UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

NATIONAL SHOOTING SPORTS FOUNDATION, INC. et al., Plaintiffs, v. RAÚL TORREZ, in his official capacity as Attorney General of New Mexico, Defendant.	Civil Action No. 1:26-cv-3514 October 22, 2026

PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION[1]

[1] Pursuant to D.N.M.LR-Civ. 7.1(a), the Plaintiffs sought the position of Defendant Raúl Torrez, by way of New Mexico Solicitor General Aletheia Allen. Ms. Allen stated that, "[b]ecause NMDOJ is not yet entered in the case, we do not intend to take a position on any motions at this time." Given the nature of this motion, opposition is presumed. The Plaintiffs will be serving the Defendant with formal process and all filings to date (including this motion) within the next one to two business days.

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The National Shooting Sports Foundation, Inc. ("NSSF"), National Rifle Association of America ("NRA"), Second Amendment Foundation ("SAF"), New Mexico Firearms Industry Association ("NMFIA"), New Mexico Shooting Sports Association ("NMSSA"), Calibers Shooting Sports Center, Omni Tactical USA, Right to Bear Arms, and Peter Hackett (collectively, "Plaintiffs") hereby move for a preliminary injunction against Raúl Torrez, in his official capacity as Attorney General of New Mexico, enjoining him and those subject to his supervision from enforcing House Bill 129 (2024) against Plaintiffs, Plaintiffs' customers, and Plaintiffs' members.

INTRODUCTION

Plaintiffs regret that they have been forced to seek injunctive relief, but the state's actions have left them no choice. In 2024, New Mexico enacted House Bill 129 ("HB129"), which requires prospective firearm purchasers who have already passed the comprehensive background check required by federal law to wait out an additional, weeklong "cooling off" period before taking possession of a firearm. In 2025, the Tenth Circuit published a precedential opinion "holding that [HB129] is unconstitutional," "both facial[ly] and as-applied," "except as to … those whose background checks are not cleared within three days." *Ortega v. Grisham*, 148 F.4th 1134, 1155-56 & n.16 (10th Cir. 2025); *see also* 162 F.4th 1056 (10th Cir. 2025) (per curiam) (denying New Mexico's en banc petition). And just a few months ago on remand from the Tenth Circuit, the district court in *Ortega* "grant[ed]," without reservation, the *Ortega* plaintiffs' summary-judgment motion, *Ortega v. Grisham*, No. 1:24-cv-00471 (D.N.M. Aug. 26, 2026), Dkt.126 at 3, which sought a judgment "declaring that HB129 is unconstitutional as applied to individuals who pass the background check required under federal law," *Ortega*.D.Ct.Dkt.120 at 7.

That should have been the end of any contention by New Mexico that it can continue enforcing HB129. When the U.S. Court of Appeals in which a state sits deems a state law "obviously unconstitutional," *Ortega*, 148 F.4th at 1155 n.16; *see also id.* at 1155 n.15

(characterizing the constitutional violation as "broad and clear"), and a U.S. District Court enters final judgment memorializing the Court of Appeals' "holding that [the law] is unconstitutional," *id.* at 1156; *see Ortega*.D.Ct.Dkt.126 at 2-3, state officials ordinarily follow their oaths to uphold the Constitution and stop enforcing it.

New Mexico has chosen a different path. Because the only plaintiffs in the *Ortega* case were two individuals, New Mexico has taken the position that it will continue enforcing HB129 against everyone else in the state. *See, e.g.*, Patrick Lohmann, *Federal Judge Rules Against New Mexico's 7-day Waiting Period for Gun Purchases*, SourceNM (Aug. 28, 2026), https://perma.cc/7U44-5SP9 ("[T]he order only states that the two named plaintiffs are able to purchase firearms without having to go through the waiting period. The law remains in effect otherwise." (quoting state official)). Both in public and in private, state officials have said in no uncertain terms that buyers and sellers who fail to comply with New Mexico's unconstitutional law should be prepared to face criminal charges in state court.

Because New Mexico has made clear that it will not abide the Tenth Circuit's unequivocal holding as to anyone other than the *Ortega* plaintiffs unless and until a court orders it to do so, Plaintiffs are forced to seek an order that (once again) declares HB129 unconstitutional in the context of firearms sales to individuals who pass the background check required under federal law and that permanently enjoins New Mexico from enforcing the law against that universe of persons. In the meantime, a preliminary injunction is plainly warranted. After all, the Tenth Circuit has already held that the claim Plaintiffs are bringing is not just likely to succeed, but *will* succeed. And New Mexico's insistence on continuing to enforce HB129 nevertheless is causing devastating, irreparable harm to Plaintiffs, their customers, and their members. This Court should grant a preliminary injunction forthwith.

BACKGROUND

HB129 requires "[a] waiting period of seven calendar days … for the sale of a firearm and the transfer of the firearm to the buyer." N.M. Stat. §30-7-7.3(A).[2] Although the statute's primary stated purpose is "reduc[ing] impulsive gun violence or suicides," *Ortega*, 148 F.4th at 1140, the seven-day period is not keyed to the time it takes to complete a background check into someone's criminal and mental health history; instead, it is an unadorned "cooling-off" measure. HB129 specifies that "[t]he seven-calendar-day waiting period shall include the period required to conduct a federal instant background check." N.M. Stat. §30-7-7.3(A). So even if the background check is resolved within minutes (as most are, *see* U.S. Dep't of Just., *NICS 2025 Operational Report* 6, https://perma.cc/TE2V-7Q7T), the purchaser must still wait seven days. HB129 also purports to supersede the maximum-three-business-day delay allowed under federal law, *see* 18 U.S.C. §922(t)(1)(B)(ii), prescribing that "if the seven-calendar-day waiting period has expired without the completion of a required federal instant background check, the seller shall not transfer the firearm to the buyer until the federal instant background check is completed" or until "twenty days" have gone by. N.M. Stat. §30-7-7.3(A). Violating HB129 is a crime for both the buyer and the seller. *See id.* §30-7-7.3(D), (G).

Two law-abiding New Mexicans reacted to this infringement on their rights by promptly filing a lawsuit under 42 U.S.C. §1983. *See Ortega*, 148 F.4th at 1140. And in August 2025, the Tenth Circuit published a precedential opinion "holding that [HB129] is unconstitutional." *Id.* at 1156. Indeed, the Tenth Circuit declared HB129 "obviously unconstitutional" as applied to all who pass the background check required by federal law. *Id.* at 1155 n.16. It then "remand[ed] to

[2] Sales to buyers with a federal firearms license or a valid New Mexico concealed handgun license are exempted, as are sales to law-enforcement agencies, sales between law-enforcement officers, and sales between immediate family members. N.M. Stat. §30-7-7.3(H)(1)-(5).

the district court, with instructions to enter" injunctive relief consistent with its opinion. *Id.* at 1156.

Rather than accept the Tenth Circuit's opinion, New Mexico chose defiance. On remand, the state moved for summary judgment *in its favor*—without introducing any new evidence or even making any new arguments. The state simply asserted that the Tenth Circuit's decision is wrong, so Judge Browning should decline "to follow" it. *Ortega*.D.Ct.Dkt.113 at 2. That predictably went nowhere. Judge Browning recognized that "the Tenth Circuit has determined [the Act] to be unconstitutional as it pertains to individuals who have passed a background check," *Ortega*.D.Ct.Dkt.97 at 1, and accordingly entered final judgment in the plaintiffs' favor, *Ortega*.D.Ct.Dkt.126 at 3.

Hoping to avoid further litigation, undersigned counsel, who also represent the plaintiffs in *Ortega*, reached out to the state's counsel of record in that case to inquire whether New Mexico would be willing to agree that it will no longer enforce HB129. In response, the state's counsel informed undersigned counsel that it is New Mexico's position that it can and will enforce HB129 against everyone except Samuel Ortega and Rebecca Scott, the two plaintiffs in *Ortega*. Counsel informed the state that, if it took that position, then other parties would have no choice but to bring a new lawsuit seeking broader relief. The state nevertheless would not budge. Accordingly, Plaintiffs—leading Second Amendment advocacy organizations, multiple federally licensed firearms dealers in New Mexico, and a former law enforcement officer with concrete plans to purchase a firearm in the coming days, *see* Declaration of Peter Hackett ¶¶5, 8-9 (Oct. 18, 2026) (attached as Exhibit A)—were left with no choice but to bring this lawsuit seeking relief on behalf of themselves and their members, and seeking an injunction to prevent the state once and for all from continuing to enforce its unconstitutional law.

ARGUMENT

Plaintiffs seeking a preliminary injunction must show "(1) a substantial likelihood that [they] will ultimately succeed on the merits of its suit; (2) [they are] likely to be irreparably injured without an injunction; (3) this threatened harm outweighs the harm a preliminary injunction may pose to the opposing party; and, (4) the injunction, if issued, will not adversely affect the public interest." *Flood v. ClearOne Commc'ns, Inc.*, 618 F.3d 1110, 1117 (10th Cir. 2010). Here, every factor overwhelmingly supports preliminarily enjoining the challenged portions of HB129. Indeed, the Tenth Circuit has already held as much.

I. Plaintiffs' Challenge To HB129 Is Likely, If Not Certain, To Succeed On The Merits.

Likelihood of success on the merits is "the first and most important preliminary-injunction factor." *Planned Parenthood of Kan. v. Andersen*, 882 F.3d 1205, 1229 (10th Cir. 2018). Here, Plaintiffs are not merely likely to succeed on the merits; the Tenth Circuit has already held that their claim is meritorious. *See Ortega*, 148 F.4th at 1155-56. There thus is no room for this Court to reach a contrary conclusion. Even if there were, the Tenth Circuit's decision is plainly correct.

A. "The Second Amendment protects the right of 'all Americans' to keep and bear firearms for self-defense." *United States v. Hemani*, 608 U.S. 772, 779 (2026) (quoting *District of Columbia v. Heller*, 554 U.S. 570, 581 (2008)); *see* U.S. Const. amend. II (securing "the right of the people to keep and bear Arms"); *see also McDonald v. Chicago*, 561 U.S. 742 (2010) (holding that the Second Amendment is incorporated against the states). Because "the Second Amendment was designed to codify a 'pre-existing' individual right and guard against its later erosion by majoritarian legislation or judicial fiat," a state must justify any law that regulates conduct covered by the plain text by demonstrating that its law is "consistent with th[e] Nation's historical tradition of firearm regulation." *Hemani*, 608 U.S. at 780 (quoting *N.Y. State Rifle & Pistol Corp. v. Bruen*, 597 U.S. 1, 24-25 (2022)). To do so, a state must show that the challenged restriction is "relevantly

similar" "in purpose and operation" to "'well-established'" historical analogues (the so-called "why" and "how" inquiries). *Id.* (quoting *Bruen*, 597 U.S. at 28-30).

Under that rubric, the initial question is whether "the Second Amendment's plain text covers an individual's conduct" that the challenged law restricts. *Bruen*, 597 U.S. at 24. The answer here is yes. The text of the Second Amendment provides: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." U.S. Const. amend. II. As the Tenth Circuit correctly concluded, HB129 plainly restricts conduct covered by the Second Amendment's plain text, because it prevents nearly everyone in the state ("the people") from taking possession of (and thus "keep[ing] and bear[ing]") a firearm ("Arms") for at least a week, even if they pass a background check instantly. *Ortega*, 148 F.4th at 1143-45; *see* U.S. Const. amend. II.

New Mexico has previously argued (and likely will argue again) that, because HB129 imposes only a temporary burden on the acquisition of firearms, it does not restrict conduct covered by the Second Amendment's plain text. That argument is squarely foreclosed by the Tenth Circuit's holding. *See Ortega*, 148 F.4th at 1143-45. It is also intrinsically flawed. One need only look to other fundamental rights to confirm as much. A mandatory three-day delay on offering a political stump speech (to prevent a candidate from engaging in "impulsive" rhetoric) would obviously implicate the First Amendment even though it would only "delay," not permanently "take away," anyone's right to speak. *See United States v. Quattrone*, 402 F.3d 304, 309-10 (2d Cir. 2005) ("A prior restraint is not constitutionally inoffensive merely because it is temporary."). "The Second Amendment is no different." *Ortega*, 148 F.4th at 1145. "The constitutional right to bear arms … is not 'a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees.'" *Bruen*, 597 U.S. at 70 (quoting *McDonald*, 561 U.S. at 780).

Indeed, New Mexico's efforts to evade historical scrutiny have only gotten worse with age. The state argued in *Ortega* that no historical scrutiny of HB129 is necessary because "the plain text of the Second Amendment" does not explicitly mention "acquiring or purchasing firearms" (or, even more parsimoniously, "the immediate acquisition of commercially sold firearms"). *Ortega*.D.Ct.Dkt.109 at 15 (emphasis omitted). The Tenth Circuit squarely rejected that argument as inconsistent with *Bruen*. *See Ortega*, 148 F.4th at 1144-45 (holding that a law that "prevents a citizen from possessing a firearm for a flat period" "is an infringement on the right to bear arms" and "must be scrutinized as one"). And the Supreme Court has since confirmed that the state is wrong. In *Wolford v. Lopez*, Hawaii argued that its law did not restrict conduct covered by the plain text because the Second Amendment does not explicitly address "the right to armed entry onto private property without the owner's consent." 609 U.S. 185, 204 (2026). The Court rejected that argument out of hand, holding that a law that "burdens those wishing to exercise their Second Amendment right" "fall[s] within the plain text of the Second Amendment" no matter how the law imposes that burden. *Id.* at 201-02. It thus made no difference that Hawaii's law operated by requiring property owners to provide consent. By making it illegal for people to carry ("bear") a firearm as they go about their daily lives unless they secure advance consent from all private property owners, the law plainly "impose[d] a new burden on permit holders" to bear arms. *Id.* at 202. Here, too, it makes no difference that the Second Amendment does not explicitly mention the acquisition of firearms or speak to how long states may make people wait to exercise the right to keep and bear arms—as, again, the Tenth Circuit squarely held in *Ortega*, 148 F.4th at 1144-45.

B. Nor can New Mexico evade historical scrutiny by (mis)conceptualizing HB129 as a mere "condition" on the acquisition of arms. The Tenth Circuit has already rejected that argument, holding that HB129 "does not impose a condition or qualification like other restrictions considered

presumptively constitutional." *Ortega*, 148 F.4th at 1147. That holding is binding on this Court—and is also entirely correct. While the Supreme Court may have described "conditions and qualifications on the commercial sale" of firearms as "presumptively lawful," *Heller*, 554 U.S. at 626-27 & n.26, it has never embraced the proposition that laws regulating firearms transactions need not be consistent with our Nation's historical tradition of firearms regulation. Nor would that make any sense when restricting whether and when people may acquire firearms provides an obvious way of restricting the exercise of the right. What matters is whether a law "burdens those wishing to exercise their Second Amendment right." *Wolford*, 609 U.S. at 202. And HB129 does nothing *other* than burden those wishing to exercise their Second Amendment right. In all events, the Tenth Circuit correctly held that even if HB129 *were* considered a condition of commercial sale, any presumption of constitutionality would be rebutted because a law like HB129 that is "justified only by assuming that citizens cannot be trusted with their own rights[] is put toward an abusive end." *Ortega*, 148 F.4th at 1148-49 & n.7; *see also Bruen*, 597 U.S. at 38 n.9.

New Mexico cannot credibly argue otherwise. Unlike laws prohibiting sales to minors or prohibiting possession by felons, New Mexico's cooling-off law does not target *either* people found to pose a threat based on individualized conduct *or* a subset of people who as a class are thought particularly likely to act violently or impulsively. *Cf. Hemani*, 608 U.S. at 792 (finding inconsistent with historical tradition a restriction on possession that does not "confine[] its reach to those who are categorically and unusually dangerous"). HB129 instead "broadly restrict[s] arms use by the public generally," *United States v. Rahimi*, 602 U.S. 680, 698 (2024), based on the view that everyone who wants to exercise their Second Amendment rights should be treated with suspicion. "To say that a desire to purchase a firearm renders one dangerous or presumptively not law-abiding for a time would also penalize someone for exercising a constitutional right, which is

obviously unconstitutional." *Ortega*, 148 F.4th at 1150 n.10. If the state wants to disarm an individual or category of individuals, even if only for a "limit[ed]" "time," then it must establish that the person or category poses a "current danger to others." *United States v. Rose*, 180 F.4th 930, 932 (7th Cir. 2026); *see also United States v. Daniels*, 101 F.4th 770, 778 (10th Cir. 2024) ("[I]f we are to take seriously the normative thrust of the Supreme Court's recent decision[s] …, then we cannot look with suspicion on citizens presumably exercising their Second Amendment rights in a lawful way."). HB129 makes no effort to do either of those things.

C. Because HB129 "burdens those wishing to exercise their Second Amendment right," *Wolford*, 609 U.S. at 202, the onus is on the state to "prove that its firearms regulation is part of the historical tradition that delimits … the right to keep and bear arms." *Bruen*, 597 U.S. at 19. But as the Tenth Circuit made clear beyond cavil, the state cannot meet that burden because HB129 is inconsistent with the Nation's "historical tradition of firearm regulation." *Ortega*, 148 F.4th at 1149-55. Indeed, the historical record is so lopsided that Plaintiffs would prevail even if *they* bore the burden of proving that such laws are *not* consistent with historical tradition. There is no longstanding tradition in this country of forcing law-abiding citizens to wait to acquire firearms even after they have passed a background check proving their bona fides.

To be sure, some historical laws sought to prevent firearm possession by certain classes of individuals—e.g., people who were intoxicated (for obvious reasons), people subject to individualized determinations of dangerousness (also for obvious reasons), and disfavored minorities (for obviously odious reasons). But none of those laws imposed anything remotely akin to the sort of population-wide burden on keeping and bearing arms that HB129 foists on all New Mexicans. Likewise, while some states adopted waiting-period laws in the early- and mid-twentieth century, those laws were imposed to facilitate background checks or other investigatory

efforts to determine whether someone is prohibited from possessing a firearm. Unadorned cooling-off laws such as HB129, by contrast, are not tethered to any such efforts; they simply delay the exercise of Second Amendment rights for the sake of delay, on the theory that even law-abiding citizens who have passed a background check cannot be trusted with a firearm. So even assuming twentieth-century waiting-period laws were appropriate historical analogues, cooling-off laws—which are for the most part a twenty-first-century innovation—reflect a fundamentally different "how" and "why," and are animated by reasoning that is fundamentally incompatible with the Second Amendment. *Wolford*, 609 U.S. at 196-97; *see also Daniels*, 101 F.4th at 778. Because HB129 is not "consistent with the Nation's historical tradition of firearm regulation," *Bruen*, 597 U.S. at 24, it violates the Second Amendment, as the Tenth Circuit has already held, *Ortega*, 148 F.4th at 1155.

II. HB129 Occasions A Slew Of Irreparable Harms.

As the attached declarations make clear, HB129 is inflicting all manner of irreparable harm on all manner of New Mexico residents and businesses. The harm is perhaps most stark for Plaintiff Hackett and the remaining Plaintiffs' customers and individual members—law-abiding New Mexico citizens who face an indefinite deprivation of their Second Amendment rights. *See* Hackett.Decl.¶8-10. As the Tenth Circuit has conclusively held, when it comes to the deprivation of the Second Amendment right occasioned by HB129, courts should "presume that the injury will be irreparable." *Ortega*, 148 F.4th at 1142; *see id*. (observing that a constitutional violation "collapses the first and second preliminary-injunction factors, equating likelihood of success on the merits with a demonstration of irreparable injury" (citing *Free the Nipple v. City of Fort Collins*, 916 F.3d 792 (10th Cir. 2019))). Other courts readily agree. *See Baird v. Bonta*, 81 F.4th 1036, 1042 (9th Cir. 2023); *Wrenn v. District of Columbia*, 864 F.3d 650, 667-68 (D.C. Cir. 2017); *Def. Distributed v. Dep't of State*, 838 F.3d 451, 457 (5th Cir. 2016); *Ezell v. City of Chicago*, 651 F.3d

684, 699 (7th Cir. 2011). Courts are likewise in agreement that federally licensed firearms dealers (i.e., vendors of firearms) like Plaintiffs Calibers, Omni Tactical, and Right to Bear Arms have "standing to pursue Second Amendment claims on behalf of their customer base." *Gazzola v. Hochul*, 88 F.4th 186, 195 (2d Cir. 2023); *see also Maryland Shall Issue, Inc. v. Hogan*, 971 F.3d 199, 216 (4th Cir. 2020); *Teixeira v. Cnty. of Alameda*, 873 F.3d 670, 678 (9th Cir. 2017) (en banc); *Ezell*, 651 F.3d at 696.

The irreparable harm is no less obvious for Plaintiffs Calibers, Omni Tactical, and Right to Bear Arms. These retailers' businesses are wholly reliant on their customers' willingness and ability to purchase firearms. But under HB129, their customers cannot purchase a firearm immediately, which leaves some unwilling to purchase one at all. Customers often come into Plaintiffs' and Plaintiffs' retailer members looking to purchase a firearm, but leave without doing so because of the seven-day wait period imposed by HB129. *See* Declaration of Ryan S. Burt ¶5 (attached as Exhibit B); Declaration of Jacob Melidones (Omni Tactical) ¶5 (Oct. 19, 2026) (attached as Exhibit C); Declaration of Erik Rasmussen ¶5 (Oct. 19, 2026) (attached as Exhibit D); Declaration of John T. McNamara, Jr. ¶9 (Oct. 20, 2026) (attached as Exhibit E). Because sovereign immunity makes it impossible for these vendors to recover damages, that loss in business opportunity constitutes irreparable injury—to say nothing of the loss in customer goodwill. *See Chamber of Com. v. Edmondson*, 594 F.3d 742, 770-71 (10th Cir. 2010) ("Imposition of monetary damages that cannot later be recovered for reasons such as sovereign immunity constitutes irreparable injury.").

The same goes for NSSF's, NRA's, SAF's, NMFIA's, and NMSSA's other manufacturer and retailer members, whose businesses are similarly threatened. *See* McNamara.Decl.¶¶6-9; Declaration of John Commerford ¶¶5, 7-10, 12 (October 21, 2026) (attached as Exhibit F);

Declaration of William Sack ¶¶3, 6-9 (October 20, 2026) (attached as Exhibit G); Declaration of Jacob Melidones (NMFIA) ¶¶4, 7, 9 (Oct. 19, 2026) (attached as Exhibit H). Recent 42 U.S.C. §1983 caselaw confirms that organizations like NSSF, NRA, SAF, NMFIA, and NMSSA have standing to vindicate the interests of their New Mexico-based members. *See SFFA v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 199 (2023) (holding that a membership organization suing under §1983 may "assert 'standing solely as the representative of its members'"); *see also Nat'l Ass'n for Gun Rts. v. Polis*, 173 F.4th 1317, 1330-31 (10th Cir. 2026). And cases old and new confirm that a law like HB129 also injures these organizations "in [their] own right," *SFFA*, 600 U.S. at 199, by causing them to lose membership dues and requiring them to divert resources, monetary and otherwise, to help their New Mexico-based members weather HB129's storm. *See Colo. Mont. Wyo. State Area Conf. of NAACP v. Smith*, 180 F.4th 1266, 1275 (10th Cir. 2026) (holding that organizations had standing because they "diverted time, personnel, and resources from their regular programming into monitoring and combatting" the defendants' actions). For example, Plaintiff NMFIA's *raison d'être* is to support New Mexico gun store owners and Federal Firearms License dealers, and it has had to expend its limited resources to help its members deal with HB129's effects on their businesses. *See* Melidones.NMFIA.Decl.¶¶3, 8-9; *see also* McNamara.Decl.¶¶4, 9-10; Commerford.Decl.¶¶4, 13; Sack.Decl.¶¶9-11. All of those harms are irreparable, and they more than justify preliminary relief.

III. The Equities and Public Interest Underscore The Need For Emergency Relief.

When a state government "is the opposing party," the third and fourth injunction factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). And when the plaintiffs are challenging government action as unconstitutional, the merged equities/public-interest inquiry travels together with the merits analysis, because "it is always in the public interest to prevent the violation of a party's constitutional rights" and "the State can have 'no interest in keeping an unconstitutional

law on the books.'" *Ortega*, 148 F.4th at 1154 n.13. Numerous circuits agree. *See Brown v. Yost*, 133 F.4th 725, 737-38 (6th Cir. 2025); *Book People, Inc. v. Wong*, 91 F.4th 318, 340-41 (5th Cir. 2024); *Schrader v. D.A. of York Cnty.*, 74 F.4th 120, 128 (3d Cir. 2023); *Otto v. City of Boca Raton*, 981 F.3d 854, 870 (11th Cir. 2020); *Legend Night Club v. Miller*, 637 F.3d 291, 302-03 (4th Cir. 2011). In short, when the merits analysis weighs in favor of an injunction (as it does here, *see supra* Part I), the merged equities/public-interest factor does too. *Awad v. Ziriax*, 670 F.3d 1111, 1132 (10th Cir. 2012) ("[I]t is always in the public interest to prevent the violation of a party's constitutional rights.").

CONCLUSION

The Court should enjoin Defendant from enforcing the challenged portions of HB129 against Plaintiffs and all Plaintiffs' members pending final resolution of Plaintiffs' Second Amendment claim.

PLAINTIFFS – NATIONAL SHOOTING SPORTS FOUNDATION, INC., NATIONAL RIFLE ASSOCIATION OF AMERICA, SECOND AMENDMENT FOUNDATION, NEW MEXICO FIREARMS INDUSTRY ASSOCIATION, NEW MEXICO SHOOTING SPORTS ASSOCIATION, CALIBERS SHOOTING SPORTS CENTER, OMNI TACTICAL USA, RIGHT TO BEAR ARMS, and PETER HACKETT

By /s/ Carter B. Harrison IV

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

NATIONAL SHOOTING SPORTS FOUNDATION, INC., NATIONAL RIFLE ASSOCIATION OF AMERICA, SECOND AMENDMENT FOUNDATION, NEW MEXICO FIREARMS INDUSTRY ASSOCIATION, NEW MEXICO SHOOTING SPORTS ASSOCIATION, CALIBERS SHOOTING SPORTS CENTER, OMNI TACTICAL USA, RIGHT TO BEAR ARMS, and PETER HACKETT, *Plaintiffs*, v. RAÚL TORREZ, in his official capacity as Attorney General of New Mexico, *Defendant*.	Civil Action No. 26-3514-JHR/LF

DECLARATION OF PETER HACKETT

I, Peter Hackett, declare as follows:

1. I am a plaintiff in this action, and I have personal knowledge of the facts contained in this Declaration. I could and would competently testify to the contents of this Declaration if called upon to do so.
2. I currently reside in the State of New Mexico.
3. I am a law-abiding American citizen over the age of 21, and I am not prohibited from purchasing or possessing firearms under state or federal law.
4. I am not a federal firearms licensee.



5. I am not currently employed as a law enforcement officer by any law enforcement agency. I served as a law enforcement officer with the Albuquerque Police Department for over 20 years and retired in 2013 at the rank of Sergeant.
6. I do not currently hold a New Mexico concealed handgun license. I am a qualified retired law enforcement officer under the Law Enforcement Officers Safety Act, 18 U.S.C. § 926C, and I possess the photographic identification issued under that Act.
7. I currently possess a collection of firearms, including firearms I keep for self-defense. I intend to continue purchasing firearms in New Mexico in the future, beyond the purchase described below, and I expect each of those purchases to be subject to New Mexico's seven-day waiting period.
8. I intend to purchase a Glock 21 Gen 5 MOS semiautomatic pistol for self-defense purposes on or about October 24, 2026, from the Right to Bear Arms gun store located in Albuquerque, New Mexico. But for New Mexico's waiting period law, I would take possession of the pistol on the day I purchase it, as soon as the required federal background check is completed.
9. Since New Mexico's waiting period law, NMSA 1978, § 30-7-7.3, took effect on May 15, 2024, I have purchased at least one firearm in New Mexico, and I was required to wait seven days after the purchase before I could take possession of it. Because I do not hold a federal firearms license or a New Mexico concealed handgun license, I understand that when I purchase the Glock 21 Gen 5 MOS pistol, the seller will be prohibited from transferring it to me until the seven-day waiting period has ended.
10. I am a current member in good standing of the National Rifle Association of America, the New Mexico Shooting Sports Association, and the Second Amendment Foundation.

I declare under penalty of perjury under the laws of the United States of America and the State of New Mexico that the foregoing is true and correct.

Executed in Bernalillo County_____, this _18th___ day of October 2026.

_____
PETER HACKETT

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

NATIONAL SHOOTING SPORTS FOUNDATION, INC., NATIONAL RIFLE ASSOCIATION OF AMERICA, SECOND AMENDMENT FOUNDATION, NEW MEXICO FIREARMS INDUSTRY ASSOCIATION, NEW MEXICO SHOOTING SPORTS ASSOCIATION, CALIBERS SHOOTING SPORTS CENTER, OMNI TACTICAL USA, RIGHT TO BEAR ARMS, and PETER HACKETT,

Plaintiffs,

v.

RAÚL TORREZ, in his official capacity as Attorney General of New Mexico,

Defendant.

Civil Action No. 26-3514-JHR/LF

DECLARATION OF RYAN S. BURT

I, Ryan S. Burt, declare as follows:

1. I am over the age of 18, and I have personal knowledge of the facts contained in this Declaration. I could and would competently testify to the contents of this Declaration if called upon to do so.
2. I am the CEO of Calibers Shooting Sports Center ("Calibers"), a federal firearms licensee. Calibers maintains two storefronts in Albuquerque, New Mexico. The first is located at 4340 Cutler Avenue NE, and the second is located at 9320 Coors Boulevard NW.
3. Calibers has served the Albuquerque community since 1998. Calibers is a firearms-related retail business that specializes in providing firearms, gear, and access to indoor

PLAINTIFF'S EXHIBIT B

shooting ranges. At its two locations, Calibers sells firearms, ammunition, and firearm accessories; offers firearm rentals and gunsmithing services; and provides firearm training courses, including the New Mexico concealed handgun license course. Calibers' staff assist its customers not only with firearm-related retail purchases, but also by promoting responsible firearm handling and ownership through those courses.

4. I am familiar with New Mexico's seven-day firearm waiting period law, N.M. Stat. §30-7-7.3 (the "waiting period law"), and I am responsible for ensuring that Calibers complies with it. Before the waiting period law, Calibers would transfer firearms to its customers as soon as they pass the required federal background check and complete their purchase.

5. Since the waiting period law took effect on May 15, 2024, compliance with it has harmed Calibers, and continues to harm Calibers, in the following ways:

    a. The waiting period law has decreased Calibers' sales of firearms and firearm-related equipment, and in so doing has reduced the company's revenue. On multiple occasions, prospective customers who arranged with Calibers to purchase one or more firearms have backed out of the purchase once they learned that even after passing the background check and paying for their firearms, they would have to wait seven days to take possession of them.

    b. In addition to the loss of revenue, Calibers' operators, employees, and agents face the prospect of investigation, arrest, and criminal prosecution if they transfer a firearm to a customer before the seven-day waiting period ends. The waiting period law makes each party to such a transfer, both the seller and the buyer, guilty of a misdemeanor.

c. Calibers must also keep each purchased firearm in its custody for the entire seven-day waiting period. That requires Calibers to set aside secure storage space for firearms that have already been sold, track each pending transfer, and have staff handle a second visit from each customer to complete the transfer, all of which costs Calibers time and money.

6. The waiting period law has also harmed Calibers' past, present, and future customers by preventing those in immediate need of a firearm for self-defense from taking possession of a firearm they have lawfully purchased and for which they have passed a background check, until seven days have passed.

7. Calibers is a member of the National Shooting Sports Foundation, the National Rifle Association of America, the Second Amendment Foundation, and the New Mexico Firearms Industry Association.

I declare under penalty of perjury under the laws of the United States of America and the State of New Mexico that the foregoing is true and correct.

Executed in _____, this 19 day of October 2026.

RYAN S. BURT

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

NATIONAL SHOOTING SPORTS FOUNDATION, INC., NATIONAL RIFLE ASSOCIATION OF AMERICA, SECOND AMENDMENT FOUNDATION, NEW MEXICO FIREARMS INDUSTRY ASSOCIATION, NEW MEXICO SHOOTING SPORTS ASSOCIATION, CALIBERS SHOOTING SPORTS CENTER, OMNI TACTICAL USA, RIGHT TO BEAR ARMS, and PETER HACKETT,

Plaintiffs,

v.

RAÚL TORREZ, in his official capacity as Attorney General of New Mexico,

Defendant.

Civil Action No. 26-3514-JHR/LF

DECLARATION OF JACOB MELIDONES

I, Jacob Melidones, declare as follows:

1. I am over the age of 18, and I have personal knowledge of the facts contained in this Declaration. I could and would competently testify as to the contents of this Declaration if called upon to do so.
2. I am the owner of Omni Tactical, LLC, which does business as Omni Tactical USA ("Omni Tactical"). Omni Tactical is a federal firearms licensee. Its retail store is located at 11215 Central Avenue NE, Albuquerque, New Mexico 87123.
3. Omni Tactical has been in business since January 1st 2026. Prior to this Omni Tactical, LLC was Omni Arms, LLC that had been in business since 2012. Omni Tactical is a firearms retail business that sells new and used firearms, ammunition, and tactical gear.

PLAINTIFF'S EXHIBIT C

Omni Tactical also provides firearms training, including instruction in safe gun handling and maintenance and guidance on obtaining a New Mexico concealed handgun license. Through that training, Omni Tactical's staff promote responsible firearm handling and ownership.

4. I am familiar with New Mexico's seven-day firearm waiting period law, NMSA 1978, § 30-7-7.3 (the "waiting period law"), and I am responsible for ensuring that Omni Tactical complies with it. But for the waiting period law, Omni Tactical would transfer firearms to its customers as soon as they pass the required federal background check and complete their purchase.

5. Since the waiting period law took effect on May 15, 2024, compliance with it has harmed Omni Tactical, and continues to harm Omni Tactical, in the following ways:

    a. The waiting period law has decreased Omni Tactical's sales of firearms and firearm-related equipment, and in so doing has reduced the company's revenue. On approximately ten occasions, prospective customers who arranged with Omni Tactical to purchase one or more firearms have backed out of the purchase once they learned that even after passing the background check and paying for their firearms, they would have to wait seven days to take possession of them.

    b. In addition to the loss of revenue, Omni Tactical's owner, employees, and agents face the prospect of investigation, arrest, and criminal prosecution if they transfer a firearm to a customer before the seven-day waiting period ends. The waiting period law makes each party to such a transfer, both the seller and the buyer, guilty of a misdemeanor.

c. Omni Tactical must also keep each purchased firearm in its custody for the entire seven-day waiting period. That requires Omni Tactical to set aside secure storage space for firearms that have already been sold, track each pending transfer, and have staff handle a second visit from each customer to complete the transfer, all of which costs Omni Tactical time and money.

6. The waiting period law has also harmed Omni Tactical's past, present, and future customers by preventing those in immediate need of a firearm for self-defense from taking possession of a firearm they have lawfully purchased and for which they have passed a background check, until seven days have passed. In May of 2026 Omni Tactical had a female customer who had just gotten a restraining order on her significant other, she came in to purchase a firearm and was told she would have to wait the seven day wait even if she passed a background check. She was unable to secure a firearm to defend herself in a time of need. She left our store and said she would go somewhere else that she would not have to wait. The only place she wouldn't have to wait is if she was buying the firearm illegally in this state.

7. Omni Tactical is a member of the National Shooting Sports Foundation, the National Rifle Association of America, the Second Amendment Foundation, and the New Mexico Firearms Industry Association.

I declare under penalty of perjury under the laws of the United States of America and the State of New Mexico that the foregoing is true and correct.

Executed in Bernalillo County, this ___ day of October 2026.

JACOB MELIDONES

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

NATIONAL SHOOTING SPORTS FOUNDATION, INC., NATIONAL RIFLE ASSOCIATION OF AMERICA, SECOND AMENDMENT FOUNDATION, NEW MEXICO FIREARMS INDUSTRY ASSOCIATION, NEW MEXICO SHOOTING SPORTS ASSOCIATION, CALIBERS SHOOTING SPORTS CENTER, OMNI TACTICAL USA, RIGHT TO BEAR ARMS, and PETER HACKETT,

Plaintiffs,

v.

RAÚL TORREZ, in his official capacity as Attorney General of New Mexico,

Defendant.

Civil Action No. 26-3514-JHR/LF

DECLARATION OF ERIK RASMUSSEN

I, Erik Rasmussen, declare as follows:

1. I am over the age of 18, and I have personal knowledge of the facts contained in this Declaration. I could and would competently testify as to the contents of this Declaration if called upon to do so.
2. I am the owner and President of Right to Bear Arms LLC, which does business as Right to Bear Arms ("RTBA"). RTBA is a federal firearms licensee. Its retail store is located at 11200 Montgomery Boulevard NE, Suites 9 and 10, Albuquerque, New Mexico 87111.
3. RTBA has been in business since 2016. It is a firearms retail business that sells firearms, ammunition, and firearm accessories, including firearms regulated under the National Firearms Act, and it processes firearm transfers for customers. RTBA also offers

PLAINTIFF'S EXHIBIT D

gunsmithing services and firearms training. Through its sales and training, RTBA's staff promote responsible firearm handling and ownership.

4. I am familiar with New Mexico's seven-day firearm waiting period law, N.M. Stat. § 30-7-7.3 (the "waiting period law"), and I am responsible for ensuring that RTBA complies with it. But for the waiting period law, RTBA would transfer firearms to its customers as soon as they pass the required federal background check and complete their purchase.

5. Since the waiting period law took effect on May 15, 2024, compliance with it has harmed RTBA, and continues to harm RTBA, in the following ways:

    a. The waiting period law has decreased RTBA's sales of firearms and firearm-related equipment, and in so doing has reduced the company's revenue. On hundreds of occasions, prospective customers who arranged with RTBA to purchase one or more firearms have backed out of the purchase once they learned that even after passing the background check and paying for their firearms, they would have to wait seven days to take possession of them.

    b. In addition to the loss of revenue, RTBA's officers, employees, and agents face the prospect of investigation, arrest, and criminal prosecution if they transfer a firearm to a customer before the seven-day waiting period ends. The waiting period law makes each party to such a transfer, both the seller and the buyer, guilty of a misdemeanor.

    c. RTBA must also keep each purchased firearm in its custody for the entire seven-day waiting period. That requires RTBA to set aside secure storage space for firearms that have already been sold, track each pending transfer, and have staff

handle a second visit from each customer to complete the transfer, all of which costs RTBA time and money.

6. The waiting period law has also harmed RTBA's past, present, and future customers by preventing those in immediate need of a firearm for self-defense from taking possession of a firearm they have lawfully purchased and for which they have passed a background check, until seven days have passed. We have had numerous people attempt to purchase a firearm that have had an active restraining order against someone and were unable to purchase a firearm in order to protect themselves without waiting the 7 days as they did not have a concealed carry permit. The most egregious example was a young man that was shot and killed by a family member, while having a firearm on a 7 day hold here at the store, and not having it to protect himself. Lastly, we also have had people flying into the state for game hunts, needing to purchase a rifle, or visiting the state, seeing one we have in stock that is rare, wanting to purchase, and being unable to buy one due to the 7-day waiting period
7. RTBA is a member of the National Shooting Sports Foundation, the National Rifle Association of America, the Second Amendment Foundation, and the New Mexico Firearms Industry Association.

I declare under penalty of perjury under the laws of the United States of America and the State of New Mexico that the foregoing is true and correct.

Executed in Albuquerque, Bernalillo County, NM this 19th day of October 2026.

ERIK RASMUSSEN

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

NATIONAL SHOOTING SPORTS FOUNDATION, INC. et al., Plaintiffs, v. RAÚL TORREZ, in his official capacity as Attorney General of New Mexico, Defendant.	Civil Action No. 1:26-cv-3514 October 20, 2026

DECLARATION OF JOHN T. McNAMARA, JR.

I, John T. McNamara, Jr., declare as follows:

1. I am over 18 years old and both qualified and authorized to submit this declaration on behalf of the National Shooting Sports Foundation ("NSSF"). I have personal knowledge of the facts set forth in this declaration through direct personal involvement and by personally reviewing NSSF's records and information.

2. I have been an NSSF employee for 9 years, and currently serve as the Vice President of Member Services.

3. Formed in 1961, NSSF is a Connecticut non-profit, tax exempt, non-stock corporation with its principal place of business in Shelton, Connecticut. It serves as the leading trade association for the firearm, ammunition, and hunting and shooting sports industries, with a membership of nearly 10,000 throughout the United States, including 91 members doing business in New Mexico. Those members span federally licensed manufacturers, importers, distributors, and retailers of firearms, ammunition, and related products; businesses that manufacture, distribute, and sell other shooting-, hunting-, and personal-protection-related goods and services;



sportsmen's organizations; endemic media publishers; and both public as well as private shooting ranges.

4. NSSF's mission is to promote, protect, and preserve hunting and shooting sports by addressing industry challenges; to advance participation in and understanding of hunting and shooting sports; to reaffirm and strengthen its members' commitment to the safe and responsible sale and use of their products; and to promote support for America's traditional hunting and shooting heritage and firearm freedoms.

5. NSSF is also a committed law-enforcement partner. For decades, it has collaborated with the federal Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") on an anti-straw-purchasing campaign known as "Don't Lie for the Other Guy." *See NSSF, ATF Celebrate 25 Years of Partnership*, NSSF (Sept. 15, 2025), https://perma.cc/WYS9-FYN8. It also partners with ATF to deter and prevent "smash-and-grab" burglaries and robberies of firearm retailers through a program known as "Operation Secure Store." *See Operation Secure Store*, NSSF (2026), https://perma.cc/ZV4A-3PKF.

6. Calibers Shooting Sports Center is an NSSF member.

7. Omni Tactical USA is an NSSF member.

8. Right to Bear Arms is an NSSF member.

9. Those and other New Mexico-based NSSF-member retailers are wholly reliant on their customers' willingness and ability to purchase firearms. But under HB129, their customers cannot purchase a firearm immediately, which leaves some unwilling to purchase one at all. Our members report that customers often come into New Mexico-based NSSF-member retailers looking to purchase a firearm, but leave without doing so because of the seven-day wait period imposed by HB129. That loss in sales not only results in an unrecoverable loss of business and

goodwill for those retailers; it will predictably result in a loss of NSSF membership dues, which will negatively impact NSSF itself.

10. Because of New Mexico's threats to enforce HB129 notwithstanding the Tenth Circuit's judgment that HB129 is unconstitutional, NSSF has been forced to divert significant resources away from the initiatives described above and, consistent with its mission, devote those resources to educating and supporting its New Mexico-based members in efforts to comply with HB129.

* * *

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on October 20, 2026

DocuSigned by:
John McNamara
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John T. McNamara, Jr.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

NATIONAL SHOOTING SPORTS FOUNDATION, INC. *et al.*,	:	
Plaintiffs,	:	No. 26-cv-3514
v.	:	
RAÚL TORREZ, in his official capacity as Attorney General of New Mexico,	:	
Defendant.	:	

I, JOHN COMMERFORD, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following statements are true and correct to the best of my knowledge:

1. I am currently the Executive Director of the National Rifle Association – Institute for Legislative Action, a position I have held since 2024. Unless otherwise stated, this declaration is based on my personal knowledge and belief and my review of business records of the National Rifle Association of America ("NRA"). I am over the age of 21. I am authorized to speak and testify on behalf of NRA as to the matters set forth in this Declaration.

2. Plaintiff NRA is a nonprofit corporation founded in 1871.

3. NRA is America's oldest civil rights organization and America's leading provider of firearms marksmanship and safety training for both civilians and

PLAINTIFF'S EXHIBIT F

law enforcement. NRA has millions of members across the Nation, including thousands of members throughout New Mexico.

4. Among NRA's purposes is supporting and defending the people's right to keep and bear arms, including the right of its members and the public to peaceably purchase, acquire, and possess firearms.

5. NRA's members—including Plaintiffs Peter Hackett, Calibers Shooting Sports Center, Omni Tactical USA, and Right to Bear Arms—are adversely and directly harmed by Defendant's enforcement of the challenged cooling-off period law.

6. Plaintiff Peter Hackett is a member of NRA.

7. Plaintiff Calibers Shooting Sports Center is a member of NRA.

8. Plaintiff Omni Tactical USA is a member of NRA.

9. Plaintiff Right to Bear Arms is a member of NRA.

10. Were it not for Defendant's enforcement of the challenged cooling-off period law, NRA's individual members would purchase, acquire, and take possession of firearms for lawful purposes, including self-defense, as soon as they pass the federally required background check, without any additional waiting period. NRA's licensed dealer members would likewise complete sales and deliver firearms to customers who have passed the required background check without being required to impose or comply with the challenged cooling-off period law.

11. Defendant's enforcement of the cooling-off period law deprives NRA's individual members of their Second Amendment rights and prevents them from engaging in lawful arms-bearing conduct.

12. Defendant's enforcement of the cooling-off period law also harms NRA's retailer members by causing a loss of business and a loss of customer goodwill—losses that are unrecoverable because of sovereign immunity.

13. Defendant's enforcement of the cooling-off period law thus frustrates NRA's organizational mission.

I declare under penalty of perjury and the laws of the United States that the foregoing is true and correct to the best of my personal knowledge.

Dated: October 22, 2026

John Commerford

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEWMEXICO

NATIONAL SHOOTING SPORTS FOUNDATION, INC., NATIONAL RIFLE ASSOCIATION OF AMERICA, SECOND AMENDMENT FOUNDATION, NEW MEXICO FIREARMS INDUSTRY ASSOCIATION, NEW MEXICO SHOOTING SPORTS ASSOCIATION, CALIBERS SHOOTING SPORTS CENTER, OMNI TACTICAL USA, RIGHT TO BEAR ARMS, and PETER HACKETT, *Plaintiffs,* v. RAUL TORREZ, in his official capacity as Attorney General of New Mexico, *Defendant.*	Civil Action No. 26-cv-3514

I, WILLIAM SACK, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following statements are true and correct to the best of my knowledge:

1. My name is William Sack. I am the Senior Director of Legal Operations of Second Amendment Foundation ("SAF"), a position I have held since 2023. Unless otherwise stated, this declaration is based on my personal knowledge and belief and my review of business records of SAF. I am over the age of 21. I am authorized to speak and testify on behalf of SAF as to the matters set forth in this Declaration



2. Plaintiff Second Amendment Foundation is a nonprofit educational foundation incorporated in 1974. SAF's mission is to preserve the individual constitutional right to keep and bear arms through public education, judicial, historical, and economic research, publishing, and legal action programs focused on the civil right guaranteed by the Second Amendment to the United States Constitution.

3. SAF's members, including Plaintiffs Hackett, Calibers Shooting Sports Center, Omni Tactical, LLC., and Right to Bear Arms LLC., are adversely and directly harmed by Defendants' enforcement of the challenged Waiting Period.

4. Among SAF's purposes is supporting and defending the people's right to keep and bear arms, including the right of its members and the public to peaceably purchase and acquire arms.

5. Plaintiff Hackett is a member of SAF.

6. Plaintiff Calibers Shooting Sports Center is a member of SAF.

7. Plaintiff Omni Tactical LLC. is a member of SAF.

8. Plaintiff Right to Bear Arms LLC. is a member of SAF

9. Were it not for Defendant's enforcement of the Waiting Period, SAF's individual members would seek to peaceably purchase, acquire and possess firearms for all lawful purposes including self-defense, without being subject to the challenged Waiting Period. SAF's licensed dealer members would likewise sell and deliver firearms to their customers without being subject to the Waiting Period.

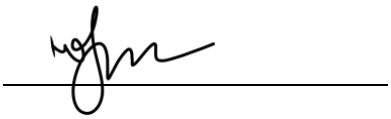
10. Defendant's enforcement of the Waiting Period prevents SAF's

members from exercising their Second Amendment rights as they wish.

11. Defendant's enforcement of the Waiting Period thus frustrates SAF's organizational mission.

I declare under penalty of perjury and the laws of the United States that the foregoing is true and correct to the best of my personal knowledge.

Dated: October 20, 2026



William Sack
Senior Director of Legal Operations
Second Amendment Foundation

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

NATIONAL SHOOTING SPORTS FOUNDATION, INC., NATIONAL RIFLE ASSOCIATION OF AMERICA, SECOND AMENDMENT FOUNDATION, NEW MEXICO FIREARMS INDUSTRY ASSOCIATION, NEW MEXICO SHOOTING SPORTS ASSOCIATION, CALIBERS SHOOTING SPORTS CENTER, OMNI TACTICAL USA, RIGHT TO BEAR ARMS, and PETER HACKETT, *Plaintiffs*, v. RAÚL TORREZ, in his official capacity as Attorney General of New Mexico, *Defendant*.	Civil Action No. 26-3514-JHR/LF

DECLARATION OF JACOB MELIDONES

I, Jacob Melidones, declare as follows:

1. I am over the age of 18 and a resident of the State of New Mexico. I have personal knowledge of the facts contained in this Declaration. I could and would competently testify as to the contents of this Declaration if called upon to do so.
2. I am the President of the New Mexico Firearms Industry Association ("NMFIA"). I have held that position since January 2026. In that role, I oversee NMFIA's operations, membership, and advocacy, and I am familiar with NMFIA's members, activities, and finances.
3. NMFIA is a non-profit organization based in Albuquerque, New Mexico. NMFIA exists to protect, preserve, and promote New Mexico's firearms industry by supporting New

PLAINTIFF'S EXHIBIT H

Mexico gun store owners and federal firearms licensees. It does this by advocating for the industry, working with its members to help keep firearms out of the wrong hands, encouraging recreational shooting and hunting in New Mexico, and helping people better understand the firearms industry's lawful products.

4. NMFIA's members include 10 firearms retailers and other federal firearms licensees doing business in New Mexico. Those members include Plaintiffs Calibers Shooting Sports Center, Omni Tactical , and Right to Bear Arms, each of which sells firearms to the public in Albuquerque, New Mexico.

5. I am familiar with N.M. Stat. § 30-7-7.3, enacted in 2024 as House Bill 129 ("HB129"). HB129 prohibits a seller from transferring a firearm to a buyer until seven calendar days after the sale, even if the buyer passes the required federal background check within minutes. A transfer that violates HB129 is a misdemeanor for both the buyer and the seller.

6. I am aware that in *Ortega v. Grisham*, the United States Court of Appeals for the Tenth Circuit held HB129 unconstitutional as applied to individuals who pass the background check required by federal law, and that in August 2026 the district court entered judgment for the plaintiffs in that case. I am also aware that New Mexico officials have stated publicly that HB129 remains in effect for everyone other than the two plaintiffs in *Ortega*, and that buyers and sellers who do not comply may face criminal charges in state court.

7. Because of the State's position, NMFIA's retailer members, including Calibers, Omni Tactical, and Right to Bear Arms, must continue to comply with HB129 or risk criminal

prosecution of their owners and employees. HB129 harms those members in at least the following ways:

a. Customers who have passed the federal background check and paid for a firearm cannot take it home for seven days. Some customers decide not to buy at all once they learn of the wait, which costs NMFIA's members sales and revenue that they cannot recover from the State.

b. NMFIA's members must keep each sold firearm in their custody for the full seven-day period. That requires secure storage for firearms that have already been sold, tracking of pending transfers, and staff time to handle a second customer visit to complete each sale.

c. NMFIA's members, their owners, and their employees face a credible threat of criminal prosecution if they transfer a firearm to a customer who has passed a background check before the seven-day period ends.

8. Protecting the ability of New Mexico firearms retailers to lawfully sell firearms to law-abiding customers is central to NMFIA's purpose. The relief sought in this case, declaratory relief and an injunction against enforcement of HB129, would benefit all of NMFIA's retailer members alike and does not require the participation of any individual member.

9. Unless HB129 is enjoined, NMFIA's members will continue to lose sales and bear the costs of compliance, as well as the risks of noncompliance, and NMFIA will continue to divert its limited resources from its core activities to help members deal with HB129. An injunction would allow NMFIA's members to transfer firearms to their customers as soon as those customers pass the required federal background check.

I declare under penalty of perjury under the laws of the United States of America and the State of New Mexico that the foregoing is true and correct.

Executed in Bernalillo County, this 19 day of October 2026.

JACOB MELIDONES