

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MAINE

TYLER JON TAKER,

Plaintiff,

v.

PAM BONDI, in her official capacity as  
Attorney General of the United States, et al.,

Defendants.

CIVIL ACTION

Case No: 2:24-cv-00369-LEW

**MOTION OF MAINE GUN SAFETY COALITION, MAINE COALITION TO END DOMESTIC VIOLENCE, BATTERED WOMEN’S JUSTICE PROJECT, NATIONAL NETWORK TO END DOMESTIC VIOLENCE, NATIONAL DOMESTIC VIOLENCE HOTLINE, JEWISH WOMEN INTERNATIONAL, BRADY CENTER TO PREVENT GUN VIOLENCE, AND GIFFORDS LAW CENTER TO PREVENT GUN VIOLENCE FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF DEFENDANTS’ MOTIONS TO DISMISS**

The Maine Gun Safety Coalition (“MGSC”), Maine Coalition to End Domestic Violence (“MCEDV”), Battered Women’s Justice Project (“BWJP”), National Network to End Domestic Violence (“NNEDV”), National Domestic Violence Hotline (“NDVH”), Jewish Women International (“JWI”), Brady Center to Prevent Gun Violence (“Brady”), and Giffords Law Center to Prevent Gun Violence (“Giffords Law Center”) (collectively, *amici curiae*), respectfully move, through undersigned counsel, for leave to file a brief as *amici curiae* in support of Defendants’ Motion to Dismiss Plaintiff Tyler Jon Taker’s (“Plaintiff”) First Amended Complaint (“FAC,” ECF No. 20).

The proposed brief is attached as **Exhibit A**. Plaintiff opposes this motion and the filing of the attached *amicus* brief, although he indicated he would likely consent to *amicus* filings at the circuit court level. Defendants Aaron M. Frey and Col. William G. Ross consent to the

motion and the *amicus* brief. Defendants Pam Bondi, Marvin G. Richardson, and Marc Hagan do not object to the motion or the *amicus* brief.

*Amicus curiae* MGSC is a Maine-based nonprofit organization made up of gun owners, healthcare professionals, parents, grandparents, and other concerned Mainers focused on gun safety and personal responsibility. Founded in 2000 following the 1999 mass shooting at Columbine High School, MGSC focuses on responsible gun ownership, not gun control, by providing community education on gun safety and by advocating for evidence-based, common sense gun legislation at the Maine and federal levels. MGSC has a substantial interest in promoting common-sense laws designed to keep Mainers safe from gun violence.

*Amicus curiae* MCEDV is a Maine-based group founded in 1977 to end domestic abuse. MCEDV serves a network of ten domestic violence resource centers located throughout Maine with training and administrative support; provides support for state-level partners as they respond to abuse; creates frameworks to inform the public's understanding about abuse; and advocates in both Maine and Washington, D.C. for policies that will hold abusive people accountable and keep survivors safe. MCEDV has a substantial interest in defending the constitutionality of laws designed to protect victims of domestic abuse.

*Amicus curiae* BWJP is a collective of national policy and practice centers at the intersection of intimate partner violence and legal systems. The National Center on Gun Violence in Relationships at BWJP works to prevent domestic violence-related homicides involving firearms and to promote public safety through policy analysis and statutory implementation informed by research and survivor experiences. BWJP provides support and guidance to communities and justice systems across the country on interpretation and application of the federal and state legal frameworks that aim to restrict firearm access to adjudicated

domestic abusers.

*Amicus curiae* NNEDV represents the 56 U.S. State and territorial coalitions against domestic violence. NNEDV is dedicated to creating a social, political, and economic environment in which domestic violence no longer exists. NNEDV works to make domestic violence a national priority, change the way society responds to domestic violence, and strengthen domestic violence advocacy at every level. NNEDV was instrumental in the passage and implementation of the Violence Against Women Act, and has a strong interest in supporting legal mechanisms that protect domestic violence victims from violence, including laws that prohibit abusers who have restraining orders issued against them from possessing firearms. The presence of firearms markedly increases the rates of injury and death for domestic violence victims, their family members, and the public at large, and NNEDV believes laws prohibiting possession of these weapons by dangerous people like these abusers are not only Constitutional but crucial to the fight against domestic violence in this country.

*Amicus curiae* NDVH is the only 24/7/365 national service provider offering support via call, chat, and text for people affected by relationship abuse. The Hotline advances a trauma-informed, survivor-centered approach to expand safety, access to resources, and recovery for survivors nationwide.

*Amicus curiae* JWI, founded in 1897, is the leading Jewish organization championing women and girls by fighting gender-based violence, preventing domestic violence and sexual abuse, addressing the intersection of domestic violence and gun violence, building pathways to long-term economic security, and strengthening access to every level of leadership in our communities, workplaces, and country. JWI provides training and technical assistance to victim service providers and other stakeholders to improve their response to survivors of faith; offers a

free victim-centered economic empowerment curriculum to domestic violence programs; provides continuing education to both Jewish and secular victim service providers to maximize their effectiveness; and works within the Jewish community to prevent and address domestic violence. JWI also convenes the Interfaith Coalition Against Domestic and Sexual Violence and the Jewish Gun Violence Prevention Roundtable.

*Amicus curiae* Brady is the nation's most longstanding non-partisan, non-profit organization dedicated to reducing gun violence through education, research, legal advocacy and political action. Brady works to free America from gun violence by passing and defending gun violence prevention laws, reforming the gun industry, and educating the public about responsible gun ownership. Brady has filed numerous *amicus* briefs in cases involving the constitutionality of firearms regulations, and multiple decisions have cited Brady's research and expertise on these issues. Brady has a substantial interest in ensuring that the Constitution is construed to protect Americans' fundamental right to live and in protecting the authority of democratically elected officials to address the Nation's gun violence epidemic.

*Amicus curiae* Giffords Law Center is a non-profit policy organization serving lawmakers, advocates, legal professionals, gun violence survivors, and others who seek to reduce gun violence. Founded in 1993 after a gun massacre at a San Francisco law firm, the organization joined forces with the gun-safety organization led by former Congresswoman Gabrielle Giffords in October 2017. Today, through partnerships with gun violence researchers, public health experts, and community organizations, Giffords Law Center researches, drafts, and defends the laws, policies, and programs proven to effectively reduce gun violence. Giffords Law Center has a substantial interest in defending the constitutionality of laws that reduce gun violence.

This Court “retains ‘the inherent authority to appoint amicus curiae to assist it in a proceeding.’” *Portland Pipe Line Corp. v. City of S. Portland*, No. 2:15-CV-00054-JAW, 2017 WL 79948, at \*4 (D. Me. Jan. 9, 2017) (quoting *Animal Prot. Inst. v. Martin*, 06-cv-128-B-W, 2007 WL 647567, at \*1 (D. Me. Feb. 23, 2007)). This Court has recognized the utility of amicus briefs where “there is an issue of general public interest, the amicus provides supplemental assistance to existing counsel, or the amicus insures a complete and plenary presentation of difficult issues so that the court may reach a proper decision.” *Animal Prot. Inst.*, 2007 WL 647567, at \*2 (quoting *Alliance of Automobile Mfrs. v. Gwadowsky*, 297 F. Supp. 2d 305, 307 (D. Me. 2003)). Moreover, amicus briefs may be accepted by a district court where “the amicus has a special interest that justifies [its] having a say.” *Alliance of Automobile Mfrs.*, 297 F. Supp. 2d at 307 (quoting *Strasser v. Doorley*, 432 F. 2d 567, 569 (1st Cir. 1970)).

*Amici curiae* have special interests in the issues involved in this matter. As Maine-based organizations, MGSC and MCEDV are acutely interested in upholding commonsense gun regulations that protect Mainers—and, in particular, victims of domestic violence—from gun violence. As national domestic violence prevention organizations, BWJP, NNEDV, NDVH, and JWI are particularly interested in ensuring the state and federal laws designed to prevent domestic violence victims from gun violence are upheld. And, as national gun violence prevention organizations, both Brady and Giffords Law Center have distinct interests in ensuring that firearms are regulated in ways that will reduce the staggering incidence of gun violence in this country. *Amici curiae* share a common interest in ensuring that litigation related to the constitutionality of firearms regulations is fully informed by empirical research and factual information of the sort addressed in the proposed *amicus* brief.

Moreover, *amici curiae* are well-equipped to assist the Court in reaching a proper decision in this matter by offering their distinct expertise on this issue of great public interest. MGSC and MCEDV offer unique Maine-based perspectives on the effects of gun violence and domestic violence on everyday Mainers. BWJP, NNEDV, NDVH, and JWI bring extensive experience advocating on a nationwide level for victims of domestic violence, who are disproportionately impacted by gun violence. And Brady and Giffords Law Center routinely defend the constitutionality of laws like the federal and state statutes at issue in this case, and have extensive experience in research, programs, legislative advocacy, and litigation concerning gun violence prevention policies.

In the attached *amicus* brief, *Amici* undertake to provide supplemental authority and argument beyond those advanced by the parties. This is intended to provide “complete and plenary presentation of difficult issues so that the court may reach a proper decision,” *Animal Prot. Inst.*, 2007 WL 647567, at \*2, and is appropriate given the “special interest” of *amici curiae* in this matter, *Alliance of Automobile Mfrs.*, 297 F. Supp. 2d at 307.

Accordingly, *amici curiae* respectfully request leave of this Court to file the attached brief as *amici curiae*.

Dated: April 11, 2025

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**CERTIFICATE OF SERVICE**

I hereby certify that on the date indicated below I caused a copy of the foregoing pleading to be filed with the Court's ECF filing system, which will cause an electronic notice to be sent to counsel of record.

Dated: April 11, 2025

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## **EXHIBIT A**



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The Maine Gun Safety Coalition, Maine Coalition to End Domestic Violence, Battered Women’s Justice Project, National Network to End Domestic Violence, National Domestic Violence Hotline, Jewish Women International, Brady Center to Prevent Gun Violence, and Giffords Law Center to Prevent Gun Violence (collectively, *amici curiae*),<sup>1</sup> respectfully submit this brief in support of Defendants’ Motions to Dismiss Plaintiff Tyler Jon Taker’s (“Plaintiff”) First Amended Complaint (“FAC,” ECF No. 20).

**INTRODUCTION**

The United States has a longstanding historical tradition of disarming individuals who pose a danger to their community—in other words, individuals exactly like Plaintiff. *See* ECF

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<sup>1</sup> *Amici curiae* submit this brief in support of Defendants. Plaintiff opposes the filing of this brief, although he indicated he would likely consent to *amicus* filings at the circuit court level. Defendants Aaron M. Frey and Col. William G. Ross consent to the brief. Defendants Pam Bondi, Marvin G. Richardson, and Marc Hagan do not object to the brief. No counsel for a party authored this brief in whole or in part. No person other than *amici curiae* or their counsel contributed money to fund this brief’s preparation or submission.

No. 32 at 3-4 (detailing Taker’s abuse). The Maine and federal laws Plaintiff seeks to overturn, which prohibit firearm possession by convicted felons and by individuals subject to certain domestic violence restraining orders, fit well within that tradition and thus are permissible under both *New York State Rifle & Pistol Association v. Bruen*, 597 U.S. 1 (2022) and *United States v. Rahimi*, 602 U.S. 680, 715 (2024).<sup>2</sup> The Supreme Court’s holding in *Rahimi* is conclusive: “When an individual poses a clear threat of physical violence to another, the threatening individual may be disarmed.” *Rahimi*, 602 U.S. at 698.

Plaintiff’s effort to overturn the Maine and federal statutes that prohibit domestic abusers from possessing firearms is particularly disturbing given Plaintiff’s own history of domestic abuse, which reflects the critical danger generally posed by armed domestic abusers. Where, as here, the Court is required to take a “more nuanced approach” when assessing “unprecedented societal concerns,” *Bruen*, 597 U.S. at 27—and where, as here, the Court must assess whether the challenged statutes ban possession by people who carry a “special danger of misuse,” *Rahimi*, 602 U.S. at 698—the Court can and should take into account the extreme risk that armed domestic abusers pose to their victims and the community at large, which the challenged laws effectively address.

## ARGUMENT

Plaintiff is prohibited from possessing a firearm for two reasons—first, because he has been convicted of felony possession with intent to distribute over 200 pounds of marijuana, and second, because he is subject to an order for protection from abuse stemming from the mental

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<sup>2</sup> Plaintiff also challenges certain state and federal statutes that prohibit sales of firearms and issuance of concealed handgun permits to felons and subjects of protective orders. See FAC ¶¶ 47-49 (challenging the constitutionality of 18 U.S.C. §§ 922(d)(1), (d)(8)(B)(ii), 15 M.R.S. § 394(2), and 25 M.R.S. § 2003(2)(A-2), (B)). Because Plaintiff’s challenge to these statutes is predicated on the idea that he is entitled to possess weapons despite his felony conviction and the protective order against him—and because, as discussed *infra*, that idea is incorrect—his challenge to the sale and possession statutes must fail.

and physical abuse he inflicted on his former dating partner and the mother of his child. *See* ECF No. 32 at 3-4. Plaintiff now challenges the state and federal laws that restrict him from owning a gun—18 U.S.C. § 922(g)(1) and 15 M.R.S. § 393(1)(A-1)(2) (prohibiting felons from possessing firearms), and 18 U.S.C. § 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2) (prohibiting individuals subject to certain domestic violence restraining orders from possessing firearms).

As the Supreme Court explained in *Rahimi*, however, “[s]ince the founding, our Nation’s firearm laws have included provisions preventing individuals who threaten physical harm to others from misusing firearms.” 602 U.S. 690. The laws Plaintiff challenges fit neatly into the historical tradition of regulating access to firearms by dangerous persons, and the Supreme Court’s previous favorable assessments of laws restricting both felons and domestic abusers from firearm possession can and should end the court’s inquiry into the constitutionality of such laws.

With respect to the state and federal laws prohibiting domestic abusers from possessing firearms, it bears emphasis that legislative action out of concern for victims of domestic violence did not exist at the Founding, and that, because perpetrators of domestic abuse present an acute danger of firearm misuse, legislatures are constitutionally entitled to ban those perpetrators from firearm possession.

**I. The federal and state prohibitions on firearm possession by individuals convicted of felonies do not violate the Second Amendment.**

“Like most rights, the right secured by the Second Amendment is not unlimited.” *District of Columbia v. Heller*, 554 U.S. 570, 626 (2008). Under the test laid out by the Supreme Court in *Bruen*, if a plaintiff shows that the Second Amendment’s plain text protects an individual’s conduct, the government “must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation.” 597 U.S. at 17.

In *Heller*, and again in *Rahimi*, the Supreme Court made clear that, under the above test, “prohibitions . . . on the possession of firearms by ‘felons and the mentally ill,’ are ‘presumptively lawful.’” *Id.* at 699 (quoting *Heller*, 554 U.S. at 626, 627 & n.26.). The Supreme Court notably did not limit these statements to *violent* felonies, instead classifying prohibitions on firearm possession by *all* felons as presumptively lawful. This can and should be the end of this Court’s inquiry into whether the federal and state regulations prohibiting firearm possession by individuals who, like Taker, have been convicted of a felony are constitutional—plainly, they are.<sup>3</sup>

As the Federal and State Defendants ably argue in their motions to dismiss, history and tradition confirm that Congress may disarm individuals convicted of felonies on a categorical basis. *See* ECF No. 32 at 8-33; ECF No. 30 at 13-31. Because the challenged laws fall neatly in line with this Country’s history and tradition of firearm regulation, the Court should dismiss Plaintiff’s challenge to the state and federal laws for failure to state a claim.

**II. The federal and state prohibitions on firearm possession by individuals subject to certain domestic violence restraining orders do not violate the Second Amendment.**

In *Rahimi*, the Plaintiff challenged the entirety of 18 U.S.C. § 922(g)(8) as unconstitutional. *See* 602 U.S. at 693. The Court determined that Section 922(g)(8)(C)(i)—which prohibits firearm possession by an individual subject to a restraining order that includes a “finding that such person represents a credible threat to the physical safety of such intimate partner or child”—did not violate the Second Amendment. *Id.* However, the Court did not directly address Section 922(g)(8)(C)(ii), which similarly prohibits possession by an individual subject to a restraining order that “by its terms explicitly prohibit[s] . . . the use, attempted use, or

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<sup>3</sup> As recently as March 2025, the Supreme Court recognized “keep[ing] ‘guns out of the hands of criminals’” as a worthy legislative goal. *Bondi v. VanDerStok*, 604 U.S. ----, 2025 WL 906503, at \*2 (2025) (quoting *Abramski v. United States*, 573 U.S. 169, 180 (2014)).

threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury” *Id.* Plaintiff now challenges this second prong of Section 922(g)(8)(C). Plaintiff’s challenge fails as a matter of law for three reasons: first, because the Supreme Court’s analysis with respect to Section 922(g)(8)(C)(i) in *Rahimi* is equally applicable to Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2); second, because Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2) address the unprecedented societal concern of domestic violence; and third, because domestic abusers are an especially dangerous category of individuals that state and federal legislatures are well within their powers to prohibit from firearm possession.

**a. The Supreme Court’s favorable analysis of Section 922(g)(8)(C)(i) applies equally to Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2).**

As the Court explained in *Rahimi*, “from the earliest days of the common law, firearm regulations have included provisions barring people from misusing weapons to harm or menace others.” 602 U.S. at 693. Specifically, the *Rahimi* Court reviewed the history of two legal regimes that “specifically addressed firearms violence”: surety laws and “going armed” laws. *Id.* at 695.

By the time of the Founding, surety laws were already “[w]ell entrenched in the common law.” *Id.* States enacted their own laws in this country in or around the 1830s. *See, e.g.*, Of Proceedings to Prevent the Commission of Crimes, ch. 134, § 16, in THE REVISED STATUTES OF THE COMMONWEALTH OF MASSACHUSETTS, 748, 750 (Boston, Dutton & Wentworth 1836). These laws required individuals who were “likely to ‘breach the peace’” to “post bond before carrying weapons in public.” *Bruen*, 597 U.S. at 55-56. If the individual refused to post the required bond, he would be jailed. *Rahimi*, 602 U.S. at 695. If he “did post a bond and then broke the peace, the bond would be forfeit.” *Id.* These laws “could be invoked to

prevent all forms of violence, including spousal abuse”—wives could seek sureties against their husbands, and husbands against their wives. *Id.*

In addition to surety laws, the laws at the Founding also “provided a mechanism for punishing those who had menaced others with firearms” via “going armed” laws.” *Id.* at 697. These laws—which existed both at common law and by statute—prohibited “riding or going armed, with dangerous or unusual weapons, [to] terrify[ ] the good people of the land,” and punished violations with “forfeiture of the arms . . . and imprisonment.” *Id.* (quoting 4 W. Blackstone, Commentaries on the Laws of England 149 (10th ed. 1787)).

The *Rahimi* Court explained that, “taken together, the surety and going armed laws confirm what common sense suggests: When an individual poses a clear threat of physical violence to another, the threatening individual may be disarmed.” *Id.* at 698. The Court further noted that “Section 922(g)(8) . . . fits neatly within the tradition” these legal schemes represent. *Id.* The Court did not limit this analysis to Section 922(g)(8)(C)(i)—notably, it spoke broadly about Section 922(g)(8)’s compliance with the nation’s regulatory tradition, even as it limited its holding to Section 922(g)(8)(C)(i). This, again, can and should be the end of this Court’s inquiry—where the Supreme Court has already held that Section 922(g)(8) is consistent with the country’s history and tradition of firearms regulation, the federal law and its Maine equivalent are plainly constitutional. *See id.* at 691 (“[I]f a challenged regulation fits within that tradition [of historical firearms regulation], it is lawful under the Second Amendment.”)

Courts that have addressed Section 922(g)(8)(C)(ii) post-*Rahimi* have reached this same conclusion. In *United States v. Combs*, the Sixth Circuit determined that “the historical tradition of surety and going-armed laws recognized in *Rahimi* applies with equal force to Section 922(g)(8)(C)(ii),” noting that “both subsections reflect the same concern about preventing those

deemed physically dangerous to others from using firearms,” and “both sections also limit disarmament to those found dangerous.” No. 23-5121, 2024 WL 4512533, at \*3 (6th Cir. Oct. 17, 2024). This latter point bears emphasis. While Section 922(g)(8)(C)(i) relates to orders that explicitly contain a “finding that [the person subject to the order] represents a credible threat to the physical safety of such intimate partner or child,” Section 922(8)(C)(ii) “establishes the same point by reasonable inference from the fact that a defendant is subject to a restraining order against such violent behavior. And such injunctive relief must have resulted from a hearing required by Section 922(g)(8)(A) during which a court has concluded that a real threat or danger of injury to the protected party exists.” *Id.* (internal citation and alterations omitted). In other words, while certain orders will explicitly state a finding that the subject is dangerous, and others will make that finding implicitly, orders under both prongs of Section 922(g)(8)(C) contain a finding that the subject is likely to cause physical injury to an intimate partner or child absent a domestic violence restraining order.<sup>4</sup> *See also United States v. Perez-Gallan*, 125 F.4th 204, 214 (5th Cir. 2024) (noting that “when Congress enacted § 922(g)(8), [it] legislated against the background of the almost universal rule of American law that for a temporary injunction to issue, there must be a *likelihood* that irreparable harm will occur,” and rejecting facial challenge to Section 922(g)(8)(C)(ii) (citation omitted)).

Because the Supreme Court’s analysis of Section 922(g)(8)(C)(i) in *Rahimi* applies equally to Section 922(g)(8)(C)(ii) and its Maine equivalent, the Court can and should dismiss Plaintiff’s Second Amendment challenge to these laws.

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<sup>4</sup> *See also* Rachel Graber, MA, MSW & Jennifer M. Becker, Esq., *Addendum to U.S. v. Rahimi: The Advocates; Concurrence*, 17 Family & Intimate Partner Violence Quarterly 7, 18 (2024) (“A civil [domestic violence restraining order], or any order within the meaning of 922(g)(8) such as orders for pretrial conditions of release or criminal protection orders, that by its terms explicitly prohibits the respondent from using, attempting to use, or threatening to use physical force that would be reasonably expected to cause bodily injury, fulfilling the criteria of (C)(ii), demonstrates that the issuing court found sufficient credible evidence that respondent poses a clear threat of ‘physical violence to another.’”).

**b. Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2) address the unprecedented societal concern of domestic violence.**

In *Bruen*, the Court made clear that, while “[t]he law must comport with the principles underlying the Second Amendment, . . . it need not be a ‘dead ringer’ or a ‘historical twin.’” *Rahimi*, 602 U.S. at 692 (quoting *Bruen*, 597 U.S. at 30). Moreover, laws “implicating unprecedented societal concerns or dramatic technological changes” should be subject to a “more nuanced approach” in determining whether they are consistent with historical tradition. *Bruen*, 597 U.S. at 27. This is because “[t]he regulatory challenges posed by firearms today are not always the same as those that preoccupied the Founders in 1791 or the Reconstruction generation in 1868.” *Id.* The Second Amendment is not “a law trapped in amber,” and it “permits more than just those regulations identical to ones that could be found in 1791.” *Rahimi*, 602 U.S. at 691-92. Indeed, Justice Barrett warns that “imposing a test that demands overly specific analogues has serious problems [because]... it forces 21st-century regulations to follow late-18th-century policy choices.” *Id.* at 739 (citation omitted) (Barrett, J., concurring).

Even if surety laws and “going armed” laws discussed in *Rahimi* are not historical twins to Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2), this Court should take a more nuanced approach when assessing whether the modern laws at issue are analogous to their historical counterparts. This is because both the federal and state laws address an unprecedented societal concern—the scourge of domestic violence.

Founding-era governments did not recognize intimate-partner violence as a societal problem in the way we do today. Anglo-American common law generally treated domestic violence as a private matter restricted to the realm of domestic relations. A husband had a legal right to subject his wife to physical violence if he thought that she defied his authority; it was not thought to be the place of the state to intervene to prevent this violence. *See* 1 William



Blackstone, Commentaries On The Laws Of England 442-45 (1765) (“[T]he law thought it reasonable to entrust [the husband] with this power of restraining [the wife], by domestic chastisement, in the same moderation that a man is allowed to correct his servants or children . . . and the courts of law will still permit a husband to restrain a wife of her liberty, in case of any gross misbehavior.”).

Societal views of marital and family relations have significantly changed in the intervening centuries. Society now recognizes that intimate-partner violence is a threat to both individual and public safety that implicates important state interests; it is not just a “private matter between the husband and wife.” Emily J. Sack, *Battered Women & the State: The Struggle for the Future of Domestic Violence Policy*, 2004 Wis. L. Rev. 1657, 1662 (2004). Modern laws came to truly reflect this reality in the late twentieth century as governments began to enact state and federal legislation aimed to protect victims and survivors of domestic violence and to hold abusers accountable. *See, e.g.*, the Violence Against Women Act, Pub. L. No. 103-322, 108 Stat. 1796 (1994); Reva B. Siegel, *The Rule of Love: Wife Beating as Prerogative and Privacy*, 105 Yale L.J. 2117, 2170-71 (1996) (describing the shift in the government’s approach to domestic violence in the late 1970s); Emily J. Sack, *Battered Women & the State: The Struggle for the Future of Domestic Violence Policy*, 2004 Wis. L. Rev. 1657, 1662 (2004) (“This policy of [state] toleration of [domestic violence] continued up through the 1970s, and wife-beating was considered a private matter between husband and wife in which the state should not intrude.”).

Beyond that, domestic violence committed with firearms has become increasingly prevalent and lethal in the modern era. At the time of the Founding, little evidence suggests that firearms were the weapon of choice in domestic violence—perhaps because the inferior social

and political status of women made such extreme forms of domestic violence less necessary to exert power and control. Today, unfortunately and often tragically, firearms violence in the domestic context is pervasive. *See United States v. Castleman*, 572 U.S. 157, 159-60 (2014) (“All too often, the only difference between a battered woman and a dead woman is the presence of a gun.”); *see also id.* (noting “the presence of a firearm increases the likelihood that [domestic violence] will escalate to homicide”).

*Bruen* recognizes that these kinds of shifts in the social and legal order have a direct bearing on the use of history. Unprecedented modern problems, *Bruen* explains, require a particularly “nuanced approach” that recognizes that “the Constitution can, and must, apply to circumstances beyond those the Founders specifically anticipated.” *Id.* Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2) reflect a new social understanding “in which women as well as men are entitled to equal protection of the civil and criminal law.” Joseph Blocher & Reva B. Siegel, *Guided by History: Protecting the Public Sphere From Weapons Threats Under Bruen*, 98 N.Y.U. L. Rev. 1795, 1828 (2023). The nuanced approach that *Bruen* requires takes account of this understanding and considers the tradition of firearm regulation in that light.

**c. Domestic abusers as a category present a special danger of firearm misuse, and laws like Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2) effectively help mitigate these dangers.**

In *Rahimi*, the Court reiterated that the Second Amendment permits “the enactment of laws banning the possession of guns by categories of persons thought by a legislature to present a special danger of misuse.” 602 U.S. at 698. Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2) are constitutional because domestic abusers present an especially critical danger of firearm misuse in Maine and across the nation.

Firearms are inextricably linked with deadly domestic violence. *See generally Research at the Intersection of Intimate Partner Violence and Firearms*, Battered Women’s Justice Project

at 2 (2024).<sup>5</sup> Every 16 hours in America, a woman is killed with a firearm by an intimate partner. *Beyond Bullet Wounds: Guns In the Hands of Domestic Abusers*, Brady United Against Gun Violence at 3 (2021).<sup>6</sup> And direct access to guns increases the likelihood of intimate-partner homicide of women by 11 times. Chelsea M. Spencer & Sandra M. Stith, *Risk Factors for Male Perpetration and Female Victimization of Intimate Partner Homicide: A Meta-Analysis*, 21 *Trauma, Violence & Abuse* 1, 9 (2018). Between 1980 and 2012, most women killed by their intimate partners were killed with guns. April M. Zeoli & Amy Bonomi, *Pretty in Pink? Firearm Hazards for Domestic Violence Victims*, 25 *Women's Health Issues* 1, 3 (2015). This is a persistent reality.<sup>7</sup>

The statistics on the prevalence of intimate-partner violence with a gun in the United States are staggering. Every month in 2021, an average of 76 women in the United States were shot and killed by an intimate partner. *Guns and Violence Against Women: America's Uniquely Lethal Intimate Partner Violence Problem*, Everytown for Gun Safety (2024)<sup>8</sup>; see also *The Silent Epidemic of Femicide in the United States*, SANCTUARY FOR FAMILIES (March 10, 2023).<sup>9</sup> As of 2019, nearly one million women in the United States have reported being shot or shot at by intimate partners, and more than 4.5 million women have reported being threatened with a gun by an intimate partner. See Susan Sorenson & Rebecca Schut, *Nonfatal gun use in intimate partner violence: A systemic review of the literature*, 19 *Trauma Violence Abuse* 4, 431-442 (2018).

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<sup>5</sup> Available at: <https://nrcdvf.org/wp-content/uploads/2024/10/research-at-the-intersection-of-intimate-partner-violence.pdf>.

<sup>6</sup> Available at: <https://brady-static.s3.amazonaws.com/Guns-Domestic-Violence.pdf>.

<sup>7</sup> See also Emma E. Fridel & James Alan Fox, *Gender Differences in Patterns and Trends in U.S. Homicide, 1976-2017*, 6 *Violence and Gender* 1, 27-36 (2019); Neil Websdale et al., *The Domestic Violence Fatality Review Clearinghouse: Introduction To A New National Data System With a Focus On Firearms*, 25 *Inj Epidemiol.* 6 (2019).

<sup>8</sup> Available at: <https://everytownresearch.org/report/guns-and-violence-against-women/>.

<sup>9</sup> Available at: <https://sanctuaryforfamilies.org/femicide-epidemic/>.

Children also face a heightened risk of death at the hands of armed domestic abusers. In up to 20% of domestic homicides, the abuser also kills at least one other person, most commonly a child or other family member. April M. Zeoli & Jennifer K. Paruk, *Potential to Prevent Mass Shootings through Domestic Violence Firearm Restrictions*, 19 *Criminology & Pub. Pol’y* 129, 130 (2020) (citing sources). Nearly two-thirds of all child fatalities related to domestic violence involved guns. Avanti Adhia, et al., *The Role of Intimate Partner Violence in Homicides of Children Aged 2–14 Years*, 56 *Am. J. Preventive Med.* 38 (2019). Between 2017 and 2022 alone, at least 866 children ages 17 and younger were shot in domestic violence incidents, and 621 died as a result. Jennifer Mascia, *Dangerous Homes: Guns and Domestic Violence Exact a Deadly Toll on Kids*, TRACE (Mar. 28, 2023).<sup>10</sup>

Even when guns are not used to kill, they are often used as tools to “establish[ ] coercive control — a pattern of threats, violence, and humiliation used to undermine the autonomy of a partner or family member,” and to even sexually abuse victims. *Beyond Bullet Wounds, supra*, at 7-8; see also Kellie R. Lynch, *Firearm Exposure and the Health of High-Risk Intimate Partner Violence Victims*, 270 *Soc. Sci. Med.* 11364 (Feb. 2021); *National Domestic Violence Hotline Firearm Data Analysis*, The National Domestic Violence Hotline (2023). In one case, the abuser forcefully penetrated his victim with a gun when she refused to be intimate with him. *National Domestic Violence Hotline Firearm Data Analysis*, The National Domestic Violence Hotline (2023). In another, an abuser slept with his gun under his pillow every night. The victim would often wake to the sound of her abuser releasing the safety next to her head. *Id.* In yet another, the abuser pointed his firearm at himself and threatened suicide if the victim ever left him. *Id.*; see

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<sup>10</sup> Available at: <https://www.thetrace.org/2023/03/guns-domestic-violence-child-deaths/>.

*also Firearm Impact on Domestic Violence Survivors National Domestic Violence Hotline Story Logs, July 2020 – July 2023*, National Domestic Violence Hotline (2023).

Armed domestic abusers pose a grave threat to not only their intimate partners and children, but also society more broadly. More than two-thirds (68.2%) of mass shootings are domestic violence incidents or are perpetrated by shooters with a history of domestic violence. Lisa B. Geller, *The Role of Domestic Violence in Fatal Mass Shootings in the United States, 2014–2019*, 8 *Injury Epidemiology* (2021). Mass shootings and domestic violence are closely linked: between 2014 and 2019, 60% of mass shooting events were either domestic violence attacks or perpetrated by those with a history of domestic violence. *Beyond Bullet Wounds, supra*, at 4. And in almost half of all mass shootings over the past decade, the perpetrator shot a current or former intimate partner or family member as part of the rampage. Everytown for Gun Safety Support Fund, *Mass Shootings in America, 2009–2020* (2021).<sup>11</sup>

Of great concern, domestic abusers also heighten the risk to police officers responding to domestic violence calls. A five-year study found that responding to domestic abuse accounted for the highest number of service-related fatalities for police officers. Nick Breul & Mike Keith, *Deadly Calls and Fatal Encounters: Analysis of US Law Enforcement Line of Duty Deaths When Officers Responded to Dispatched Calls for Service and Conducted Enforcement (2010–2014)*, Nat'l Law Enforcement Officers Memorial Fund (2016). And 95% of law enforcement officer deaths when responding to domestic violence between 1996 and 2010 involved a firearm. Cassandra Kercher et al., *Homicides of Law Enforcement Officers Responding to Domestic Disturbance Calls*, 19 *Injury Prevention* 331 (2013). In one case, the intoxicated abuser barricaded himself in a room and shot at responding officers, ultimately requiring a SWAT Team

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<sup>11</sup> Available at: <https://everytownresearch.org/maps/mass-shootings-in-america/>.

response. *Firearm Impact on Domestic Violence Survivors National Domestic Violence Hotline Story Logs, July 2020 – July 2023*, National Domestic Violence Hotline (2023).

Maine has not been spared from the nationwide trend of domestic abusers using firearms to harm and/or kill their victims. In Maine, 62% of all intimate partner homicides between 2000 and 2019 involved the use of a firearm. *See Maine Domestic Abuse Homicide Review Panel, 13<sup>th</sup> Biennial Report – A 20 Year Lookback* 46 (2021) (“20 Year Lookback”).<sup>12</sup> The next most common method, stabbing, was used in only 18% of intimate partner homicides. *Id.* Over a 20-year review of domestic violence homicides in Maine, one trend has remained constant—“people who commit domestic abuse related homicide have used firearms more than any other method to kill.” *Id.* at 19. Domestic violence homicides represent a substantial share of all firearm homicides in Maine—in 2022, one in three firearm homicides was the result of domestic violence. *See Annual Reporting of Firearm Fatalities and Hospitalizations*, Joint Standing Committee on Health and Human Services 2 (Sept. 3, 2024).<sup>13</sup>

For these reasons, Maine’s Domestic Abuse Homicide Review Panel—which is made up of experts in the field—has observed that “removing firearms from dangerous individuals and/or people known to be legally prohibited from possessing firearms can enhance safety and minimize the risk of injuries and lethality,” and has recommended the continued enforcement of laws requiring subjects of certain domestic violence restraining orders to relinquish their guns. 20 Year Lookback at 19. Similarly, *amicus* Maine Coalition to End Domestic Violence (“MCEDV”)—which provides support to Maine’s ten domestic violence service providers as they respond to abuse—notes that perpetrators of domestic violence “pose a significant threat to the health, safety, and wellbeing of those they abuse – and often bystanders and community

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<sup>12</sup> Available at: <https://www.maine.gov/ag/docs/DAHRP-Report-for-Posting-ACCESSIBLE.pdf>

<sup>13</sup> Available at: <https://legislature.maine.gov/doc/11090>.

members, too.” See *MCED Dives Deep to Move Needle on Firearms and Domestic Abuse*, Maine Coalition to End Domestic Violence (July 13, 2023).<sup>14</sup> MCEDV has detailed the numerous methods by which abusers who stop short of homicide nevertheless terrorize and control their partners with firearms, including by “shoving the barrel of a gun against their victims’ temple and pulling the trigger only for the chamber to be empty – without the victim knowing that it was” and by “placing bullets on the kitchen counter for their victim to see when they wake up in the morning, accompanied by a note that reads: ‘I’ll see you tonight.’” *Id.*

The issues presented here are not abstract; Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2) are critical to protecting life and safety in Maine and nationwide. A single survivor’s experience illustrates this basic point. See Ruth M. Glenn, *Everything I Never Dreamed: My Life Surviving and Standing Up to Domestic Violence* (2022). Ms. Glenn’s husband abused her for years and was subject to a civil order of protection issued against him on her behalf.<sup>15</sup> Because Section 922(g)(8) was not yet enacted, Ms. Glenn’s abuser was able to legally purchase firearms. And guns made his violence even more horrific. He used a gun to threaten Ms. Glenn and their son. When his son’s school reported that he was struggling academically, Ms. Glenn’s husband “aimed the gun at [her], looked at [their] son, and said, ‘If you bring one more F into this house, I’ll kill your mother.’” *Id.* at 41. After Ms. Glenn escaped with their son, her husband found her “in the parking garage of [her] apartment complex and abducted [her] at gunpoint,” *id.* at 44, holding her hostage for four terrifying hours. Ms. Glenn

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<sup>14</sup> Available at: <https://www.mcedv.org/mcedv-dives-deep-to-move-needle-on-firearms-and-domestic-abuse/>.

<sup>15</sup> Often, victims who are reluctant to cooperate in criminal prosecutions rely on civil domestic violence restraining orders as an avenue to safety. National District Attorneys Association, *National Domestic Violence Prosecution Best Practices Guide* (last revised June 23, 2020), <https://ndaa.org/wp-content/uploads/NDAA-DV-White-Paper-FINAL-revised-June-23-2020-1.pdf>. Because of the uniquely complicated dynamics of domestic violence, victims often do not pursue criminal charges out of fear of retaliation or manipulation by their abuser. *Id.* As a result, 80 percent of victims in domestic violence cases “minimiz[e] the incident, deny[] it happened, fault[] . . . [themselves], or refus[e] to participate in prosecution,” making it particularly difficult to prosecute and ultimately convict domestic abusers. *Id.*

escaped, but a few months later, her husband found her again, shot her in the head, and left her for dead. *Id.* at 56. Miraculously, Ms. Glenn drove 200 yards for help and survived the attack, *id.* at 58-59—but her abuser fled and escaped police, and Ms. Glenn continued to live in fear for months more until her abuser turned his gun on himself and died by suicide, *id.* at 63.

Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2) are crucial tools to preventing repetition of these and other horrific events. While Ms. Glenn survived her domestic abuser’s firearm violence, many do not. The societal response to this tide of violence has been to seek to take firearms out of the hands of abusers before these tragedies occur. The 31 states, including Maine, that have criminal prohibitions on possession of a firearm by persons subject to qualifying domestic-violence restraining orders have seen a 13% reduction in intimate partner firearm homicide rates. April M. Zeoli et al., *Analysis of the Strength of Legal Firearms Restrictions for Perpetrators of Domestic Violence and Their Associations with Intimate Partner Homicide*, 187 *Am. J. Epidemiology* 2365, 2367 (2018). Moreover, Section 922(g)(8)(C)(ii) in particular not only permits prosecution and incapacitation of violators, but also supports law enforcement intervention to prevent violent acts. A prime example is Section 922(g)(8)’s role in apprehending the Beltway Snipers, whose arrest ended their 23-day killing spree in the Washington D.C. area—during which they planned to murder a shooter’s former spouse. Neal Augenstein, *Ex-wife of Beltway sniper shares story of domestic abuse on Valentine’s Day*, WTOP News (Feb. 14, 2020).<sup>16</sup> Section 922(g)(8) was pivotal: after following a lead to the former spouse of one of the primary shooters, federal agents discovered that the other shooter possessed a gun despite being subject to a qualifying domestic-violence restraining order. This “enabled [them] to charge him with federal weapons violations” and secure an arrest warrant

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<sup>16</sup> Available at: <https://wtop.com/local/2020/02/ex-wife-of-beltway-sniper-shares-story-of-domestic-abuse-on-valentines-day/>.



under Section 922(g)(8). Federal Bureau of Investigation, *Beltway Snipers*;<sup>17</sup> see Crim. Compl., Braga Aff. ¶ 17, *United States v. Muhammad*, No. 02-3187 (D. Md. Oct. 29, 2002).<sup>18</sup> The arrest in the federal system ensured that the United States was able to detain and prosecute the defendants.

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Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2) are critical tools to addressing a concern for domestic violence victims that was inconceivable to the Founders. These laws follow a long history and tradition of laws disarming individuals who, like domestic abusers, present a special risk of misuse of firearms. Accordingly, the Court should dismiss Plaintiff's challenge to these laws.

### CONCLUSION

For the foregoing reasons, the Court should dismiss Plaintiff's First Amended Complaint.

Dated: April 11, 2025

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<sup>17</sup> Available at: <https://www.fbi.gov/history/famous-cases/beltway-snipers>.

<sup>18</sup> Available at: <https://vault.fbi.gov/SNIPEMUR>.

**CERTIFICATE OF SERVICE**

I hereby certify that on the date indicated below I caused a copy of the foregoing pleading to be filed with the Court's ECF filing system, which will cause an electronic notice to be sent to counsel of record.

Dated: April 11, 2025

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