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9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE EASTERN DISTRICT OF CALIFORNIA

13 **TRACY RIFLE AND PISTOL LLC;**
 14 **MICHAEL BARYLA; TEN PERCENT**
 15 **FIREARMS; WESLEY MORRIS;**
 16 **SACRAMENTO BLACK RIFLE, INC.;**
 17 **ROBERT ADAMS; PRK ARMS, INC.;**
 18 **JEFFREY MULLEN; IMBERT &**
 19 **SMITHERS, INC.; and ALEX ROLSKY,**

Plaintiffs,

v.

20 **KAMALA D. HARRIS, in her official**
 21 **capacity as Attorney General of California;**
 22 **AND STEPHEN J. LINDLEY, in his official**
 23 **capacity as Chief of the California**
 24 **Department of Justice Bureau of Firearms,**

Defendants.

2:14-cv-02626-TLN-DAD

**DEFENDANTS' ANSWER TO
 PLAINTIFFS' FIRST AMENDED
 COMPLAINT**

Judge: Hon. Troy L. Nunley
 Action Filed: Nov. 10, 2014

1 For their answer to Tracy Rifle and Pistol LLC, Michael Baryla, Ten Percent Firearms,
2 Wesley Morris, Sacramento Black Rifle, Inc., Robert Adams, PRK Arms, Inc., and Jeffery
3 Mullen, Imbert & Smithers, and Alex Rolsky's (Plaintiffs') First Amended Complaint for
4 Declaratory and Injunctive, or Other Relief (ECF No. 22; the "FAC"), Defendants Kamala D.
5 Harris, in her official capacity as Attorney General of California, and Stephan J. Lindley, in his
6 official capacity as Chief of the California Department of Justice Bureau of Firearms
7 (Defendants), answer, in paragraphs that correspond to the FAC's paragraphs, as follows:

8 1. The allegations contained in the Paragraph 1 are Plaintiffs' characterization of their
9 case, to which no answer is required; to the extent they may be deemed allegations of fact, they
10 are denied.

11 2. The allegations contained in Paragraph 2 constitute conclusions of law to which no
12 answer is required; to the extent they may be deemed allegations of fact, they are denied.

13 3. The allegations contained in Paragraph 3 constitute conclusions of law to which no
14 answer is required; to the extent they may be deemed allegations of fact, they are denied.

15 4. The allegations contained in Paragraph 4 constitute conclusions of law to which no
16 answer is required; to the extent they may be deemed allegations of fact, they are denied.

17 5. The allegations contained in Paragraph 5 constitute conclusions of law to which no
18 answer is required; to the extent they may be deemed allegations of fact, they are denied.

19 6. The allegations contained in Paragraph 6 constitute conclusions of law to which no
20 answer is required; to the extent they may be deemed allegations of fact, they are denied.

21 7. Admit.

22 8. Admit the allegation contained in the second sentence of Paragraph 8 that Michael
23 Baryla is "the individual licensee associated with the dealership." Defendants lack information or
24 belief sufficient to answer the remaining allegations contained in Paragraph 8, and basing their
25 denial on this ground, deny each and every one of those allegations.

26 9. Admit.

27 10. Admit the allegation contained in Paragraph 10 that Wesley Morris is "an individual
28 licensee associated with the dealership." Defendants lack information or belief sufficient to

1 answer the remaining allegations contained Paragraph 10, and basing their denial on this ground,
2 deny each and every one of those allegations.

3 11. Admit.

4 12. Admit the allegation contained in Paragraph 12 that Robert Adams is “the individual
5 licensee associated with the dealership.” Defendants lack information or belief sufficient to
6 answer the remaining allegations contained in Paragraph 12, and basing their denial on this
7 ground, deny each and every one of those allegations.

8 13. Admit.

9 14. Admit the allegation contained in Paragraph 14 that Jeffrey Mullen is “the individual
10 licensee associated with the dealership.” Defendants lack information or belief sufficient to
11 answer the remaining allegations contained in Paragraph 14, and basing their denial on this
12 ground, deny each and every one of those allegations.

13 15. Admit the allegations contained in the first Paragraph numbered 15.¹

14 16. Admit the allegation contained in the first Paragraph numbered 16 that Alex Rolsky is
15 “the individual licensee associated with the dealership.” Defendants lack information or belief
16 sufficient to answer the remaining allegations contained in the first Paragraph numbered 16, and
17 basing their denial on this ground, deny each and every one of those allegations.

18 15. Admit the allegations contained in the first, second, third, fourth, and sixth sentences
19 of the second Paragraph numbered 15. The allegations contained in the fifth sentence of the
20 second Paragraph numbered 15 are Plaintiffs’ characterization of their case, to which no answer is
21 required; to the extent they may be deemed allegations of fact, they are denied.

22 16. Admit the allegations contained in the first, second, and fourth sentences of the
23 second Paragraph numbered 16. The allegations contained in the third sentence of the second
24 Paragraph numbered 16 are Plaintiffs’ characterization of their case, to which no answer is
25 required; to the extent they may be deemed allegations of fact, they are denied.

26
27 ¹ The FAC contains two Paragraphs numbered 15 and two Paragraph numbered 16. This
28 Answer follows the numbering of the FAC.

1 17. The allegations contained in Paragraph 17 constitute conclusions of law to which no
2 answer is required; to the extent they may be deemed allegations of fact, they are denied.

3 18. The allegations contained in Paragraph 18 constitute conclusions of law to which no
4 answer is required; to the extent they may be deemed allegations of fact, they are denied.

5 19. The allegations contained in Paragraph 19 constitute conclusions of law to which no
6 answer is required; to the extent they may be deemed allegations of fact, they are denied.

7 20. The allegations contained in Paragraph 20 constitute conclusions of law to which no
8 answer is required; to the extent they may be deemed allegations of fact, they are denied.

9 21. The allegations contained in Paragraph 21 constitute conclusions of law to which no
10 answer is required; to the extent they may be deemed allegations of fact, they are denied.

11 22. The allegations contained in Paragraph 22 constitute conclusions of law to which no
12 answer is required; to the extent they may be deemed allegations of fact, they are denied.

13 23. The allegations contained in Paragraph 23 constitute conclusions of law to which no
14 answer is required; to the extent they may be deemed allegations of fact, they are denied.

15 24. Defendants lack information or belief sufficient to answer the allegations contained in
16 the first sentence of Paragraph 24, and basing their denial on this ground, deny each and every
17 allegation thereof. The allegations contained in the second and third sentences of Paragraph 24
18 constitute conclusions of law to which no answer is required; to the extent they may be deemed
19 allegations of fact, they are denied.

20 25. Admit the first sentence of Paragraph 25. Admit that there were pistol advertisements
21 on the windows of Tracy Rifle at the time of the inspection; Defendants lack information or belief
22 sufficient to answer the remaining allegations contained in the second sentence of Paragraph 25,
23 and basing their denial on this ground, deny each and every allegation thereof. The allegation
24 contained in the third sentence of Paragraph 25 that “[a]s of the date of the inspection, each of
25 these firearms could be lawfully purchased in California” constitutes a conclusion of law to which
26 no answer is required; to the extent it may be deemed allegations of fact, it is denied. Defendants
27 lack information or belief sufficient to answer the remaining allegations contained in the third
28

1 sentence of Paragraph 25, and basing their denial on this ground, deny each and every allegation
2 thereof.

3 26. Admit the allegations contained in the first sentence of Paragraph 26 to the extent
4 supported by the document cited, which is the best evidence of its contents; otherwise deny the
5 allegations. The allegations contained in the second sentence of Paragraph 26 constitute
6 conclusions of law to which no answer is required; to the extent they may be deemed allegations
7 of fact, they are denied.

8 27. Defendants lack information or belief sufficient to answer the allegations of
9 Paragraph 27, and basing their denial on this ground, deny each and every allegation thereof.

10 28. Admit the allegations contained in the first and third sentences of Paragraph 28.
11 Deny the allegations contained in the second sentence of Paragraph 28. Admit the allegations
12 contained in the fourth sentence of Paragraph 28 to the extent supported by the document cited,
13 which is the best evidence of its contents; otherwise deny the allegations.

14 29. Defendants lack information or belief sufficient to answer the allegations of
15 Paragraph 29, and basing their denial on this ground, deny each and every allegation thereof.

16 30. Admit the first sentence of Paragraph 30. Defendants lack information or belief
17 sufficient to answer the allegations of the second sentence of Paragraph 30, and basing their
18 denial on this ground, deny each and every allegation thereof. Admit the allegations contained in
19 the third sentence of Paragraph 30 to the extent supported by the document cited, which is the
20 best evidence of its contents; otherwise deny the allegations. The allegations contained in the
21 fourth sentence of Paragraph 30 constitute conclusions of law to which no answer is required; to
22 the extent they may be deemed allegations of fact, they are denied.

23 31. Defendants lack information or belief sufficient to answer the allegations of
24 Paragraph 31, and basing their denial on this ground, deny each and every allegation thereof.

25 32. The allegations contained in Paragraph 32 constitute conclusions of law to which no
26 answer is required; to the extent they may be deemed allegations of fact, they are denied.

27 33. The allegations contained in the first sentence of Paragraph 33 constitute conclusions
28 of law to which no answer is required; to the extent they may be deemed allegations of fact, they

1 are denied. The allegations contained in the second sentence of Paragraph 31 are Plaintiffs'
2 characterization of their case, to which no answer is required; to the extent they may be deemed
3 allegations of fact, they are denied.

4 34. The allegations contained in Paragraph 34 constitute conclusions of law to which no
5 answer is required; to the extent they may be deemed allegations of fact, they are denied.

6 35. Defendants incorporate their answers to Paragraphs 1 through 34 in answer to
7 Paragraph 35.

8 36. The allegations contained in Paragraph 36 constitute conclusions of law to which no
9 answer is required; to the extent they may be deemed allegations of fact, they are denied.

10 37. The allegations contained in Paragraph 37 constitute conclusions of law to which no
11 answer is required; to the extent they may be deemed allegations of fact, they are denied.

12 38. The allegations contained in Paragraph 38 constitute conclusions of law to which no
13 answer is required; to the extent they may be deemed allegations of fact, they are denied.

14 39. The allegations contained in Paragraph 39 constitute conclusions of law to which no
15 answer is required; to the extent they may be deemed allegations of fact, they are denied.

16 Deny each and every allegation not previously admitted or otherwise qualified.

17 Deny that Plaintiffs are entitled to the relief set forth in the prayer for relief immediately
18 following Paragraph 39, or to any relief whatsoever.

19 In addition, without admitting any allegations contained in the FAC, Defendants assert the
20 following defenses based on information and belief:

21 **FIRST DEFENSE**

22 The FAC, and the claims for relief alleged therein, fails to state facts sufficient to constitute
23 a cause of action.

24 **SECOND DEFENSE**

25 The FAC, and the claims for relief alleged therein, is barred because Defendants are
26 immune from suit under the Eleventh Amendment.

27 WHEREFORE, Defendants pray that:

28 1. Plaintiffs take nothing by reason of their complaint;

- 1 2. Judgment be entered in favor of Defendants;
- 2 3. Defendants be awarded their costs incurred in defending this action; and
- 3 4. Defendants be awarded such further relief that the Court may deem just and proper.

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Dated: March 10, 2015

Respectfully Submitted,

KAMALA D. HARRIS
Attorney General of California
TAMAR PACHTER
Supervising Deputy Attorney General

/s/ Nelson Richards
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