

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

Civil Action No. 23-cv-02563-JLK

ROCKY MOUNTAIN GUN OWNERS, and
ALICIA GARCIA,

Plaintiffs,

v.

JARED S. POLIS, in his official capacity as Governor of the State of Colorado,

Defendant.

**DEFENDANT'S SECOND NOTICE IN RESPONSE
TO PLAINTIFF'S SUPPLEMENTAL AUTHORITY [ECF Nos. 75, 75-1]**

Defendant Jared Polis, in his official capacity as Governor of the State of Colorado, hereby provides additional notice in response to Plaintiffs' Notice of Supplemental Authority (ECF No. 75):

1. On August 19, 2025, a divided panel of the Tenth Circuit issued its opinion in *Ortega v. Lujan Grisham*, 148 F.4th 1134 (10th Cir. 2025), holding New Mexico's seven-day waiting period law unconstitutional.
2. On August 20, 2025, Plaintiffs filed notice of *Ortega* as supplemental authority in this case (ECF No. 75).
3. On September 2, 2025, New Mexico filed a petition seeking rehearing *en banc*.
4. On September 8, 2025, the State of Colorado filed an amicus curiae brief in support of New Mexico's petition for rehearing *en banc*, which the Governor noticed to this Court (ECF Nos. 78 and 78-1).

5. On December 22, 2025, the Tenth Circuit issued its Order denying New Mexico’s petition for rehearing *en banc*. *Ortega v. Lujan Grisham*, -- F.4th --, 2025 WL 3704022 (10th Cir. Dec. 22, 2025) (per curiam Order); *see also* Exhibit A (attached). Judge Federico authored a dissent, joined by Judge Moritz, in which he wrote that “[i]t is an open question whether *Ortega* casts doubt on the constitutionality of all these laws,” including Colorado’s “three-day waiting period for gun purchases,” and that the Tenth Circuit’s decision in “*RMGO*¹ remains the law of the circuit.” Ex. A, pp. 11-12, 16.

Respectfully submitted this 30th day of December, 2025.

PHILIP J. WEISER
Attorney General

/s/ Joseph G. Michaels

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¹ *Rocky Mountain Gun Owners v. Polis*, 121 F.4th 96 (10th Cir. 2024).