

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 22-cv-2680-NYW-TPO

ROCKY MOUNTAIN GUN OWNERS,
NATIONAL ASSOCIATION FOR GUN RIGHTS,
CHARLES BRADLEY WALKER,
BRYAN LAFONTE,
GORDON MADONNA,
JAMES MICHAEL JONES, and
MARTIN CARTER KEHOE,

Plaintiffs,

v.

THE TOWN OF SUPERIOR,
CITY OF LOUISVILLE, COLORADO,
CITY OF BOULDER, COLORADO, and
BOARD OF COUNTY COMMISSIONERS OF BOULDER COUNTY,

Defendants.

DEFENDANTS' NOTICE OF SUPPLEMENTAL AUTHORITY

Defendants respectfully submit this Notice of Supplemental Authority to inform the Court of two federal appellate court rulings involving assault weapons and/or large-capacity magazines issued since their most recent filing in this case.

On March 20, 2025, the en banc U.S. Court of Appeals for the Ninth Circuit issued a decision in *Duncan v. Bonta*, No. 23-55805, --- F.4th ----, 2025 WL 867583, at *3, *7-23 (9th Cir. Mar. 20, 2025) (en banc), rejecting a Second Amendment challenge to California's law prohibiting the possession of large-capacity magazines capable of

accepting more than 10 rounds of ammunition.¹ Plaintiffs cited and relied on the district court's decision in *Duncan*, which had found the law unconstitutional, in their summary judgment briefing. See Pls.' Mot. for Summ. J., Dkt. 76, at 3, 30, 38, 41; Pls.' Resp. to Defs.' Mot. for Summ. J., Dkt. 81, at 13-17, 29, 35. Plaintiffs also cited and relied on a dissenting opinion from the en banc Ninth Circuit's prior order staying the district court's decision pending appeal. See Pls.' Mot. for Summ. J., Dkt. 76, at 39; Pls.' Reply in Supp. of Mot. for Summ. J., Dkt. 84, at 5-6. Defendants cited and discussed both the district court's decision in *Duncan* and the en banc Ninth Circuit's stay order in their summary judgment briefing. See Defs.' Mot. for Summ. J., Dkt. 78, at 2-3 n.2; Defs.' Opp. to Pls.' Mot. for Summ. J., Dkt. 82, at 8-9; Defs.' Reply in Supp. of Mot. for Summ. J., Dkt. 83, at 14.

On appeal, the en banc Ninth Circuit reversed the district court's decision, held that the challenged California large-capacity magazine law is constitutional under both the text and history steps of the Second Amendment analysis, and remanded with the instruction to enter judgment in favor of favor of the Attorney General of California. *Duncan*, 2025 WL 867583, at *3, *7-23. A copy of the en banc Ninth Circuit's decision in *Duncan* is attached as Exhibit 1.

In addition, on December 5, 2024, the U.S. Court of Appeals for the Seventh Circuit stayed pending appeal the district court's judgment in *Barnett v. Raoul*, No. 3:23-cv-00209, 2024 WL 4728375 (S.D. Ill. Nov. 8, 2024), *appeal docketed*, No. 24-3060 (7th Cir. Nov. 12, 2024), which had found Illinois's laws restricting assault weapons and

¹ The en banc Ninth Circuit also rejected a challenge to the law under the Fifth Amendment's Takings Clause. *Id.* at *6.

large-capacity magazines unconstitutional. *Barnett v. Raoul*, No. 24-3060, Dkt. 22 (7th Cir. Dec. 5, 2024). Defendants cited and discussed the district court's decision in *Barnett*, which was then temporarily stayed for 30 days to permit defendants to seek a stay in the Seventh Circuit, in their most recent filing in this case. See Mem. of Defs. in Supp. of Summ. J. on Certain Claims for Lack of Standing, Dkt. 102, at 3-4 n.4. In granting a stay of the district court's decision pending appeal, the Seventh Circuit in *Barnett* pointed to both "the analysis in *Bevis* [*v. City of Naperville*, 85 F.4th 1175 (7th Cir. 2023), *cert. denied*, 114 S. Ct. 2491 (2024)]" and the consensus from "[e]very other court of appeals that has addressed the validity of similar legislation in the wake of *New York State Rifle [& Pistol] Association v. Bruen*, 597 U.S. 1 (2022)." A copy of the Seventh Circuit's stay order in *Barnett* is attached as Exhibit 2.

Dated: April 11, 2025

Respectfully submitted,

By: /s/ William J. Taylor, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2025, I served a true and complete copy of the foregoing DEFENDANTS' NOTICE OF SUPPLEMENTAL AUTHORITY upon all parties herein by e-filing with the CM/ECF system maintained by the Court, which will send notification of such filing to the parties of record.

Dated: April 11, 2025

Respectively submitted,

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