

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

TODD YUKUTAKE; DAVID KIKUKAWA,

Plaintiffs-Appellees,

v.

ANNE E. LOPEZ, in her Official Capacity as the
Attorney General of the State of Hawai‘i,

Defendant-Appellant

and

CITY AND COUNTY OF HONOLULU,

Defendant.

No. 21-16756

**DEFENDANT-APPELLANT’S
MOTION FOR SUPPLEMENTAL BRIEFING**

Defendant-Appellant Attorney General Anne E. Lopez respectfully moves for supplemental briefing.

1. This case is an appeal from a permanent injunction against certain provisions of Hawai‘i law relating to the acquisition of guns. The laws addressed in the panel’s opinion include a requirement to purchase a gun within 30 days of a permit’s issuance, and a requirement to present certain guns for inspection at a police station within 10 days of purchase. The case was argued and submitted to a three-

judge panel on February 14, 2023. *See* Dkt. No. 77. On March 14, 2025, the three-judge panel issued a divided opinion affirming the judgment in favor of Plaintiffs-Appellees Todd Yukutake and David Kikukawa. *See* Dkt. No. 103. On April 11, 2025, Defendant-Appellant filed a petition for rehearing en banc. *See* Dkt. No. 114. On May 5, 2025, Plaintiffs-Appellees filed a response. *See* Dkt. No. 119. On July 28, 2025, the Court granted Defendant-Appellant's petition for rehearing en banc. Rehearing en banc is currently scheduled for the week of January 12, 2026.

2. Good cause exists for supplemental briefing in this case. A substantial amount of time has passed since this case was initially briefed. Defendant-Appellant filed her opening brief in this case over three years ago, on February 22, 2022. *See* Dkt. No. 16. Moreover, both parties' principal briefs were filed prior to the Supreme Court's issuance of its opinion in *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022), on June 23, 2022. The parties filed supplemental briefs in September 2022, *see* Dkt. Nos. 50, 52, but since then, state and federal courts have issued many decisions interpreting and applying *Bruen*. The parties' notices of supplemental authorities reflect much of this development; following the supplemental briefing, the parties have filed 23 letters seeking to bring supplemental authorities to the Court's attention. *See* Dkt. Nos. 55, 62, 64, 65, 66, 73, 75, 76, 79, 88, 89, 90, 91, 92, 93, 96, 97, 99, 100, 101, 102, 120, 121. For these reasons,

Defendant-Appellant believes that supplemental briefing will streamline and facilitate the En Banc Court's review of this case.

3. Defendant-Appellant respectfully requests that the Court order supplemental briefs from the parties, not to exceed 30 pages, unless the briefs comply with the alternative length limitation of 8,400 words. Defendant-Appellant further proposes the following supplemental briefing schedule: Defendant-Appellant's supplemental brief to be filed on October 13, 2025. Plaintiffs-Appellees' supplemental brief to be filed on November 13, 2025. Any amicus curiae supporting the position of Defendant-Appellant or not supporting either party will serve its brief, along with any necessary motion, no later than October 20, 2025. Any amicus curiae supporting the position of Plaintiffs-Appellees will serve its brief, with any necessary motion, no later than November 20, 2025.

4. Defendant-Appellant's request for supplemental briefing, proposed word limits, and proposed briefing schedule is consistent with supplemental briefing orders that this Court has issued in other cases reheard en banc. *See, e.g., Briskin v. Shopify, et al*, No. 22-15815, Dkt. 61 (9th Cir. May 23, 2024) (ordering 30-page supplemental briefs to be filed in June and July of 2024, ahead of en banc oral argument in September 2024, and extending the deadline for amicus briefs to permit filing 7 days after the party briefs); *United States v. Duarte*, No. 22-50048, Dkt. 87

(9th Cir. Aug. 2, 2024) (ordering supplemental briefs and extending the deadline for amicus briefs along similar parameters).

5. Counsel for Plaintiffs-Appellees have indicated that Plaintiffs-Appellees oppose this motion.

For these reasons, Defendant-Appellant requests that this Court grant the motion for supplemental briefing.

August 8, 2025

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this motion complies with the format, typeface, and type style requirements of Federal Rule of Appellate Procedure 32(a)(5)-(6). I further certify that it complies with Federal Rule of Appellate Procedure 27(d)(2) because it contains 596 words.

Dated: August 8, 2025

/s/ Jo-Ann Tamila Sagar

CERTIFICATE OF SERVICE

I certify that on August 8, 2025, I filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Jo-Ann Tamila Sagar