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8
9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF WASHINGTON**
11 **AT YAKIMA**

12 MICHAEL SCOTT BRUMBACK, an
13 individual; and GIMME GUNS, a sole
14 proprietorship,
15
16 Plaintiffs,

17 vs.

18 ROBERT W. FERGUSON, in his
19 official capacity as Washington State
20 Attorney General, *et al.*,
21
22 Defendants,

23 ALLIANCE FOR GUN
24 RESPONSIBILITY,
25
26 Defendant-Intervenor

NO. 1:22-cv-03093-MKD

**NOTICE OF SUPPLEMENTAL
AUTHORITY**

1 Plaintiffs Michael Scott Brumback and Gimme Guns respectfully submit the
2 following documents entered in recent, related litigation:

3
4 1. Decision in *Duncan v. Bonta*, No. 17-cv-1017-BEN(JLB) (S.D. Cal, Sept.
5 22, 2023), enjoining the enforcement of California Penal Code § 32310(c) and (d).
6 California Penal Code § 32310(c) and (d) prohibit the: “manufacturing, importing,
7 keeping for sale, offering for sale, giving, lending, buying, receiving or possessing
8 a magazine able to hold more than 10 rounds” and are California’s corollary of the
9 challenged ESSB 5078. The Court’s discussion of history of regulation of the
10 prohibited magazines, is instructive: “There is no American tradition of limiting
11 ammunition capacity and the 10-round limit has no historical pedigree and it is
12 arbitrary and capricious. It is extreme.” The Court’s decision is attached hereto as
13 Exhibit A.
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16 2. Opinion issued in *Baird v. Bonta*, No. 23-15016, 2023 U.S. App. LEXIS
17 23760 (9th Cir. Sep. 7, 2023) in which the Ninth Circuit Court of Appeals “held
18 that the district court abused its discretion by applying an incorrect legal standard
19 to deny Appellants’ motion for a preliminary injunction” in a challenge to
20 “California Penal Code sections that impose criminal penalties for the unlicensed
21 open carry of a handgun.” *Id.*, at *2. The Court Remanded the case with
22 instructions to the District Court to “expeditiously” analyze the matter with a focus
23 on the first of the four factors in *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7
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1 (2008), noting that “the first *Winter* factor is centrally important where a plaintiff
2 alleges a violation of a constitutional right, including the individual’s right to carry
3 a handgun for self-defense outside the home under the Second Amendment.” *Id.*
4 at *3. The Ninth Circuit’s Opinion in *Baird v. Bonta* is attached as Exhibit B.
5

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7 DATED this **22nd** day of September, 2023.
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9

10 /s/Simon Peter Serrano
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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of September 2023, I electronically filed the foregoing document with the Clerk of the United States District Court using the CM/ECF system which will send notification of such filing to all parties who are registered with the CM/ECF system.

DATED this 22nd day of September 2023.

/s/ Simon Peter Serrano
Attorney for Plaintiffs