustrate a commitment to end gun shows not for safety
16 reasons, but to restrict the lawful speech and activities of a culture that he does not
17 understand and does not support.

18 **[The Impact of SB 264 on the Orange County Gun Show]**

19 138. The sale of firearms and ammunition is an essential function of gun
20 shows, and it is one of the main reasons people attend these events; if gun shows are
21 not economically viable because they have been stripped of an essential function,
22 they will cease to exist.

23 139. SB 264 thus has the same practical effect as Del Mar’s unconstitutional
24 gun show moratorium which was enjoined by federal court—that is, by permanently
25 banning the commercial sale of firearms and ammunition at the Fairgrounds, it has
26 the effect of banning gun shows at the Fairgrounds.

27 140. The Legislature was well-aware when it passed SB 264 that a “gunless”
28 gun show would not survive financially. Indeed, the intended purpose of SB 264

1 was to end gun shows at the Fairgrounds as noted by bill sponsor Senator Min in
2 numerous committee testimonies and public comments.

3 141. The July 12, 2021, Assembly Committee on Public Safety’s bill
4 analysis references other similar legislative attempts to ban gun shows on state
5 agricultural land. Assem. Comm. Pub. Safety, Bill Analysis Re: SB 264 (Min),
6 2021-2022 Reg. Sess., at 3 (Cal. 2021) (attached as Exhibit 13). The analysis notes
7 that:

8
9 AB 893 (Gloria) Chapter 731, Statutes of 2019, added a section to
10 the Food and Agricultural Code that prohibits the sale of firearms
11 and ammunition at the Del Mar Fairgrounds, **effectively terminating**
12 **the possibility for future gun shows** at the Del Mar Fairgrounds.
13 AB 893 was signed into law by Governor Newsom. This bill would
14 expand the provisions of AB 893 by including all state property
15 within the prohibition on the sale or transfer of firearms and
16 ammunition.⁵

17 142. Senator Min knew that the intended and practical effect of SB 264 was
18 to end gun shows. His official Senate press release notes “[i]f signed into law, SB
19 264 would effectively put a stop to most gun shows on county fairgrounds.” Press
20 Release, *Senator Dave Min’s Gun Violence Prevention Bill Advances from Assembly*
21 *Public Safety Committee* (July 13, 2021), available at
22 [https://sd37.senate.ca.gov/news/senator-dave-mins-gun-violence-prevention-bill-](https://sd37.senate.ca.gov/news/senator-dave-mins-gun-violence-prevention-bill-advances-assembly-public-safety-committee)
23 [advances-assembly-public-safety-committee](https://sd37.senate.ca.gov/news/senator-dave-mins-gun-violence-prevention-bill-advances-assembly-public-safety-committee) (last accessed Aug. 4, 2022).

24 143. And further evidencing the Legislature’s intended effect of SB 264,
25 Senator Min wrote to Defendant District, warning members not to stand in the way
26 of his bill that would ban sales of firearms, ammunition, and firearm precursor parts
27 at the Fairgrounds. Letter from Senator Dave Min to Board Members of 32nd
28 District Agricultural Association (on or about Sept. 13, 2021) (attached as Exhibit
14).

26 _____
27 ⁵ SB 264 was initially introduced as a bill to end sales of firearms, ammunition,
28 and firearm precursor parts on *all* state-owned property. But Min failed to garner
enough support for such a ban and agreed to limit the scope of SB 264 to the OC
Fair & Event Center.

1 144. In his letter dated on or about September 13, 2021, Min addressed the
2 District’s concerns that its venue was being unfairly and exclusively targeted,
3 responding that SB 264 was no different from earlier attempts to ban gun shows at a
4 single fairground:

5 While Item 6A expresses a concern that SB 264 “exclusively targets
6 the 32nd DAA,” such action to ban gun shows at a single fairground
7 site has recent precedent. In 2019, Gov. Newsom signed Assembly
8 Bill 893 (Gloria) into law, ending the sale of firearms and
ammunition at the Del Mar Fairgrounds, operated by the 22nd
District Agricultural Association.

9 *Id.* (emphasis added).

10 145. In that same letter, Senator Min also threatened the District’s board
11 members with individual liability lawsuits should they move to approve contracts
12 for the gun shows even before Governor Newsom had signed SB 264 into law. *Id.*

13 146. Nonetheless, Plaintiff Crossroads has repeatedly reached out to
14 Defendant District to request dates for events at the Fairground in 2021 and 2022.
15 But Defendant District refused to place the contracts for gun shows on the agenda
16 for October, November, or December 2021, stating instead that they would revisit
17 the issue again in January 2022 after SB 264 would go into effect.

18 147. Plaintiff Crossroads was unable to secure dates and enter into new
19 contracts for events at the Fairgrounds in 2022 due to the Defendants’ intentional act
20 of adopting and enforcing SB 264 and refusing to consider their contracts in the
21 same way they would any other member of the public seeking to rent the
22 Fairgrounds venue.

23 148. Indeed, in compliance with SB 264, Defendant District cannot and will
24 not enter into contracts for gun shows at the Fairgrounds if firearms, ammunition, or
25 firearm precursor parts will be sold.

26 149. Even though Plaintiff Crossroads has offered to attempt to hold events
27 without sales of firearms, ammunition, or firearm precursor parts to preserve its
28 longstanding relationship with the District, mitigate damages, and continue planning

1 and promoting its family-friendly events until its claims can be heard, Defendant
2 District dragged its feet and refused to provide dates for events for 2022.

3 150. Because of the time and resources needed to plan and implement its
4 gun show events, Plaintiff Crossroads must plan its shows about one year in
5 advance, but Defendant District has not allowed Plaintiff Crossroads to secure dates
6 in 2023 either.

7 151. What's more, Defendant District seems to have stripped Plaintiff
8 Crossroads of its effective right of first refusal under the District's "hold" system
9 described above. Indeed, it failed to give Crossroads first (or any) choice of its dates
10 in 2021 or 2022.

11 152. Defendants' adoption and enforcement of SB 264, which has the
12 intended and practical effect of banning gun shows at the Fairgrounds, has and will
13 continue to cause Plaintiff Crossroads significant economic damages, including loss
14 of event revenue, breakdown of relationships and agreements with long-time event
15 vendors and companies used as suppliers for gun show events, relinquishment of
16 future show dates, and loss of business reputation and goodwill that has been built
17 by Plaintiff Crossroads for more than 30 years.

18 153. Plaintiff Crossroads has already lost revenue for gun show events at the
19 Fairgrounds in December 2021 and 2022 because the Fair Board will not finalize
20 event dates, citing SB 264 as the reason along with the threats from Senator Min for
21 personal liability should they act. If shows do not return to the Fairgrounds in 2022,
22 Plaintiff Crossroads will lose all revenue for gun show events at the Fairgrounds in
23 2022.

24 154. Even if Plaintiff Crossroads could secure dates, plan, promote, and host
25 gun shows in 2022, SB 264 stands in the way of Crossroads generating the profits
26 the events typically generate because the ban on firearm and ammunition sales will
27 significantly impact paid event attendance and the types and numbers of paid
28 vendors who will do business with Crossroads at the Orange County gun show.

1 155. Plaintiff Crossroads has and will continue to suffer loss of business
2 goodwill resulting from Defendants’ adoption and enforcement of SB 264 under the
3 (unsupported) pretense that gun shows, generally, and Crossroads’ shows, in
4 particular, threaten public safety. The message this sends to other venues, attendees,
5 and vendors that do business with Crossroads will no doubt affect Crossroads for
6 years.

7 156. Defendants’ adoption and enforcement of SB 264, which has the
8 intended and practical effect of banning gun shows at the Fairgrounds, prohibits
9 Plaintiffs and all those similarly situated from making use of a state-owned “public
10 assembly facility” to host gun show events, a lawful business activity, in violation of
11 Plaintiffs’ rights to engage in free speech and peaceful assembly, and their right to
12 equal protection under the law.

13 157. Specifically, Defendants’ conduct complained of here strips Plaintiffs
14 Clark, Johnson, Littrell, and Merson, as well as the organizational plaintiffs, CRPA,
15 APAGOA, 2ALC, and SAF, of a vital opportunity to assemble and engage in pure
16 speech about, among other things, the rights and responsibilities of gun owners, the
17 Second Amendment, patriotism, and political activism with like-minded individuals.

18 158. Defendants’ conduct complained of here also strips Plaintiff Crossroads
19 of the right to promote gun show events, acting as a “clearinghouse” for both
20 political speech and commercial speech.

21 159. Defendants’ conduct complained of here also strips Plaintiffs Littrell
22 and Merson, as well as business members of CRPA that participate as vendors at
23 gun shows at the Fairgrounds, of a vital opportunity to assemble and engage in
24 lawful commercial speech, including the offer and acceptance of sales of firearms,
25 ammunition, and related accessories.

26 160. Furthermore, even if the Court grants injunctive relief, Plaintiff
27 Crossroads will have incurred damages in having to devote extraordinary advertising
28 dollars to inform the public that gun shows will continue to be held and have not

1 been banned at the Fairgrounds.

2 161. The economic and non-economic harms and injuries to Plaintiffs are of
3 a continuing nature; they continue to compound everyday SB 264 remains the law.

4
5 **FIRST CAUSE OF ACTION**
6 **Violation of Right to Free Speech Under U.S. Const., amend. I**
7 **42 U.S.C. § 1983**
8 (By Plaintiffs Clark, Johnson, Littrell, Merson, CRPA, APAGOA, 2ALC, SAF
9 Against All Defendants)

10 162. Plaintiffs incorporate by reference paragraphs 1 through 161 of this
11 Complaint as though fully set forth herein in their entirety.

12 163. The state of California owns the Fairgrounds, a public venue. It is
13 rented to the public, including community-based organizations and businesses, for
14 its use and enjoyment, including for concerts, festivals, and industry shows.

15 164. Plaintiffs Clark, Johnson, Littrell, Merson, CRPA, APAGOA, 2ALC ,
16 and SAF have attended in the past and wish to again attend Crossroads gun shows at
17 the Fairgrounds so they may exchange ideas, information, and knowledge, as well
18 discuss political issues and the importance of protecting and defending the Second
19 Amendment.

20 165. Plaintiffs Clark, Johnson, Littrell, Merson, CRPA, APAGOA, 2ALC,
21 and SAF have a right under the First Amendment to use the Fairgrounds for their
22 expressive activity on the same basis as other members of the public without regard
23 to the viewpoints they seek to express.

24 166. Defendants Newsom, Bonta, and Spitzer, acting under color of state
25 law, are the state and local actors responsible for enforcing SB 264, which deprives
26 Plaintiffs of free speech rights secured by the First Amendment of the United States
27 Constitution in violation of 42 U.S.C. § 1983.

28 167. Defendants Ross and District interpret, implement, and enforce state
laws and policies in regard to the Fairgrounds, including SB 264, which deprives
Plaintiffs of free speech rights secured by the First Amendment of the United States

1 Constitution in violation of 42 U.S.C. § 1983.

2 168. Defendants’ enforcement of SB 264, which prohibits the sale of
3 firearms, ammunition, and firearm precursor parts at the Fairgrounds with the
4 purpose and intention (or at least the effect) of banning gun show events at the
5 Fairgrounds, is an impermissible content-based restriction of speech. Such
6 enforcement constitutes a direct violation of the free speech rights of Plaintiffs
7 Clark, Johnson, Littrell, Merson, CRPA, APAGOA, 2ALC, and SAF.

8 169. Defendants have no compelling (or even legitimate) governmental
9 interest in banning the otherwise lawful (and constitutionally protected) sale of
10 lawful firearms, ammunition, and firearm precursor parts at the Fairgrounds, or in
11 banning gun show events and the unique expression and exchange of ideas related to
12 promoting and preserving the “gun culture” that takes place at those events. Any
13 purported interest in “public safety” is betrayed by the fact that SB 264 does not ban
14 the possession of firearms, ammunition, or firearms precursor parts on Fairgrounds
15 property and state law already governs sales at gun shows *at least* as strictly as it
16 governs sales at “brick-and-mortar” stores.

17 170. Further, SB 264 is neither narrowly tailored to nor the least restrictive
18 means of achieving the state’s dubious interests. Indeed, by intentionally and
19 effectively banning gun shows at the Fairgrounds, it sweeps up *all* forms of speech
20 and expressive conduct that occurs at such events and banishes from a public venue.

21 171. Similarly, SB 264 is unconstitutionally overbroad because, in an effort
22 to restrict the commercial sale of firearms, ammunition, and firearm precursor parts,
23 the law effectively and intentionally bans gun shows events altogether, seriously and
24 deliberately burdening a vast amount of speech that does not constitute such a
25 communication and is fully protected by the First Amendment.

26 172. As a direct and proximate result of Defendants’ conduct, Plaintiffs
27 Clark, Johnson, Littrell, Merson, CRPA, APAGOA, 2ALC, and SAF have suffered
28 irreparable harm, including the violation of their constitutional right to free speech,

1 entitling them to declaratory and injunctive relief. Absent intervention by this Court,
2 through declaratory and injunctive relief, Plaintiffs will continue to suffer this
3 irreparable harm.

4 **SECOND CAUSE OF ACTION**
5 **Violation of Right to Free Speech Under U.S. Const., amend. I**
6 **Mixed Political - Commercial**
7 **42 U.S.C. § 1983**
8 (By Plaintiff Crossroads Against All Defendants)

9 173. Plaintiffs incorporate by reference paragraphs 1 through 172 of this
10 Complaint as though fully set forth herein in their entirety.

11 174. The state of California owns the Fairgrounds, a public venue. It is
12 rented to the public, including community-based organizations and businesses, for
13 its use and enjoyment, including for concerts, festivals, and industry shows.

14 175. Plaintiff Crossroads seeks to engage in protected speech at the
15 Fairgrounds, a noted “public assembly facility,” through the promotion and
16 production of events for lawful expressive activity, including events that bring
17 together like-minded individuals to engage in pure political and educational speech,
18 as well as commercial speech of vendor and individual participants to communicate
19 offer and acceptance for the sale of legal goods and services.

20 176. Event promoters, though they generally promote events for profit, “still
21 enjoy the protections of the First Amendment.” *Id.* at 567. For “[t]he role of a
22 promoter in ensuring access to the public is at least as critical as the role of a
23 bookseller or theater owner and . . . is in a far better position than a concert goer or
24 individual performers to vindicate First Amendment rights and ensure public
25 access.” *Id.* at 568. The conduct they engage in is protected expression.

26 177. Plaintiff Crossroads has a right under the First Amendment to use the
27 Fairgrounds for its expressive activity on the same basis as other members of the
28 public without regard to the content or viewpoint it seeks to express and promote.

178. Defendants Newsom, Bonta, and Spitzer, acting under color of state
law, are the state and local actors responsible for enforcing SB 264, which deprives

1 Plaintiffs of free speech rights secured by the First Amendment of the United States
2 Constitution in violation of 42 U.S.C. § 1983.

3 179. Defendants Ross and District interpret, implement, and enforce state
4 laws and policies in regard to the Fairgrounds, including SB 264, which deprives
5 Plaintiffs of free speech rights secured by the First Amendment of the United States
6 Constitution in violation of 42 U.S.C. § 1983.

7 180. Defendants' enforcement of SB 264, which prohibits the sale of
8 firearms, ammunition, and precursor parts at the Fairgrounds with the purpose and
9 intention (or at least the effect) of banning gun show events at the Fairgrounds, is an
10 impermissible content-based restriction of speech. Such enforcement constitutes a
11 direct violation of the free speech rights of Plaintiff Crossroads.

12 181. Defendants have no compelling (or even legitimate) governmental
13 interest in banning the otherwise lawful (and constitutionally protected) sale of
14 lawful firearms, ammunition, and firearm precursor parts at the Fairgrounds, or in
15 banning gun show events and the unique expression and exchange of ideas related to
16 promoting and preserving the "gun culture" that takes place at those events. Any
17 purported interest in "public safety" is betrayed by the fact that SB 264 does not ban
18 the possession of firearms, ammunition, or firearms precursor parts on Fairgrounds
19 property and state law already governs sales at gun shows *at least* as strictly as it
20 governs sales at "brick-and-mortar" stores.

21 182. Further, SB 264 is neither narrowly tailored to nor the least restrictive
22 means of achieving the state's dubious interests. Indeed, by intentionally and
23 effectively banning gun shows at the Fairgrounds, it sweeps up *all* forms of speech
24 and expressive conduct that occurs at such events and banishes from a public venue.

25 183. Similarly, SB 264 is unconstitutionally overbroad because, in an effort
26 to restrict the commercial sale of firearms, ammunition, and firearm precursor parts,
27 the law effectively and intentionally bans gun shows events altogether, seriously and
28 deliberately burdening a vast amount of speech that does not constitute such a

1 communication and is fully protected by the First Amendment.

2 184. As a direct and proximate result of Defendants' conduct, Plaintiff
3 Crossroads has suffered irreparable harm, including the violation of its constitutional
4 right to free speech, entitling Crossroads to declaratory and injunctive relief. Absent
5 intervention by this Court, through declaratory and injunctive relief, Plaintiffs will
6 continue to suffer this irreparable harm.

7
8 **THIRD CAUSE OF ACTION**
9 **Violation of Right to Commercial Speech Under U.S. Const., amend. I**
10 **42 U.S.C. § 1983**
11 (By Plaintiffs Littrell, Merson, and CRPA Against All Defendants)

12 185. Plaintiffs incorporate by reference paragraphs 1 through 184 of this
13 Complaint as though fully set forth herein in their entirety.

14 186. The state of California owns the Fairgrounds, a public venue. It is
15 rented to the public, including community-based organizations and businesses, for
16 its use and enjoyment, including for concerts, festivals, and industry shows.

17 187. Plaintiffs Littrell and Merson, as well as business members of CRPA,
18 have attended in the past and wish to again attend Crossroads gun shows at the
19 Fairgrounds as vendors to engage in lawful commercial speech with individual
20 attendees.

21 188. Plaintiffs Littrell, Merson, and CRPA members have a right under the
22 First Amendment to use the Fairgrounds for expressive activity on the same basis as
23 other members of the public without regard to the viewpoints they seek to express
24 and promote.

25 189. Defendants Newsom, Bonta, and Spitzer, acting under color of state
26 law, are the state and local actors responsible for enforcing SB 264, which deprives
27 Plaintiffs of free speech rights secured by the First Amendment of the United States
28 Constitution in violation of 42 U.S.C. § 1983.

190. Defendants Ross and District interpret, implement, and enforce state
laws and policies in regard to the Fairgrounds, including SB 264, which deprives

1 Plaintiffs of free speech rights secured by the First Amendment of the United States
2 Constitution in violation of 42 U.S.C. § 1983.

3 191. Defendants' enforcement of SB 264, which prohibits the sale of
4 firearms, ammunition, and precursor parts at the Fairgrounds with the purpose and
5 intention (or at least the effect) of banning gun show events at the Fairgrounds, is an
6 impermissible content-based restriction of speech. Such enforcement constitutes a
7 direct violation of the First Amendment commercial speech rights of the Plaintiffs.

8 192. Further, by directly barring the rights of vendors, like Plaintiffs Littrell,
9 Merson, and CRPA members, to sell firearms and ammunition (which necessarily
10 involves commercial speech), SB 264 defies existing case law in the Ninth Circuit
11 protecting the commercial speech associated with firearm sales on public property.
12 *See Nordyke v. Santa Clara Cty.*, 110 F. 3d 707 (9th Cir. 1997).

13 193. Defendants have no substantial (or even legitimate) governmental
14 interest in banning the otherwise lawful (and constitutionally protected) sale of
15 lawful firearms, ammunition, and firearm precursor parts at the Fairgrounds, or in
16 banning gun show events and the unique expression and exchange of ideas related to
17 promoting and preserving the "gun culture" that takes place at those events. Any
18 purported interest in "public safety" is betrayed by the fact that SB 264 does not ban
19 the possession of firearms, ammunition, or firearms precursor parts on Fairgrounds
20 property and state law already governs sales at gun shows *at least* as strictly as it
21 governs sales at "brick-and-mortar" stores.

22 194. Even if there were a substantial governmental interest in restricting gun
23 shows and the commercial speech that occurs at such events, it would not be directly
24 served by a ban on sales of firearms, ammunition, and firearm precursor parts at the
25 Fairgrounds.

26 195. Even if there were a substantial governmental interest in restricting gun
27 shows and the commercial speech that occurs at such events, banning commercial
28 speech about firearms and ammunition at the Fairgrounds altogether is more

1 extensive than necessary to serve any such interest. *See Nordyke*, 110 F.3d 707
2 (holding that a ban on the sale of firearms on county-owned land was overbroad as
3 abridging commercial speech associated with the sale of lawful products).

4 196. As a direct and proximate result of Defendants' conduct, Plaintiffs
5 Littrell, Merson, and CRPA have suffered irreparable harm, including the violation
6 of their constitutional right to free speech, entitling them to declaratory and
7 injunctive relief. Absent intervention by this Court, through declaratory and
8 injunctive relief, Plaintiffs will continue to suffer this irreparable harm.

9
10 **FOURTH CAUSE OF ACTION**
11 **Prior Restraint on Right to Free Speech Under U.S. Const., amend. I**
12 **42 U.S.C. § 1983**
13 (By All Plaintiffs Against All Defendants)

14 197. Plaintiffs incorporate by reference paragraphs 1 through 196 of this
15 Complaint as though fully set forth herein in their entirety.

16 198. The First Amendment affords special protection against policies or
17 orders that impose a previous or prior restraint on speech. “[P]rior restraints on
18 speech and publication are the most serious and least tolerable infringement on First
19 Amendment Rights.” *Ass’n for L.A. Deputy Sheriffs*, 239 Cal. App. 4th at 811 (citing
20 *Neb. Press Ass’n*, 427 U.S. at 559. A prior restraint is particularly egregious when it
21 falls upon the communication of news, commentary, current events, political speech,
22 and association. *N.Y. Times Co.*, 403 U.S. at 715.

23 199. Prior restraint also involves the “unbridled discretion doctrine” where a
24 policy, or lack thereof, allows for a single person or body to act at their sole
25 discretion, without regard for any constitutional rights possessed by the person upon
26 which the action is taken, and where there is no remedy for challenging the
27 discretion of the decision makers. *Lakewood*, 486 U.S. at 757.

28 200. The Defendants are the state and local actors responsible for enforcing
SB 264, which is a content-based restriction of speech that will have a chilling effect
on Plaintiffs' First Amendment rights, thus acting as a de facto prior restraint on

1 Plaintiffs’ rights (including a refusal to place contract approval on board agendas or
2 to offer available dates to begin the process of renting the venue).

3 201. Under SB 264, Defendant District has unfettered discretion to
4 determine what constitutes a “sale” under the law and is thereby prohibited at the
5 Fairgrounds.

6 202. Defendants’ policies and practices complained of here impose an
7 unconstitutional prior restraint because they vest the District with unbridled
8 discretion to permit or refuse protected expression by members of the public,
9 including Plaintiffs.

10 203. Defendants’ policies and practices complained of here give unbridled
11 discretion to local agricultural district boards and board members to decide what
12 forms of expression members of the public may engage in on at the Fairgrounds and
13 to ban any other expression at the whim of those boards and board members in
14 violation of the First Amendment.

15 204. As a direct and proximate result of Defendants’ conduct, Plaintiffs have
16 suffered and will continue to suffer irreparable harm, including the violation of their
17 constitutional right to freedom of expression, entitling them to declaratory and
18 injunctive relief and nominal damages.

19
20 **FIFTH CAUSE OF ACTION**
21 **Violation of Right to Assembly and Association Under U.S. Const., amend. I**
22 **42 U.S.C. § 1983**
23 **(By All Plaintiffs Against All Defendants)**

24 205. Plaintiffs incorporate by reference paragraphs 1 through 204 of this
25 Complaint as though fully set forth herein in their entirety.

26 206. The state of California owns the Fairgrounds, a public venue. It is
27 rented to the public, including community-based organizations and businesses, for
28 its use and enjoyment, including for concerts, festivals, and industry shows.

207. Plaintiffs have promoted and/or attended in the past and wish to again
promote and/or attend Crossroads gun shows at the Fairgrounds so they may

1 assemble and associate with one another to engage in lawful commerce, fellowship,
2 and expressive activities, including political and educational speech regarding the
3 lawful ownership, possession, and use of firearms and related products.

4 208. Plaintiffs have a right under the First Amendment to use the
5 Fairgrounds to assemble and associate on the same basis as other members of the
6 public without regard to the content or viewpoint it seeks to express and promote.

7 209. Defendants Newsom, Bonta, and Spitzer, acting under color of state
8 law, are the state and local actors responsible for enforcing SB 264, which deprives
9 Plaintiffs of free speech rights secured by the First Amendment of the United States
10 Constitution in violation of 42 U.S.C. § 1983.

11 210. Defendants Ross and District interpret, implement, and enforce state
12 laws and policies in regard to the Fairgrounds, including SB 264, which deprives
13 Plaintiffs of free speech rights secured by the First Amendment of the United States
14 Constitution in violation of 42 U.S.C. § 1983.

15 211. Defendants' enforcement of SB 264, which prohibits the sale of
16 firearms, ammunition, and precursor parts at the Fairgrounds with the purpose and
17 intention (or at least the effect) of banning gun show events at the Fairgrounds,
18 violates Plaintiffs' rights to assembly and association by denying them the right to
19 use the Fairgrounds, a "public assembly facility," to assemble and engage in
20 political and other types of expression—a right Defendants extend to other members
21 of the public so long as they are not meeting for the purposes of holding a gun show
22 event.

23 212. Defendants have no compelling (or even legitimate) governmental
24 interest in banning the otherwise lawful (and constitutionally protected) sale of
25 lawful firearms, ammunition, and firearm precursor parts at the Fairgrounds, or in
26 banning gun show events and, by extension, the rights of Plaintiffs to assemble and
27 associate at the Fairgrounds. Any purported interest in "public safety" is betrayed by
28 the fact that SB 264 does not ban the possession of firearms, ammunition, or

1 firearms precursor parts on Fairgrounds property and state law already governs sales
2 at gun shows *at least* as strictly as it governs sales at “brick-and-mortar” stores.

3 213. Even if SB 264 served some sufficient government purpose, it is neither
4 narrowly tailored nor the least restrictive means to serve that end.

5 214. As a direct and proximate result of Defendants’ conduct, all Plaintiffs
6 have suffered irreparable harm, including the violation of their constitutional right to
7 free association and assembly, entitling them to declaratory and injunctive relief.
8 Absent intervention by this Court, through declaratory and injunctive relief,
9 Plaintiffs will continue to suffer this irreparable harm.

10
11 **SIXTH CAUSE OF ACTION**
12 **Violation of the Right to Equal Protection Under U.S. Const., amend. XIV**
13 **42 U.S.C. § 1983**
14 (By All Plaintiffs Against All Defendants)

15 215. Plaintiffs incorporate by reference paragraphs 1 through 214 of this
16 Complaint as if fully set forth herein in their entirety.

17 216. Defendants, acting under color of state law, are enforcing SB 264,
18 which deprives Plaintiffs of right to equal protection under the law secured by the
19 Fourteenth Amendment of the United States Constitution in violation of 42 U.S.C. §
20 1983.

21 217. On its face and as applied, SB 264 is an unconstitutional abridgement
22 of Plaintiffs’ right to equal protection under the law guaranteed by the Fourteenth
23 Amendment because it is a viewpoint-discriminatory and/or animus-based
24 restriction on Plaintiffs’ protected speech that serves no compelling governmental
25 interest

26 218. On its face and as evidenced by the legislative history of AB 2571, it is
27 clear that the law’s purpose and intention is to make a “symbolic” gesture and a
28 “value statement” about the otherwise lawful sale of firearms and related products
and of the proliferation of the “gun culture” in California and elsewhere.

219. Defendants have no compelling (or even legitimate) governmental

1 interest in banning Plaintiffs’ speech. Indeed, any purported interest in “public
2 safety” is betrayed by the fact that SB 264 does not ban the possession of firearms,
3 ammunition, or firearms precursor parts on Fairgrounds property and state law
4 already governs sales at gun shows *at least* as strictly as it governs sales at “brick-
5 and-mortar” stores.

6 220. Defendants’ refusal to allow Plaintiffs equal use of the public facility
7 while continuing to allow contracts for the use of the facility with other similarly
8 situated legal and legitimate businesses is a violation of Plaintiffs’ right to equal
9 protection under the law because it is based on a “bare desire to harm a politically
10 unpopular group.” *Moreno*, 413 U.S. at 534.

11 221. Further, AB 2571 is not narrowly tailored to achieving the state’s
12 dubious interests.

13 222. As a direct and proximate result of Defendants’ conduct, all Plaintiffs
14 have suffered irreparable harm, including the violation of their constitutional right to
15 equal protection under the law, entitling them to declaratory and injunctive relief.
16 Absent intervention by this Court, through declaratory and injunctive relief,
17 Plaintiffs will continue to suffer this irreparable harm.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiffs pray for:

20 1. A declaration that SB 264, codified at California Penal Code section
21 27575, violates the free speech rights of Plaintiffs Clark, Johnson, Littrell, Merson,
22 CRPA, APAGOA, 2ALC, and SAF under the First Amendment to the United States
23 Constitution, on its face and as applied;

24 2. A declaration that SB 264, codified at California Penal Code section
25 27575, violates the free speech rights of Plaintiff Crossroads under the First
26 Amendment to the United States Constitution, on its face and as applied;

27 3. A declaration that SB 264, codified at California Penal Code section
28 27575, violates the commercial speech rights of Plaintiffs Littrell, Merson, and

1 CRPA under the First Amendment to the United States Constitution, on its face and
2 as applied;

3 4. A declaration that SB 264, codified at California Penal Code section
4 27575, violates the free speech rights of all Plaintiffs under the First Amendment to
5 the United States Constitution because it imposes a prior restraint on their speech;

6 5. A declaration that SB 264, codified at California Penal Code section
7 27575, violates Plaintiffs' rights of assembly and association under the First
8 Amendment to the United States Constitution, on its face and as applied;

9 6. A declaration that SB 264, codified at California Penal Code section
10 27575, violates the rights of all Plaintiffs to equal protection under the law per the
11 Fourteenth Amendment to the United States Constitution, on its face and as applied;

12 7. Defendants, their employees, agents, successors in office, and all
13 District Attorneys, County Counsel, and City Attorneys holding office in the state of
14 California, as well as their successors in office, from enforcing SB 264, codified at
15 California Penal Code section 27575;

16 8. An order for damages, including nominal damages, according to proof;

17 9. An award of costs and expenses, including attorney's fees, pursuant to
18 42 U.S.C. § 1988 or other appropriate state or federal law; and

19 10. Any such other relief the Court deems just and equitable.

20
21 Dated: August 12, 2022

MICHEL & ASSOCIATES, P.C.

22 *s/ Anna M. Barvir*

23 Anna M. Barvir
24 Counsel for Plaintiffs B&L Productions, Inc.,
25 California Rifle & Pistol Association,
26 Incorporated, Gerald Clark, Eric Johnson, Chad
27 Littrell, Jan Steven Merson, Asian Pacific
28 American Gun Owner Association, Second
Amendment Law Center, Inc.

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Dated: August 12, 2022

LAW OFFICES OF DONALD KILMER, APC

s/ Donald Kilmer

Donald Kilmer
Counsel for Plaintiff Second Amendment
Foundation