

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 22-cv-02680-NYW-TPO

ROCKY MOUNTAIN GUN OWNERS,
NATIONAL ASSOCIATION FOR GUN RIGHTS,
BRYAN LAFONTE,
and
JAMES MICHAEL JONES,

Plaintiffs,

v.

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

Defendants.

DEFENDANTS' ANSWER TO FIRST AMENDED COMPLAINT

Defendants The Town of Superior ("Superior"), City of Louisville, Colorado ("Louisville"), City of Boulder, Colorado ("Boulder"), and Board of County Commissioners of Boulder County ("Boulder County") (together, "Defendants"), by and through their undersigned attorneys, as set forth below, hereby respond to the First Amended Complaint, dated August 1, 2025, as follows:

PRELIMINARY STATEMENT

On July 21, 2025, after cross motions for summary judgment were fully briefed by the parties, the Court entered an Order dismissing certain Plaintiffs and claims on

standing grounds. (See Doc. 112).¹ The Order stated that the Court would rule on the merits of the parties' summary judgment motions after further briefing, but would in the meantime require Plaintiffs "to file a Verified [] Amended Complaint that reflects the remaining Plaintiffs and claims resulting from the [Court's] ruling[]" regarding standing. (*Id.* at 34.) The Order was a narrow one that authorized Plaintiffs to make only those amendments that were necessary to reflect the Court's July 21 Order dismissing certain Plaintiffs and claims.

Nevertheless, when Plaintiffs filed their Amended Complaint (Doc. 116), they made numerous unauthorized amendments.² Plaintiffs reassert allegations relating to claims and parties the Court dismissed (see, e.g., Ex. A ¶¶ 67–71), and add new allegations that are unrelated to standing or otherwise exceed the amendments the Court authorized (see, e.g., *id.* ¶¶ 42–45). These amendments are improper because they were made after the February 28, 2023 deadline for Plaintiffs to amend their complaint expired (see Doc. 49 at 10), and were made "with[out] [Defendants'] written consent or the court's leave," see Fed. R. Civ. P. 15(a)(2); *Cooper v. Shumway*, 780 F.2d 27, 29 (10th Cir. 1985).

¹ The Court's original order was dated July 17, 2025 (see Doc. 109); the version entered on July 21, 2025 was substantively identical to the original order but contained minor modifications.

² A redline showing the changes Plaintiffs made in their Amended Complaint is attached as Exhibit A.

Defendants have noted below in their Answer the paragraphs in Plaintiffs' Amended Complaint that contain unauthorized amendments.³ Defendants are not required to respond to these improperly asserted allegations. *See, e.g., Vasquez v. Johnson Cnty. Hous. Coal., Inc.*, No. CIV.A. 03-2147-CM, 2003 WL 21479186, at *1 (D. Kan. June 16, 2003) (explaining that unauthorized amendments are “without legal effect and will not be considered by the court”); *Ambrose Packaging, Inc. v. Flexsol Packaging Corp.*, No. 04-2162-JWL, 2004 WL 2075457, at *3 (D. Kan. Sept. 16, 2004) (striking amended allegations that were not “[a]uthorized” by a court order that “granted plaintiff leave to amend only to correct pleading deficiencies on the tortious interference claim, not to assert new claims”).⁴

ANSWER TO AMENDED COMPLAINT

1. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1 and on that basis deny same.

2. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 2 and on that basis deny same.

³ Defendants have noted only those unauthorized amendments that are significant or substantive in nature, though Defendants respectfully submit that even minor amendments—such as those related to terminology or word choice (*see, e.g., Ex. A ¶¶ 13–16*)—were not authorized by the Court and are improper.

⁴ To avoid burdening the Court with additional motion practice, Defendants have not moved to strike the improper allegations in Plaintiffs' Amended Complaint. Under Rule 12(f), however, the Court may strike the improper allegations on its own should it choose to do so. *See Fed. R. Civ. P. 12(f); see also Sheldon v. Vermonty*, No. CIV.A. 98-2277-JWL, 2002 WL 598333, at *1 (D. Kan. Mar. 4, 2002) (exercising authority under Rule 12(f) to strike allegations that plaintiff “did not have leave to assert” in its amended complaint).

3. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3 and on that basis deny same.

4. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 4 and on that basis deny same.

5. Superior admits the allegations in Paragraph 5. Louisville, Boulder, and Boulder County deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5.

6. Boulder admits the allegations in Paragraph 6. Superior, Louisville, and Boulder County deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6.

7. Boulder County admits the allegations in Paragraph 7. Superior, Louisville, and Boulder deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7.

8. Louisville admits the allegations in Paragraph 8. Superior, Boulder and Boulder County deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8.

9. The allegations in Paragraph 9 are legal contentions to which no response is required. To the extent a response is required, Defendants admit they were acting under the color of state law.

10. Defendants admit that the Court has subject matter jurisdiction over Plaintiffs' federal claims pursuant to 28 U.S.C. § 1331. Defendants reserve the right to contest Plaintiffs' standing to bring the claims and to assert Plaintiffs' claims are moot. The

remaining allegations in Paragraph 10 are legal contentions to which no response is required. To the extent a response is required, Defendants deny the allegations.

11. The allegations in Paragraph 11 are legal contentions to which no response is required. To the extent a response is required, Defendants deny the allegations.

12. The allegations in Paragraph 12 are legal contentions to which no response is required. To the extent a response is required, Defendants admit that venue is proper in the District of Colorado.

13. Defendants admit that they are political subdivisions of the State of Colorado. To the extent that the allegations in Paragraph 13 purport to describe a particular ordinance, Defendants refer to the cited ordinance for its true and complete content, which speaks for itself. Defendants otherwise deny the allegations in Paragraph 13.

14. Defendants admit that Plaintiffs have challenged the constitutionality of portions of Town of Superior, Colorado, Code Ch. 10, art IX; City of Boulder, Colorado, Rev. Code Title 5, Ch. 8; City of Louisville, Colorado, Code Title 9, Ch. VIII; and Boulder County, Colorado, Ord. No. 2022-5, but Defendants otherwise deny the allegations.

15. To the extent that Paragraph 15 sets forth definitions, no response is required. To the extent that the allegations in Paragraph 15 purport to describe a particular ordinance, Defendants refer to the cited ordinance for its true and complete content, which speaks for itself. Defendants deny the remaining allegations in Paragraph 15.

16. To the extent that Paragraph 16 sets forth definitions, no response is required. To the extent that the allegations in Paragraph 16 purport to describe a particular

ordinance, Defendants refer to the cited ordinance for its true and complete content, which speaks for itself. Defendants deny the remaining allegations in Paragraph 16.

17. Defendants are not required to respond to the allegations in Paragraph 17 because they were not authorized by the Court's July 21 Order. To the extent a response is required, Defendants deny knowledge or information sufficient to form a belief as to the truth of the factual allegations in Paragraph 17 and on that basis deny same.

18. Superior denies the allegations in Paragraph 18, except that Superior admits that Section 10-9-20 of the Superior Ordinance defines the term "assault weapon." Superior refers to the Superior Ordinance for its true and complete content, which speaks for itself. Louisville, Boulder, and Boulder County deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18.

19. Defendants are not required to respond to the allegations in Paragraph 19 because they were not authorized by the Court's July 21 Order. Moreover, the allegations in Paragraph 19 are legal contentions to which no response is required. To the extent a response is required, Superior refers to the Superior Ordinance for its true and complete content, which speaks for itself. Boulder, Louisville, and Boulder County deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19.

20. Superior denies the allegations in Paragraph 20, except that Superior admits that Section 10-9-20 of the Superior Ordinance defines the term "large-capacity magazine." Superior refers to the Superior ordinance for its true and complete content, which

speaks for itself. Louisville, Boulder, and Boulder County deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 20.

21. Boulder denies the allegations in Paragraph 21, except that Boulder admits that Section 5-8-2 of the Boulder Ordinance defines the term “assault weapon.” Boulder refers to the Boulder Ordinance for its true and complete content, which speaks for itself. Superior, Louisville, and Boulder County deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 21.

22. Boulder denies the allegations in Paragraph 22, except that Section 5-8-2 of the Boulder Ordinance defines the term “large-capacity magazine.” Boulder refers to the Boulder Ordinance for its true and complete content, which speaks for itself. Superior, Louisville, and Boulder County deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 22.

23. Boulder County denies the allegations in Paragraph 23, except that Boulder County admits that Section 1(a) of the Boulder County Ordinance defines the term “assault weapon.” Boulder County refers to the Boulder County Ordinance for its true and complete content, which speaks for itself. Superior, Louisville, and Boulder deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 23.

24. Boulder County denies the allegations in Paragraph 24, except that Boulder County admits that Section 1(c) of the Boulder County Ordinance defines the term “large-capacity magazine.” Boulder County refers to the Boulder County Ordinance for its true and complete content, which speaks for itself. Superior, Louisville, and Boulder

deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 24.

25. Louisville denies the allegations in Paragraph 25, except that Louisville admits that 9.80.010 of the Louisville Ordinance defines the term “assault weapon.” Louisville refers to the Louisville Ordinance for its true and complete content, which speaks for itself. Superior, Boulder, and Boulder County deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 25.

26. Louisville denies the allegations in Paragraph 26, except that Louisville admits that 9.80.010 of the Louisville Ordinance defines the term “large-capacity magazine.” Louisville refers to the Louisville Ordinance for its true and complete content, which speaks for itself. Superior, Boulder, and Boulder County deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 26.

27. Defendants are not required to respond to the allegations in Paragraph 27 because they were not authorized by the Court’s July 21 Order. To the extent a response is required, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 27 and on that basis deny same.

28. Defendants are not required to respond to the allegations in Paragraph 28 because they were not authorized by the Court’s July 21 Order. To the extent a response is required, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 28 and on that basis deny same.

29. Defendants are not required to respond to the allegations in Paragraph 29 because they were not authorized by the Court’s July 21 Order. Moreover, the

allegations in Paragraph 29 are legal contentions to which no response is required. To the extent a response is required, Defendants deny the allegations.

30. Defendants are not required to respond to the allegations in Paragraph 30 because they were not authorized by the Court's July 21 Order. To the extent a response is required, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 30 and on that basis deny same.

31. Defendants are not required to respond to the allegations in Paragraph 31 because they were not authorized by the Court's July 21 Order. To the extent a response is required, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 31 and on that basis deny same.

32. Defendants are not required to respond to the allegations in Paragraph 32 because they were not authorized by the Court's July 21 Order. Moreover, the allegations in Paragraph 32 are legal contentions to which no response is required. To the extent a response is required, Defendants deny the allegations.

33. Defendants are not required to respond to the allegations in Paragraph 33 because they were not authorized by the Court's July 21 Order. To the extent a response is required, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 33 and on that basis deny same.

34. Defendants are not required to respond to the allegations in Paragraph 34 because they were not authorized by the Court's July 21 Order. To the extent a response is required, Defendants refer to the declaration submitted by Hannah Hill (Doc. 100-1) for its complete contents, and otherwise deny knowledge or information

sufficient to form a belief as to the truth of the allegations in Paragraph 34 and on that basis deny same.

35. Defendants are not required to respond to the allegations in Paragraph 35 because they were not authorized by the Court's July 21 Order. To the extent a response is required, Defendants refer to the declaration submitted by Hannah Hill (Doc. 100-1) for its complete contents, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 35 and on that basis deny same.

36. Defendants are not required to respond to the allegations in Paragraph 36 because they were not authorized by the Court's July 21 Order. To the extent a response is required, Defendants refer to the declaration submitted by Hannah Hill (Doc. 100-1) for its complete contents, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 36 and on that basis deny same.

37. Defendants are not required to respond to the allegations in Paragraph 37 because they were not authorized by the Court's July 21 Order. To the extent a response is required, Defendants refer to the declaration submitted by Dudley Brown (Doc. 76-6) for its complete contents, and otherwise deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 37 and on that basis deny same.

38. Defendants are not required to respond to the allegations in Paragraph 38 because they were not authorized by the Court's July 21 Order. Moreover, the

allegations in Paragraph 38 are legal contentions to which no response is required. To the extent a response is required, Defendants deny the allegations.

39. The allegations in Paragraph 39 are legal contentions to which no response is required.

40. The allegations in Paragraph 40 are legal contentions to which no response is required.

41. The allegations in Paragraph 41 are legal contentions to which no response is required.

42. Defendants are not required to respond to the allegations in Paragraph 42 because they were not authorized by the Court's July 21 Order. Moreover, the allegations in Paragraph 42 contain legal contentions to which no response is required. To the extent a response is required, Defendants refer to the statement cited for its complete contents, and otherwise deny the allegations.

43. Defendants are not required to respond to the allegations in Paragraph 43 because they were not authorized by the Court's July 21 Order. Moreover, the allegations in Paragraph 43 contain legal contentions to which no response is required. To the extent a response is required, Defendants refer to the dissent cited for its complete contents, and otherwise deny the allegations.

44. Defendants are not required to respond to the allegations in Paragraph 44 because they were not authorized by the Court's July 21 Order. Moreover, the allegations in Paragraph 44 contain legal contentions to which no response is required.

To the extent a response is required, Defendants refer to the opinion and dissent cited for their complete contents, and otherwise deny the allegations.

45. Defendants are not required to respond to the allegations in Paragraph 45 because they were not authorized by the Court's July 21 Order. Moreover, the allegations in Paragraph 45 contain legal contentions to which no response is required. To the extent a response is required, Defendants deny the allegations.

46. The allegations in Paragraph 46 are legal contentions to which no response is required. To the extent a response is required, Defendants deny the allegations.

47. The allegations in Paragraph 47 are legal contentions to which no response is required. To the extent a response is required, Defendants deny the allegations.

48. The allegations in Paragraph 48 are legal contentions to which no response is required. To the extent a response is required, Defendants refer to the dissent cited for its complete contents, and otherwise deny the allegations.

49. Defendants deny the factual allegations in Paragraph 49. To the extent that Paragraph 49 sets forth legal contentions, no response is required. To the extent a response is required, Defendants deny the allegations.

50. The allegations in Paragraph 50 are legal contentions to which no response is required. To the extent a response is required, Defendants deny the factual allegations.

51. The allegations in Paragraph 51 are legal contentions to which no response is required. To the extent a response is required, Defendants deny the allegations.

52. The allegations in Paragraph 52 are legal contentions to which no response is required. To the extent a response is required, Defendants deny the allegations.

53. The allegations in Paragraph 53 are legal contentions to which no response is required. To the extent a response is required, Defendants deny the allegations.

ANSWER TO FIRST CLAIM FOR RELIEF

54. Paragraph 54 reincorporates the allegations of Paragraphs 1-53. Defendants reincorporate all their specific responses to Paragraphs 1-53 above.

55. Paragraph 55 sets forth legal contentions to which no response is required. To the extent a response is required, Defendants deny the allegations.

56. Paragraph 56 sets forth legal contentions to which no response is required. To the extent a response is required, Defendants deny the allegations.

57. Paragraph 57 sets forth legal contentions to which no response is required. To the extent a response is required, Defendants deny the allegations.

58. Paragraph 58 sets forth legal contentions to which no response is required. To the extent a response is required, Defendants deny the allegations.

59. Defendants are not required to respond to the allegations in Paragraph 59 because they were not authorized by the Court's July 21 Order. To the extent a response is required, Defendants refer to the Court's July 21 Order (Doc. 112) and Plaintiffs' Request for Clarification (Doc. 110) for their complete contents.

60. Paragraph 60 sets forth legal contentions to which no response is required. To the extent a response is required, Defendants deny the allegations.

61. Defendants are not required to respond to the allegations in Paragraph 61 because they were not authorized by the Court's July 21 Order. To the extent a

response is required, Defendants reincorporate their responses from their earlier filed answer (Doc. 54), and otherwise deny the allegations.

ANSWER TO PRAYER FOR RELIEF

62. Defendants deny that Plaintiffs are entitled to the relief they request in Paragraph 62.

63. Defendants deny that Plaintiffs are entitled to the relief they request in Paragraph 63.

64. Defendants deny that Plaintiffs are entitled to the relief they request in Paragraph 64.

65. Defendants deny that Plaintiffs are entitled to the relief they request in Paragraph 65.

66. Defendants deny that Plaintiffs are entitled to the relief they request in Paragraph 66.

ANSWER TO PRESERVATION OF WALKER AND MADONNA CLAIMS

67. Defendants are not required to respond to the allegations in Paragraph 67 because they were not authorized by the Court's July 21 Order. To the extent a response is required, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis deny same.

68. Defendants are not required to respond to the allegations in Paragraph 68 because they were not authorized by the Court's July 21 Order. To the extent a response is required, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis deny same.

69. Defendants are not required to respond to the allegations in Paragraph 69 because they were not authorized by the Court's July 21 Order. Moreover, the allegations in Paragraph 69 contain legal contentions to which no response is required. To the extent a response is required, Defendants refer to the Court's July 21 Order (Doc. 112) for its complete contents.

70. Defendants are not required to respond to the allegations in Paragraph 70 because they were not authorized by the Court's July 21 Order. To the extent a response is required, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis deny same.

71. Defendants are not required to respond to the allegations in Paragraph 71 because they were not authorized by the Court's July 21 Order. To the extent a response is required, Defendants reincorporate their responses from their earlier filed answer (Doc. 54) and otherwise deny the allegations.

DEFENSES

Defendants assert the following defenses and reserve the right to amend this Answer to Amended Complaint to assert other and further defenses when and if it becomes appropriate. By asserting the following defenses, Defendants do not concede or intend to suggest (i) that Defendants bear the burden of proof on such defenses or any element thereof, or (ii) that Plaintiffs do not bear the burden of proof as to such matters or that such matters are not elements of Plaintiffs' prima facie case against Defendants.

FIRST DEFENSE

Plaintiffs' claims are barred by the doctrine of laches.

SECOND DEFENSE

Plaintiffs' claims are barred by the doctrine of waiver.

THIRD DEFENSE

Plaintiffs' claims are barred, in whole or in part, by lack of standing.

FOURTH DEFENSE

Plaintiffs' claims are barred by the doctrine of mootness.

FIFTH DEFENSE

The challenged provisions in Defendants' Ordinances restricting LCMs are not unconstitutional.

SIXTH DEFENSE

The challenged provisions in Defendants' Ordinances restricting assault weapons are not unconstitutional.

s/ James Windels

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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of September, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the parties of record.

s/ James Windels
James Windels

Exhibit A

Redline of Plaintiffs' Amended Complaint

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
COLORADO

Civil Action No. 22-cv-~~02680-NYW-TPO~~

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

Deleted: CRAIG WRIGHT, and ¶

Deleted: 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.

FIRST AMENDED COMPLAINT

Pursuant to the Court's July 21, 2025, Order ("Order"), Plaintiffs submit the
following First Amended Complaint.¹

Deleted: against Defendants the Town of Superior,
Colorado; the City of Louisville, Colorado, the City of
Boulder, Colorado, and the Board of ¶
County Commissioners of Boulder County
(collectively, the "Municipalities").

¹ The Order directed Plaintiffs to file a Second Amended Complaint. This is not possible because the
complaint in this matter has not been amended previously.

I. PARTIES

1. Plaintiff Rocky Mountain Gun Owners (“RMGO”) is a nonprofit membership and donor-supported organization qualified as tax-exempt under 26 U.S.C. § 501(c)(4) that does business in Colorado.

2. Plaintiff National Association for Gun Rights (“NAGR”) is a nonprofit membership and donor-supported organization qualified as tax-exempt under 26 U.S.C. § 501(c)(4) that does business in Colorado.

3. Plaintiff Bryan LaFonte (“LaFonte”) is a law-abiding citizen. He resides in the Town of Louisville, Colorado.

4. Plaintiff James Michael Jones (“Jones”) is a law-abiding citizen. He resides in the City of Boulder.

5. Defendant Town of Superior is a Colorado statutory town with an address of 124 East Coal Creek Drive, Superior, Colorado 80027.

6. Defendant City of Boulder, Colorado is a Colorado home rule municipal corporation with an address of 1777 Broadway, Boulder, Colorado 80302.

7. Boulder County is a subdivision of the State of Colorado and is a body corporate and politic in the State of Colorado empowered to sue and be sued. Its address is 1325 Pearl Street, Boulder, Colorado 80302.

8. Defendant City of Louisville, Colorado is a Colorado home rule municipal corporation with an address of 749 Main Street, Louisville, Colorado.

Deleted: ~~Plaintiff RMGO is a nonprofit membership and donor-supported organization qualified as tax-exempt under 26 U.S.C. § 501(c)(4). RMGO seeks to defend the right of all law-abiding individuals to keep and bear arms. RMGO has members who reside within each of the Municipalities. RMGO represents the interests of its members who reside in the Municipalities. Specifically, RMGO represents the interests of those who are affected by the Municipalities' prohibition of commonly used firearms and magazines. In addition to their standing as citizens and taxpayers, those members' interests include their wish to exercise their constitutionally protected right to keep and bear arms without being subjected to criminal prosecution and to continue to lawfully possess and/or transfer property that they lawfully obtained. But for the Municipalities' unlawful prohibition of commonly used arms and their reasonable fear of prosecution for violating these prohibitions, RMGO members would seek to acquire, keep, possess and/or transfer lawful arms for self-defense and other lawful purposes. For purposes of this Complaint, the term "Plaintiffs" is meant to include RMGO in its capacity as a representative of its members. ¶ Plaintiff NAGR is a nonprofit membership and donor-supported organization qualified as tax-exempt under 26 U.S.C. § 501(c)(4). NAGR seeks to defend the right of all law-abiding individuals to keep and bear arms. NAGR has members who reside within the Municipalities. NAGR represents the interests of its members who reside in the Municipalities. Specifically, NAGR represents the interests of those who are affected by the Municipalities' prohibition of commonly used firearms and magazines. In addition to their standing as citizens and taxpayers, those members' interests include their wish to exercise their constitutionally protected right to keep and bear arms without being subjected to criminal prosecution and to continue to lawfully possess and/or transfer property that they lawfully obtained. But for the Municipalities' unlawful prohibition of commonly used arms and their reasonable fear of prosecution for violating these prohibitions, NAGR members would seek to acquire, keep, possess and/or transfer lawful arms for self-defense and other lawful purposes. For purposes of this Complaint, the term "Plaintiffs" is meant to include NAGR in its capacity as a representative of its members. ¶ Bradley Walker is a resident of the Town of Superior and a law-abiding citizen of the United States. He also currently owns certain semi-automatic firearms that are putatively made illegal by the Superior Ordinance (defined below), and he currently owns magazines capable of holding more than 10 rounds of ammunition.~~ (11)

9. At all times relevant to this Complaint, Defendants have been or will be acting under color of state law within the meaning of 42 U.S.C. § 1983.

II. JURISDICTION AND VENUE

10. The Court has original jurisdiction of this civil action under 28 U.S.C. § 1331, because the action arises under the Constitution and laws of the United States. The Court also has jurisdiction under 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983.

11. Plaintiffs' claims for declaratory and injunctive relief are authorized by [28 U.S.C. §§ 2201 and 2202, respectively, and their claim for attorneys' fees is authorized by 42 U.S.C. § 1988.](#)

12. Venue in this judicial district is proper under 28 U.S.C. § 1391(b)(2), because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this district.

Deleted: 28 U.S.C. §§ 2201 and 2202, respectively, and their claim for attorneys' fees is authorized by ¶ 42 U.S.C. § 1988. ¶ 14. →

III. GENERAL ALLEGATIONS

A. [The Ordinances](#)

13. The Defendants are all political subdivisions of the State of Colorado. Each Defendant passed separate but substantially similar ordinances regulating certain [arms](#), all of which became effective between July 7, 2022, and August 2, 2022.

14. [The Ordinances at issue include the Town of Superior, Colorado, Code Ch. 10, art. IX \(the "Superior Ordinance"\), \[Doc.² 96-1\]; City of Boulder, Colorado, Rev. Code Title 5, Ch. 8 \(the "Boulder Ordinance"\), \[Doc. 96-2\]; City of Louisville,](#)

Deleted: → Defendants Enact the

Deleted: weapons and accessories

Deleted: For purposes

Deleted: this Complaint: ¶ (a) SUPERIOR, COLO., CODE ch.

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Deleted: " ¶ BOULDER, COLO., REV. CODE title

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Deleted: as adopted Jun. 7, 2022 in Ord. Nos. ¶ 8494, 8525-29) shall be referred to as

Deleted: " ¶ BOULDER COUNTY, COLO., ORDINANCES, Ord. No. 2022-5 (as adopted Aug. ¶ 2, 2022) shall be referred to as the "County Ordinance." ¶ ch.

² Plaintiffs use the convention of [Doc. ____] and the page number assigned by the Electronic Case Files System for this District to refer to materials filed in this action.

Colorado, Code Title 9, Ch. VIII (the “Louisville Ordinance,” and together with the Superior and Boulder Ordinances, the “Municipal Ordinances”), [Doc. 96-3]; and Boulder County, Colorado, Ord. No. 2022-5 (the “Boulder County Ordinance,” and collectively with the Municipal Ordinances, the “Ordinances”), [Doc. 96-4].

Deleted: as adopted Jun. 7, 2022 in Ord. No. ¶ 1831-2022) shall be referred to as

Moved (insertion) [1]

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15. Each of the Ordinances set forth in the previous paragraph have similar definitions of the statutory terms. One such definition is “assault weapon.” The term “assault weapon” as used in these Ordinances is not a technical term used in

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the firearms industry or community for firearms commonly available to civilians. Instead, the term is a rhetorically charged political term meant to stir the emotions of the public against those persons who choose to exercise their constitutional right to possess certain semi-automatic firearms that are commonly owned by tens of millions of law-abiding American citizens for lawful purposes. However, as this is the term used by the Court in its Order, Plaintiffs will use the term under protest.

16. The Ordinances’ characterization of certain firearms magazines as large capacity (“LCM”) is a politically-charged misnomer. Magazines capable of holding more than 10 rounds are standard capacity magazines. However, as this is the term used by the Court in its Order, Plaintiffs will use the term under protest.

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17. Each of the Individual Plaintiffs challenges the Ordinance governing the municipality (or county) in which he resides. Plaintiffs RMGO and NAGR are nonprofit membership- and donor-supported organizations that “seek to defend the right of all law-abiding individuals to keep and bear arms.” [Doc. 76-6 at ¶ 3]. The

Deleted: Municipalities’ politically charged rhetoric in this Complaint. Therefore, for purposes of this ¶ Complaint, the term “Banned Firearm” shall have the same meaning as the term “assault weapon” in the respective ordinances. ¶ The ordinances’ characterization of certain firearms magazines as “large capacity” is a misnomer.

Individual Plaintiffs are all members of at least one of the organizations that serve as Organizational Plaintiffs. [Doc. 76-7 at ¶ 2; Doc. 76-8 at ¶ 2; Doc. 76-9 at ¶ 2; Doc. 76-10 at ¶ 2; Doc. 76-12 at ¶ 2].

B. The Superior Ordinance

18. Section 10-9-20 of the Superior Ordinance defines the term “assault weapon.” Section 10-9-20 states that the term “illegal weapon” includes any “assault weapon.” Section 10-9-40 makes it illegal to possess, sell or otherwise transfer any “illegal weapon.”

19. Generally, under section 10-9-240, no person may acquire an assault weapon in the Town.

20. Section 10-9-20 defines the term “large-capacity magazine” to mean any firearm magazine capable of holding more than ten rounds of ammunition. Section 10-9-20 states that the term “illegal weapon” includes any “large-capacity magazine.” Section 10-9-40 makes it illegal to possess, sell or otherwise transfer any “illegal weapon.”

C. The Boulder Ordinance

21. Section 5-8-2 of the Boulder Ordinance defines the term “assault weapon.” Section 5-8-2 states that the term “illegal weapon” includes any “assault weapon.” Section 5-8-10(a) makes it illegal to possess, sell or otherwise transfer any “illegal weapon” in the City of Boulder.

22. Section 5-8-2 defines the term “large-capacity magazine” to mean any firearm magazine capable of holding more than ten rounds of ammunition. Section 5-

Moved up [2]: Magazines capable of holding more than 10 rounds are standard capacity magazines.

Deleted: ¶ Plaintiffs refuse to adopt the Municipalities’ politically charged rhetoric in this Complaint. ¶ Therefore, for purposes of this Complaint, the term “Banned Magazine” shall have the same meaning as the term “large-capacity magazine” in respective ordinances. ¶

B.

Deleted: <#>Under section 10-9-240, a person who legally possessed a Banned Firearm on July 1, ¶ 2022, may apply to the Boulder County Sheriff’s office for a certificate. If the Boulder County ¶ Sheriff issues the certificate, under section 10-9-190, if the person is prosecuted for possessing a Banned Firearm, he may assert as a defense the fact that he has a certificate. After July 1, 2022, no person (including persons who have obtained a certificate) may acquire Banned Firearms or transfer a grandfathered Banned Firearm in the Town, including to members of his own family. ¶ Any person who inherits a Banned Firearm must destroy it or remove it from the Town.

Deleted: <#>Mr. Walker and RMGO’s and NAGR’s members currently own and possess Banned Firearms and Banned Magazines in the Town of Superior. Mr. Walker and RMGO’s and NAGR’s members desire to continue to possess the Banned Firearms and Banned Magazines in the Town. Moreover, they wish to acquire more Banned Firearms and Banned Magazines, transfer their currently owned Banned Firearms and Banned Magazines to other persons in the Town, and bequeath their Banned Firearms and Banned Magazines to their devisees. ¶

Deleted: <#>Section 5-8-28 provides an exception to the general illegality of Banned Firearms in the ¶ City of Boulder. Under that section, a person who legally possessed a Banned Firearm on July 1, ¶ 2022, may apply to the Boulder Police Department for a certificate. If the Boulder Police ¶ Department issues a certificate to a person and the person is later prosecuted for possession of a ¶ Banned Firearm, he may assert as a defense the fact that he has a certificate. No person in the City (including persons who have obtained a certificate) may acquire Banned Firearms or transfer a grandfathered Banned Firearm in the City, including to members of his own family. ¶ Firearm must destroy it or remove it from the City. ¶

8-2 states that the term “illegal weapon” includes any “large-capacity magazine.” Section 5-8-10 makes it illegal to possess, sell or otherwise transfer any “illegal weapon.”

D. The County Ordinance

23. Section 1(a) of the County Ordinance defines the terms “assault weapon.”

Section 2(a) of the Ordinance makes it illegal to manufacture, import, purchase, sell or transfer any assault weapon in an unincorporated part of the County.

24. Section 1(c) of the Ordinance defines the term “large-capacity magazine” to mean any firearm magazine capable of holding more than ten rounds of ammunition. Section 2(a) of the Ordinance makes it illegal to manufacture, import, purchase, sell or transfer any such magazine in an unincorporated part of the County.

E. The Louisville Ordinance

25. Section 9.80.010 of the Louisville Ordinance defines the term “assault weapon.” Section 9.80.010 states that the term “illegal weapon” includes any “assault weapon.” Section 9.84.010(a) makes it illegal to possess, sell or otherwise transfer any “illegal weapon” in the City of Louisville.

26. Section 9.80.010 defines the term “large-capacity magazine” to mean any firearm magazine capable of holding more than ten rounds of ammunition. Section 9.80.010 states that the term “illegal weapon” includes any “large-capacity magazine.” Section 9.84.010(a) makes it illegal to possess, sell or otherwise transfer any “illegal weapon.”

Deleted: <#>Mr. Jones and RMGO's and NAGR's members currently own and possess Banned Firearms and Banned Magazines in the City of Boulder. Mr. Jones and RMGO's and NAGR's members desire to continue to possess the Banned Firearms and Banned Magazines in the City. Moreover, they wish to acquire more Banned Firearms and Banned Magazines, transfer their currently owned Banned Firearms and Banned Magazines to other persons in the City, and bequeath their Banned Firearms and Banned Magazines to their devisees. ¶

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Deleted: <#>Section 9.86.010 provides an exception to the general illegality of Banned Firearms in the City of Louisville. Under that section, a person who legally possessed a Banned Firearm on July 1, 2022, may apply to the Louisville Police Department for a certificate. If the Louisville Police ¶ and the person is later prosecuted for possession of a ¶ the fact that he has a certificate. No person in the City (including persons who have obtained a certificate) may acquire Banned Firearms or transfer a grandfathered Banned Firearm in the City, including to members of his own family. ¶ Firearm must destroy it or remove it from the City. ¶

F. Plaintiffs' Activities

1. Individual Plaintiffs

27. Plaintiff Jones. Plaintiff Jones owns three assault weapons, namely: an S&W Sport I rifle (purchased on September 8, 2015); an S&W Sport II rifle (purchased on June 23, 2016); a Colt Expanse CE1000 rifle (purchased on July 21, 2016); eight S&W 6906 Magazines with a capacity of 12 rounds (purchased in August 2017); and a HEXMAG HX-AR Series 2 Magazine with a capacity of 15 rounds (purchased in July 2016). [Doc. 100-2 at ¶¶ 1–6]. All of the assault weapons he owns would be prohibited under the Boulder Ordinance. [*Id.* at ¶¶ 1–6].

28. Plaintiff LaFonte. Plaintiff LaFonte owns a Daniel Defense DDM4V7 (purchased June 10, 2022); a Palmetto State Armory PA-15 (purchased February 28, 2024); and several Mission First Tactical 15/30PM556 AR-15 Magazines with 15-round capacities (purchased between June 2022 and March 2024). [Doc. 100-4 at ¶¶ 2–22]. He also owns several Sig Sauer magazines with capacities from 12 to 14 rounds. *Id.* The Louisville Ordinance would prohibit his possession of the Daniel Defense DDM4V7 “because it is a semi-automatic center-fire rifle that has the capacity to accept a detachable magazine and has a pistol grip, a telescoping stock, a flash suppressor, and a shroud that completely encircles the barrel,” [*id.* at ¶ 5]; the Palmetto State Armory PA-15 “because it is a semi-automatic center-fire rifle that has the capacity to accept a detachable magazine and has a pistol grip, a telescoping stock, a flash suppressor, and a shroud that completely encircles the

Deleted: <#>Bryan LaFonte, Craig Wright and Gordon Madonna and RMGO's and NAGR's members who live in the City currently own and possess Banned Firearms and Banned Magazines in the City of Louisville. Bryan LaFonte, Craig Wright and Gordon Madonna and RMGO's and NAGR's members desire to continue to possess the Banned Firearms and Banned Magazines in the City. Moreover, they wish to acquire more Banned Firearms and Banned Magazines, transfer their currently owned Banned Firearms and Banned Magazines to other persons in the ¶

barrel,” *id.* at ¶ 9]; and all of his magazines “because each has a capacity of” 12, 14, or 15 rounds, *id.* at ¶¶ 14, 22].

29. The Municipal Ordinances simply outright prohibit the possession of LCMs. See generally [Doc. 96-1; Doc. 96-2; Doc. 96-3]. Defendants do not contest that Plaintiffs LaFonte and Jones have standing to challenge the LCM Possession Clauses of the Louisville and Boulder City Ordinances, respectively, [Doc. 102 at 10], and this Court has previously satisfied itself that both Plaintiff LaFonte and Plaintiff Jones have standing to assert these claims.

30. Plaintiff LaFonte has “current plans to purchase a Daniel Defense DD5V4 (7.62×51mm NATO) within the next year,” a “Glock 19 Gen5 with a threaded barrel in the next 6 months,” and “3 additional 12-round P365 XL magazines within one year.” [Doc. 100-4 at ¶¶ 24–26].

31. Plaintiff Jones plans to purchase a “CZ compact 75D magazine with a capacity of 14 rounds within the next year.” [Doc. 100-2 at ¶ 8]. Plaintiff LaFonte declares that he “intend[s] to purchase 3 additional 2-round P365 XL magazines” in one year. [Doc. 100-4 at ¶ 26].

2. The Organizational Plaintiffs

32. Defendants do not contest that RMGO and NAGR “have standing to challenge the Louisville and Boulder City’s LCM Possession Clauses.

33. Hannah Hill has authority to speak on behalf of both RMGO and NFGR regarding this matter.

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34. Superior. According to Hill an RMGO member identified as John Doe owns a “15-round pistol magazine”. [Doc. 100-1 at ¶ 2]

35. Boulder County. Hill’s states that three RMGO and NAGR members in unincorporated Boulder County “will obtain banned rifles or magazines within the next 18 months” and “two [members] plan to transfer banned rifles and magazines.”

[Id. at ¶¶ 6–7]. Specifically, Hill discusses the future plans of each member: John Doe (“Doe III”), an RMGO member, “plans to purchase a Wilson Combat Recon Tactical AR-15” and “plans to give his Smith and Wesson M&P 15 to his adult daughter,” and JB, a member of both organizations, “would like to purchase an AK-47.” [Id. at ¶¶ 5–7].

36. Boulder County. Hill’s states that three RMGO and NAGR members in unincorporated Boulder County “will obtain banned rifles or magazines within the next 18 months” and that two “plan to transfer banned rifles and magazines.” [Id. at ¶¶ 6–7]. With respect to LCMs, Hill states that NAGR member CG “plans to transfer [his] Glock 17 15-round magazine to children and grandchildren.” [Id. at ¶

7].

37. Dudley Brown is President of RMGO and NAGR. [Doc. 76-6]. Brown states that “RMGO and NAGR represent the interests of those of their members whose Second Amendment rights have been infringed by the Ordinances challenged in this action” and that “RMGO and NAGR are nonprofit

membership and donor-supported organizations that seek to defend the right of all law-abiding individuals to keep and bear arms.” [Doc. 76-6 at ¶¶ 3, 5]. RMGO and NAGR seek to protect the Second Amendment rights of their members, and Mr. Brown alleges that the Ordinances would infringe upon those Second Amendment rights. [Id. at ¶ 4]. Therefore, RMGO and NAGR have demonstrated that the interests they seek to protect, namely Second Amendment rights, are germane to their purpose of “defend[ing] the right of all law-abiding individuals to keep and bear arms.” [Id. at ¶ 3].

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38. The individual members of RMGO and NAGR need not participate in this suit.

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G. The Ordinances are Unconstitutional

39. The Second Amendment to the United States Constitution declares that “the right of the people to keep and bear arms shall not be infringed.” U.S. CONST. Amend. II; see also *D.C. v. Heller*, 554 U.S. 570 (2008); *McDonald v. City of Chicago*, 561 U.S. 742 (2010); and *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022).

Deleted: <#>The provisions of the Superior Ordinance, the Boulder Ordinance, the County Ordinance, and the Louisville Ordinance described in paragraphs 19-21; 23-25; 27-28; and 30-32 shall be referred to collectively as the “Ordinances.” ¶

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40. The right to keep and bear arms recognized in the Second Amendment is made applicable to the states by the Fourteenth Amendment. *McDonald*, *supra*. 41. The Second Amendment protects the right of law-abiding citizens to own weapons in common use by law-abiding citizens for lawful purposes. *Heller*, *supra*, at 627.

42. There is a venerable tradition in this country of lawful private ownership of semiautomatic rifles such as those banned by the Ordinances. Thus, the

Deleted: The Supreme Court has held as much. In *Staples v.* ...

Ordinances' prohibitions regarding such firearms are unconstitutional. Justice

Kavanaugh recently remarked:

This case primarily concerns Maryland's ban on the AR-15, a semi-automatic rifle. Americans today possess an estimated 20 to 30 million AR-15s. And AR-15s are legal in 41 of the 50 States, meaning that the States such as Maryland that prohibit AR-15s are something of an outlier. See *Staples v.*

United States, 511 U.S. 600, 612, 114 S.Ct. 1793, 128 L.Ed.2d 608 (1994) (stating that AR-15s "traditionally have been widely accepted as lawful possessions"). . .

.

Under this Court's Second Amendment precedents, moreover, it can be analytically difficult to distinguish the AR-15s at issue here from the handguns at issue in *Heller*. AR-15s are semi-automatic, but so too are most handguns. (Semi-automatic handguns and rifles are distinct from automatic firearms such as the M-16 automatic rifle used by the military.) Law-abiding citizens use both AR-15s and handguns for a variety of lawful purposes, including self-defense in the home. For their part, criminals use both AR-15s and handguns, as well as a variety of other lawful weapons and products, in unlawful ways that threaten public safety. But handguns can be more easily carried and concealed than rifles, and handguns—not rifles—are used in the vast majority of murders and other violent crimes that individuals commit with guns in America.

Snope v. Brown, 145 S.Ct. 1534 (2025) (Kavanaugh, J., statement respecting denial of certiorari).

43. Justice Thomas stated the following in that same case:

"[W]eapons 'in common use' today for self-defense" and other lawful purposes remain fully protected. *Bruen*, 597 U.S., at 32, 142 S.Ct. 2111 (quoting *Heller*, 554 U.S., at 627, 128 S.Ct. 2783). And, AR-15s appear to fit neatly within that category of protected arms. Tens of millions of Americans own AR-15s, and the "overwhelming majority" of them "do so for lawful purposes, including self-defense and target shooting."

Id. (Thomas, J., dissenting from denial of certiorari).

44. On June 5, 2025, the Court entered its decision in *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 145 S. Ct. 1556 (2025) (Kagan, J.), in

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Deleted: (1994), the Court noted that semiautomatics, unlike machine guns, "traditionally have been widely accepted as lawful possessions." *Id.*, 511 U.S. 611-12 (identifying the AR-15 – the archetypal "assault weapon" – as a traditionally lawful firearm). The vast majority of states do not ban the type of semiautomatic rifles deemed "assault weapons" in the Ordinances.

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Deleted: Millions of law-abiding citizens choose to possess firearms such as the Banned Firearms. *Duncan v. Becerra* ("*Duncan IV*"), 970 F.3d 1133, 1147 (9th Cir. 2020) ³ ("Commonality is determined largely by statistics."); *Ass'n of N.J. Rifle & Pistol Clubs, Inc. v. Atty. Gen. N.J.*, 910 F.3d 106, 116 (3d Cir. 2018) (finding an "arm" is commonly owned because "[t]he record shows that millions . . . are owned"); *New York State Rifle & Pistol Ass'n, Inc. v. Cuomo*, 804 F.3d 242, 255 (2d Cir. 2015) ("Even accepting the most conservative estimates cited by the parties and by amici, the assault weapons . . . at issue are 'in common use' as that term was used in *Heller*."); *Heller v. D.C.* ("*Heller II*"), 670 F.3d 1244, 1261 (D.C. Cir. 2011) ("We think it clear enough in the record that semi-automatic rifles . . . are indeed in 'common use.'"). This is demonstrated by the AR-15 and other modern semiautomatic rifles, which epitomize the firearms the Municipalities have banned. ¶

The AR-15, as just one example among many of a Banned Firearm, is America's "most popular semi-automatic rifle," *Heller II*, 670 F.3d at 1287 (Kavanaugh, J., dissenting), and in recent years it has been "the best-selling rifle type in the United States," Nicholas J. Johnson, ¶ *Supply Restrictions at the Margins of Heller and the Abortion Analogue*, 60 HASTINGS L.J. 1285, 1296 (2009). Already in early 2013, sources estimated that there were five million AR-15s in private hands. Dan Haar, *America's Rifle: Rise of the AR-15*, HARTFORD COURANT (Mar. 9, ¶ 9, ¶ August 25, 2022); see also *Duncan v. Becerra* ("*Duncan III*"), 366 F. Supp. 3d 1131, 1145 (S.D. Cal. 2019). ⁴ ¶ Millions of law-abiding citizens own and use for lawful purposes semi-automatic firearms such as the Banned Firearms currently possessed by Plaintiffs. The Ordinances' prohibition on the possession, sale, or other transfer of the Banned Firearms possessed by ¶ Plaintiffs and/or their members violates the Second Amendment.

which the Court dismissed Mexico’s case against seven gun manufacturers for failure to state a claim. Critically for purposes of this case, Mexico argued that its claim was supported by the fact that the manufacturers sold “military style” assault weapons including AR–15 rifles and AK–47 rifles. The Court rejected this argument, holding:

Finally, Mexico’s allegations about the manufacturers’ “design and marketing decisions” add nothing of consequence. As noted above, Mexico here focuses on the manufacturers’ production of “military style” assault weapons, among which it includes AR–15 rifles [and] AK–47 rifles. But those products are both widely legal and bought by many ordinary consumers. (The AR–15 is the most popular rifle in the country. See T. Gross, *How the AR–15 Became the Bestselling Rifle in the U. S.*, NPR (Apr. 20, 2023.)) The manufacturers cannot be charged with assisting in criminal acts just because Mexican cartel members like those guns too.

Id., at 1569 (cleaned up; emphasis added). See also *Garland v. Cargill*, 602 U.S. 406, 429 (2024) (Sotomayor, J., dissenting) (semiautomatic rifles like those used in Las Vegas shooting, which included AR-15s, are “commonly available, semiautomatic rifles”).

45. The AR-15 and other modern semiautomatic rifles epitomize the firearms the Defendants have banned. But as Justices Kagan, Kavanaugh, Thomas and Sotomayor observed in the cases cited above, these firearms are commonly owned for lawful purposes. Indeed, they are owned by tens of millions of law-abiding citizens, who use them for multiple lawful purposes including self-defense. Accordingly, under *Heller*, the Ordinances’ ban on these firearms violates the Second Amendment.

46. Magazines are indisputably “arms” protected by the Second Amendment, as the right to keep and bear arms necessarily includes the right to keep and

bear components such as ammunition and magazines that are necessary for the firearm to operate. *See United States v. Miller*, 307 U.S. 174, 180 (1939) (citing seventeenth century commentary recognizing that “[t]he possession of arms also implied the possession of ammunition”); *Jackson v. City & Cnty. of San Francisco*, 746 F.3d 953,

967 (9th Cir. 2014) (“[W]ithout bullets, the right to bear arms would be meaningless”).

47. The magazines the [Defendants](#) have banned unquestionably satisfy the “common use” test. [v.](#)

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48. In *Kolbe v. Hogan*, 849 F.3d 114 (4th Cir. 2017), *abrogated by Bruen, supra*, Judge Traxler [stated](#):

Deleted: (whose dissenting opinion almost certainly accurately states the law post *Bruen*)

The record also shows unequivocally that magazines with a capacity of greater than 10 rounds are commonly kept by American citizens, as there are more than 75 million such magazines owned by them in the United States. These magazines are so common that they are standard on many firearms: On a nationwide basis most pistols are manufactured with magazines holding ten to 17 rounds. Even more than 20 years ago, fully 18 percent of all firearms owned by civilians were equipped with magazines holding more than ten rounds.”

Id., 849 F.3d at 154, Traxler, J. dissenting (internal citations and quotation marks omitted).

49. [Tens of millions of magazines](#) capable of holding more than 10 rounds of ammunition are commonly owned by millions of Americans for all manner of lawful purposes, including self-defense, sporting, and hunting. They come standard with many of the most popular handguns and long guns on the market, and Americans own [over 100 million of them](#).

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Deleted: 2895 (2022). Indeed, the most popular handgun in America, the Glock 17 pistol, comes standard with a 17-round magazine. *See Duncan III*, 366 F.Supp.3d at 1145....

50. There can be no serious dispute that magazines capable of holding more than 10 rounds are bearable arms that satisfy the common use test and thus are protected by the Second Amendment. The Ordinances' prohibition on the possession, sale, or other transfer of the LCMs owned by Plaintiffs and/or their members violates the Second Amendment.

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Magazines. ...

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51. The Second Amendment's plain text covers the assault weapons and the LCMs. It therefore falls to the Defendants to justify their regulations as consistent with historical tradition rooted in the Founding. This they cannot possibly do so, because *Bruen* and Heller have already established that there is no tradition of banning commonly possessed arms, such as the assault weapons and the LCMs. 52.

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There is an actual and present controversy between the parties. The

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Ordinances infringe on Plaintiffs' right to keep and bear arms under the Second Amendment by generally prohibiting the possession of arms that are commonly possessed by millions of Americans for lawful purposes. Defendants deny these contentions. Plaintiffs desire a judicial declaration that the Ordinances, facially and/or as applied to them, violate their constitutional rights. Plaintiffs should not be forced to choose between risking criminal prosecution and exercising their constitutional rights. The risk of criminal prosecution on account of exercising a constitutionally protected right unlawfully chills the exercise of that right and thus violates the Constitution even if the criminal defendant ultimately prevails.

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53. Plaintiffs are or will be injured by Defendants' enforcement of the Ordinances insofar as those provisions violate Plaintiffs' rights under the Second Amendment

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by precluding the acquisition, possession, transfer and use of arms that are “typically possessed by law-abiding citizens for lawful purposes.” If not enjoined by this Court, Defendant will enforce the Ordinances in derogation of Plaintiffs’ constitutional rights. Plaintiffs have no plain, speedy, and adequate remedy at law. Damages are indeterminate or unascertainable and, in any event, would not fully redress any harm suffered by Plaintiffs because they are unable to engage in constitutionally protected activity due to Defendant’s present or contemplated enforcement of these provisions.

IV. FIRST CLAIM FOR RELIEF Right to Keep and Bear Arms U.S. Const., amends. II and XIV

54. [The preceding paragraphs](#) are realleged and incorporated by reference.

55. The Ordinances ban firearms and firearm magazines that are “typically

possessed by [law-abiding](#) citizens for lawful purposes” nationwide. The

Ordinances, therefore, generally prohibit residents of the Municipalities

including Plaintiffs, from acquiring, keeping, possessing, and/or transferring arms protected by the

Second Amendment. There are significant penalties for violations of the Ordinances.

56. These restrictions infringe on the right of the people of the Municipalities, including Plaintiffs, to keep and bear arms as guaranteed by the Second Amendment and made applicable to the states and its political subdivisions by the Fourteenth Amendment.

57. The Ordinances’ prohibitions extend into Plaintiffs’ homes, where Second

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Amendment protections are at their zenith.

58. Defendants cannot satisfy their burden of demonstrating that these restrictions on the Second Amendment right of Plaintiffs to bear, acquire, keep, possess, transfer, and use arms that are in common use by law-abiding adults throughout the United States for the core right of self-defense in the home and other lawful purposes are consistent with this Nation's historical tradition of firearm regulation.

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59. The Order requires Plaintiffs to file this amended complaint asserting certain claims by certain parties and, apparently, not others. Plaintiffs do not understand this procedure as they explained in their July 17, 2025, Request for

Clarification [Doc. 110].

60. Accordingly, as required by the Court in its Order, Plaintiffs assert the following specific claims under this Claim for Relief:

a. A challenge of the Current Possession Clause of the applicable Ordinance with respect to large capacity magazines brought by:

i. Plaintiff Rocky Mountain Gun Owners against the City of Superior, Colorado; ii. Plaintiffs Bryan LaFonte and Rocky Mountain Gun Owners against the City of Louisville, Colorado; and iii. Plaintiffs James Michael Jones, Rocky Mountain Gun Owners, and National Association of Gun Rights against the City of Boulder, Colorado;

b. A challenge to the Future Possession Clause of the applicable Ordinance with respect to assault weapons brought by:

i. Plaintiffs Bryan LaFonte and Rocky Mountain Gun Owners against City of Louisville, Colorado; ii. Plaintiffs Rocky Mountain Gun Owners and National Association of Gun Rights against the Board of County Commissioners of Boulder County, Colorado;

c. A challenge to the Future Possession of the applicable Ordinance with respect to large capacity magazines brought by:

i. Plaintiffs Bryan LaFonte and the Rocky Mountain Gun Owners against City of Louisville, Colorado; and
ii. Plaintiffs James Michael Jones, Rocky Mountain Gun Owners, and National Association of Gun Rights against the City of Boulder, Colorado; and iii. Plaintiff National Association of Gun Rights against the Board of County Commissioners of Boulder County, Colorado.

61. Nevertheless, for the purposes of preserving their claims that were dismissed without prejudice in the Order, all Plaintiffs incorporate herein and reallege all factual allegations set forth in the original complaint and the various declarations they have previously filed in this case and reassert all claims set forth in the original complaint, including those previously dismissed without prejudice.

V. PRAYER FOR RELIEF

Plaintiffs pray that the Court:

62. Enter a declaratory judgment pursuant to 28 U.S.C. § 2201 that the Ordinances are unconstitutional on their face or as applied to the extent their prohibitions apply to law-abiding adults seeking to acquire, use, transfer, or possess arms that are in common use by the American public for lawful purposes;
63. Enter permanent injunctive relief enjoining Defendants and their officers, agents, and employees from enforcing the Ordinances;
64. Award remedies available under 42 U.S.C. § 1983 and all reasonable attorneys' fees, costs, and expenses under 42 U.S.C. § 1988, or any other applicable law;
65. Award actual compensatory and/or nominal damages; and
66. Grant any such other and further relief as the Court may deem proper.

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VI. PRESERVATION OF WALKER AND MADONNA CLAIMS

67. Plaintiff Charles Bradley Walker ("Walker") is a law-abiding citizen. He resides in the Town of Superior, Colorado.
68. Plaintiff Gordon Madonna ("Madonna") is a law-abiding citizen. He resides in the Town of Louisville, Colorado.
69. In the Order, the Court appears to have dismissed without prejudice all of Walker's and Madonna's claims and ordered Plaintiffs to file this amended complaint without asserting those claims.
70. As Plaintiffs explained in their July 17, 2025, Request for Clarification [Doc.

110], Walker and Madonna wish to preserve their claims for appeal.

71. Accordingly, Walker and Madonna reassert the factual allegations concerning them that have been previously filed in this case, including, without limitation, the facts stated in Doc. 100-5 and Doc 100-6. They also re-assert their claims pursuant to the Second Amendment set forth in the original complaint.

Respectfully submitted this 1st day of August 2025.

/s/ Barry K. Arrington

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Arrington Law Firm

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Wheat Ridge Colorado 80033

Voice: (303) 205-7870; Fax: (303) 463-0410

Email: barry@arringtonpc.com

Shaun Pearman
The Pearman Law Firm, P.C.
4195 Wadsworth Boulevard

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Denver, Colorado 80210 ¶

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Fax Number: (303) 991-7601 ¶

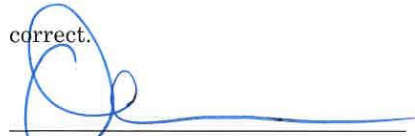
E-mail: shaun@pearmanlawfirm.com ¶

¶
Attorneys for Plaintiffs

Case No. 1:22-cv-02680-NYW-TPO Document 116 filed 08/01/25 USDC Colorado
pg 19 of 22


Wheat Ridge Colorado 80033
Phone Number: (303) 991-7600
Fax Number: (303) 991-7601
E-mail: shaun@pearmanlawfirm.com
Attorneys for Plaintiffs

I, Dudley Brown, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury
that I have reviewed the foregoing, that I am competent to testify in this matter,
and that the facts contained therein related to RMGO and NAGR are true and
correct.



Dudley Brown
Date: August 1, 2025

I, Hannah Hill, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury that
I have reviewed the foregoing, that I am competent to testify in this matter, and
that the facts contained therein related to RMGO and NAGR are true and correct.



Hannah Hill
Date: August 1, 2025

I, James Michael Jones, pursuant to 28 U.S.C. § 1746, declare under penalty
of perjury that I have reviewed the foregoing, that I am competent to testify in this
matter, and that the facts contained therein related to me are true and correct.

James Michael Jones
Date: August ____, 2025

Case No. 1:22-cv-02680-NYW-TPO Document 116 filed 08/01/25 USDC Colorado
pg 20 of 22

Wheat Ridge Colorado 80033
Phone Number: (303) 991-7600
Fax Number: (303) 991-7601
E-mail: shaun@pearmanlawfirm.com
Attorneys for Plaintiffs

I, Dudley Brown, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury that I have reviewed the foregoing, that I am competent to testify in this matter, and that the facts contained therein related to RMGO and NAGR are true and correct.

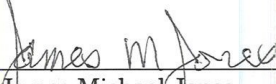
Dudley Brown
Date: August, 2025

I, Hannah Hill, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury that I have reviewed the foregoing, that I am competent to testify in this matter, and that the facts contained therein related to RMGO and NAGR are true and correct.

Hannah Hill
Date: August, 2025


-,2025

I, James Michael Jones, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury that I have reviewed the foregoing, that I am competent to testify in this matter, and that the facts contained therein related to me are true and correct.


James Michael Jones
Date: August, 2025

Case No. 1:22-cv-02680-NYW-TPO Document 116 filed 08/01/25 USDC Colorado
pg 21 of 22

I, Bryan LaFonte, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury that I have reviewed the foregoing, that I am competent to testify in this matter, and that the facts contained therein related to me are true and correct.



Bryan LaFonte

Date: August 1, 2025

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10/12/22 USDC Colorado Page 23 of 24

Case No. 1:22-cv-02680-NYW-TPO Document 116 filed 08/01/25 USDC Colorado pg 22 of
22

CERTIFICATE OF SERVICE

I hereby certify that on August 1, 2025, I electronically filed a true and correct
copy of the foregoing with the Clerk of the Court using the CM/ECF system, which
will send notification of such filing via email to parties of record.

/s/ Barry K. Arrington

Barry K. Arrington

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10/12/22 USDC Colorado Page 24 of 24

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Author

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