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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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11 MATTHEW JONES; THOMAS
12 FURRH; KYLE YAMAMOTO; PWGG,
L.P. (d.b.a. POWAY WEAPONS AND
13 GEAR and PWG RANGE); NORTH
COUNTY SHOOTING CENTER, INC.;
14 BEEBE FAMILY ARMS AND
MUNITIONS LLC (d.b.a. BFAM and
15 BEEBE FAMILY ARMS AND
MUNITIONS); FIREARMS POLICY
16 COALITION, INC.; FIREARMS
POLICY FOUNDATION; THE
17 CALIFORNIA GUN RIGHTS
FOUNDATION; and SECOND
18 AMENDMENT FOUNDATION,

Plaintiffs,

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v.

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21 XAVIER BECERRA, in his official
capacity as Attorney General of the State
of California; BRENT E. ORICK, in his
22 official capacity as Acting Director of
the Department of Justice Bureau of
23 Firearms; and DOES 1-20,

Defendants.

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Case No. 3:19-cv-01226-L-AHG

Hon. M. James Lorenz and
Magistrate Judge Allison H.
Goddard

**NOTICE OF MOTION AND
MOTION FOR LEAVE TO
PARTICIPATE AS *AMICUS
CURIAE***

1 **TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF**
2 **RECORD:**

3 PLEASE TAKE NOTICE that movant Brady hereby moves to participate as
4 *amicus curiae* in the above-captioned matter.

5 The Court has inherent authority to allow the participation of an *amicus*
6 *curiae*. Given the issues before the Court in this matter, Brady’s participation
7 would enable the Court to better assess the legal and factual questions underlying
8 these issues. This motion is based on this Notice of Motion and Motion, the
9 accompanying Memorandum of Points and Authorities in support thereof, and any
10 and all papers on file in this action.

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Dated: January 3, 2020

Respectfully submitted,

By: /s/ Jeremy T. Elman

Jeremy T. Elman

Attorney for *Amicus Curiae* Brady

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11 UNITED STATES DISTRICT COURT
12 SOUTHERN DISTRICT OF CALIFORNIA

13 MATTHEW JONES; THOMAS
14 FURRH; KYLE YAMAMOTO; PWGG,
15 L.P. (d.b.a. POWAY WEAPONS AND
16 GEAR and PWG RANGE); NORTH
17 COUNTY SHOOTING CENTER, INC.;
18 BEEBE FAMILY ARMS AND
19 MUNITIONS LLC (d.b.a. BFAM and
20 BEEBE FAMILY ARMS AND
21 MUNITIONS); FIREARMS POLICY
22 COALITION, INC.; FIREARMS
23 POLICY FOUNDATION; THE
24 CALIFORNIA GUN RIGHTS
25 FOUNDATION; and SECOND
26 AMENDMENT FOUNDATION,

27 Plaintiffs,

28 v.

XAVIER BECERRA, in his official
capacity as Attorney General of the State
of California; BRENT E. ORICK, in his
official capacity as Acting Director of
the Department of Justice Bureau of
Firearms; and DOES 1-20,

Defendants.

Case No. 3:19-cv-01226-L-AHG

Hon. M. James Lorenz and
Magistrate Judge Allison H.
Goddard

**MEMORANDUM OF
POINTS AND
AUTHORITIES IN
SUPPORT OF MOTION
FOR LEAVE TO
PARTICIPATE AS *AMICUS
CURIAE***

1 **INTRODUCTION**

2 Brady hereby moves this Court for leave to participate as *amicus curiae*, and
3 to file a Brief in support of Defendant Attorney General Xavier Becerra’s
4 Opposition to Plaintiffs’ Motion for a Preliminary Injunction. Brady is the nation’s
5 largest non-partisan, non-profit organization dedicated to reducing gun violence
6 through education, research, and legal advocacy.

7 In addition to its expertise and involvement in gun legislation and policy,
8 Brady – through its California chapter – supported SB 1100, the law that was
9 passed by the state legislature and which ultimately became the law at issue in this
10 case, Section 27510 of the California Penal Code. Section 27510 prohibits the sale,
11 supply, delivery, or possession of a firearm by any person under 21 years of age
12 (with the exception of several exceptions). The question of whether to enjoin
13 Section 27510 is a matter of significant public interest and public safety. An
14 *amicus curiae* brief is therefore appropriate, and Brady respectfully requests that
15 the Court grant its motion for leave to submit a brief in support of Defendant’s
16 Opposition to Plaintiffs’ Motion for a Preliminary Injunction.

17 **FACTUAL BACKGROUND**

18 As explained in its proposed *amicus curiae* brief (filed concurrently with this
19 motion), Brady is a national, non-profit, and non-partisan organization devoted to
20 reducing gun violence. As the nation’s oldest gun violence prevention group, it has
21 done so through education, political action, and legal advocacy.

22 Brady has filed *amicus* briefs in numerous other cases involving the
23 constitutionality and interpretation of firearms laws, including *McDonald v. City of*
24 *Chicago*, 561 U.S. 742 (2010), *District of Columbia v. Heller*, 554 U.S. 570 (2008),
25 *Kolbe v. Hogan*, 849 F.3d 114 (4th Cir. 2017), and *Peruta v. County of San Diego*,
26 824 F.3d 919 (9th Cir. 2016).

27 **ARGUMENT**

28 An *amicus curiae* has a “classic role” in a “case of general public interest,”

1 by “supplementing the efforts of counsel, and drawing the court’s attention to law
2 that escaped consideration.” *Miller-Wohl Co., Inc. v. Comm’r of Labor and Indus.*,
3 694 F.2d 203, 204 (9th Cir. 1982) (citation omitted). District Courts have “broad
4 discretion to appoint amici curiae.” *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir.
5 1982), *abrogated on other grounds by Sandin v. Conner*, 515 U.S. 472 (1995).

6 In determining whether to accept an *amicus* brief, “the salient question is
7 whether such brief is helpful to the Court.” *California v. United States DOI*, 381 F.
8 Supp. 3d 1153, 1164 (E.D. Cal. 2019). An *amicus* brief may be helpful even if it
9 “amplifies a number of points raised in parties’ papers.” *Id.* “There is no rule that
10 amici must be totally disinterested.” *Hoptowit*, 682 F.2d at 1260. The input of an
11 *amicus* is especially helpful where cases concern “legal issues that have potential
12 ramifications beyond the parties directly involved or if the *amicus* has ‘unique
13 information or perspective that can help the court beyond the help that the lawyers
14 for the parties are able to provide.’” *See NGV Gaming, Ltd. v. Upstream Point*
15 *Molate, LLC*, 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005) (citation omitted).

16 As the nation’s oldest gun violence prevention organization, Brady brings the
17 “unique information or perspective” that is essential and “helpful” to the Court’s
18 disposition of this case. *See California*, 381 F. Supp. 3d at 1164; *NGV Gaming*,
19 355 F. Supp. 2d at 1067. In particular, Brady’s *amicus* submission will provide
20 scientific support for the public policy underlying Section 27510 – thereby
21 demonstrating that Plaintiffs’ success on the merits is unlikely. It will further
22 assess the degree to which Section 27510 is a reasonable regulation of the Second
23 Amendment, consistent with applicable Supreme Court jurisprudence – thereby
24 demonstrating that a preliminary injunction is not in the public interest. Brady has
25 submitted such information in *amicus* briefs to multiple federal courts; one such
26 brief was cited by the Supreme Court in *United States v. Hayes*, 555 U.S. 415, 427
27 (2009) (acknowledging Brady’s research on firearms and domestic violence as
28 evincing a “potentially deadly combination nationwide”).

1 Moreover, the Court should grant leave for Brady to submit an *amicus* brief
2 in light of the fact that this is a case of significant public interest that concerns
3 “legal issues” with “potential ramifications beyond the parties directly involved.”
4 *Miller-Wohl*, 694 F.2d at 204; *NGV Gaming*, 355 F. Supp. 2d at 1067. Section
5 27510 is the direct result of public outcry and national inaction over the epidemic of
6 gun violence, particularly mass shootings, which has traumatized communities
7 across the United States. Citizens of California, beyond the named parties in this
8 case, therefore have a direct stake in its outcome. And, in light of Plaintiffs’
9 invocation of the Second Amendment, the Court’s disposition in this case may have
10 significant implications for similar efforts across the country.

11 Counsel for Brady conferred with the parties’ counsel prior to filing this
12 motion. Plaintiffs’ counsel conditioned its consent on (1) the Court’s allowance of
13 this filing; (2); the filing of this motion no later than January 3, 2020; (3) a 13-page
14 limit on Brady’s *amicus* brief; and (4) that Defendant’s counsel and Brady’s
15 counsel agree via joint motion or stipulation “allowing Plaintiffs to either file a
16 separate opposition to the *amicus* brief not to exceed seven (7) pages, or file one
17 reply brief not to exceed seventeen (17) pages in order to adequately address the
18 *amicus curiae* brief.” Defendant’s counsel consented to this motion.

19 **CONCLUSION**

20 For the foregoing reasons, Brady respectfully requests that the Court grant
21 leave to participate as *amicus curiae* and submit a brief in support of Defendants’
22 Opposition to Plaintiffs’ Motion for a Preliminary Injunction.
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24 Dated: January 3, 2020

Respectfully submitted,

25 By: /s/ Jeremy T. Elman

26 Jeremy T. Elman

27 Attorney for *Amicus Curiae* Brady
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