

SEILER EPSTEIN ZIEGLER & APPEGATE LLP
Attorneys at Law

1 George M. Lee (SBN 172982)
Douglas A. Applegate (SBN 142000)
2 **SEILER EPSTEIN ZIEGLER & APPEGATE LLP**
601 Montgomery Street, Suite 2000
3 San Francisco, California 94111
Phone: (415) 979-0500
4 Fax: (415) 979-0511

5 Raymond M. DiGuseppe (SBN 228457)
LAW OFFICES OF RAYMOND MARK DIGUISEPPE, PLLC
6 4002 Executive Park Blvd., Suite 600
Southport, NC 28461
7 Phone: (910) 713-8804
Fax: (910) 672-7705

8 Attorneys for Plaintiffs
9 WILLIAM WIESE, JEREMIAH MORRIS,
LANCE COWLEY, SHERMAN MACASTON,
10 ADAM RICHARDS, CLIFFORD FLORES,
L.Q. DANG, FRANK FEDEREAU, ALAN NORMANDY,
11 TODD NIELSEN, THE CALGUNS FOUNDATION,
FIREARMS POLICY COALITION,
12 FIREARMS POLICY FOUNDATION,
and SECOND AMENDMENT FOUNDATION

13
14 UNITED STATES DISTRICT COURT

15 FOR THE EASTERN DISTRICT OF CALIFORNIA

16
17 WILLIAM WIESE, et al.,

18 Plaintiffs,

19 vs.

20
21 XAVIER BECERRA, in his official capacity as
Attorney General of California, et al.,

22 Defendants.
23
24

Case No. 2:17-cv-00903-WBS-KJN

**DECLARATION OF CLIFFORD W. FLORES IN
SUPPORT OF PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER AND
ISSUANCE OF PRELIMINARY INJUNCTION**

[FRCP 65; E.D. L.R. 231]

Date: TBA
Time: TBA
Courtroom 5
Judge: Hon. William B. Shubb

25
26 //
27 //
28 //

DECLARATION OF CLIFFORD W. FLORES

I, Clifford W. Flores, declare as follows:

1. I am an adult resident of the County of Santa Clara, California, and I am a named plaintiff in this matter. I have personal knowledge of the facts stated in this declaration, and if called as a witness, could competently testify thereto.

2. This declaration is executed in support of plaintiffs' motion for the issuance of a temporary restraining order, and issuance of a preliminary injunction, made pursuant to FRCP 65, whereby we are seeking an injunction prohibiting the temporary/permanent enforcement of the prohibition on the *possession* of large-capacity magazines, set forth in Pen. Code § 32310, subdiv. (c) and (d) as enacted in 2016.

3. I am a lifelong resident of this state. I am a law-abiding individual, and I am not prohibited from owning firearms.

4. I am also a long-standing collector of firearms, some of which are rare and unique, and/or of significant historical value. In conjunction with this collection, I have acquired, since before 2000, a large-capacity magazine as that term is defined by the statute. This large-capacity magazine was originally manufactured for, and made a part of a Pistole Parabellum 1908 Luger pistol, chambered in 9mm Luger, which I own. I am informed and believe that this is a World War I-era pistol, manufactured in 1917 or before, and imported into the United States thereafter for legal sale and acquisition by collectors.

5. I am further informed and believe that the large-capacity magazine, which is an operating part of this pistol, has substantial historical and financial value, and is irreplaceable – especially in California, where I understand that the transfer of large-capacity magazines by ordinary citizens has been generally prohibited since 2000.

6. I am the trustee of a testamentary trust called the Flores Family Trust, established in approx. 2008, in which I have placed all of my personal property, with the intention of passing such property onto my son, Miguel Wong, who is a law-abiding adult, and who is not prohibited from owning or acquiring firearms. I would like to bequeath the firearm, complete with the

1 magazine to which it is a part, to my son, by and through the family trust, after I pass.

2 7. I do not wish to “part out” such a rare and unique pistol with substitute parts that
3 were not included or acquired along with the pistol, or that may diminish its utility and/or value.
4 I therefore believe this is a substantial burden on my rights as a gun and property owner.

5 8. I have therefore brought this action on my own behalf, and in a representative
6 capacity on behalf of the class of law-abiding California citizens who have lawfully possessed
7 large-capacity magazines (as that term is defined by statute), since before 2000. The “pre-ban”
8 magazine which I own is an inherent operating part of a firearm. That firearm containing the
9 “pre-ban” large capacity magazine is lawfully owned by me, as is my right, as guaranteed by the
10 U.S. Constitution.

11 9. I do not wish to remove or sell this pre-ban large-capacity magazine in my
12 possession, as it is literally irreplaceable, given the prohibition on the further purchase,
13 acquisition or manufacture of such items under California law. I am unwilling to destroy or
14 surrender this pre-ban large capacity magazine in my possession.

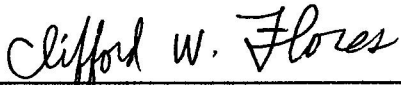
15 10. Therefore, I believe that this large-capacity magazine in my possession has
16 substantial value, as an irreplaceable item. Moreover, it would likely cost me substantial
17 amounts to replace the magazine with functional equivalents using magazines holding ten or
18 fewer rounds, which was not originally included with this pistol. In my view, this deprives me of
19 the beneficial use of the firearm as it was intended to be used, and undermines its utility.

20 11. Because of these facts and circumstances, as of July 1, unless the enforcement of
21 Pen. Code § 32310(c) is enjoined, I will suffer a permanent physical deprivation of personal
22 property, which happens to be an inherent, operating part of a firearm, the ownership of which is
23 protected by the Constitution. I will therefore and for the reasons stated here suffer irreparable
24 injury unless the law is enjoined.

25 12. As of July 1, 2017, if Penal Code § 32310(c) remains in effect and is enforced, I
26 will comply with the law, but in so doing, I will be deprived of all beneficial use of the property.
27 For these reasons stated in this declaration, I am respectfully asking the court to enjoin the
28

1 enforcement of the ban on the prohibition of these “pre-ban” large-capacity magazines set forth
2 in Pen. Code § 32310(c) and (d) as amended.

3 I declare under penalty of perjury that the foregoing is true and correct. Executed on
4 June 8 2017.

5
6 
7

Clifford W. Flores

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
SEILER EPSTEIN ZIEGLER & APPELATE LLP
Attorneys at Law