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13 [Additional Counsel Listed on Next Page]

14
 15 **UNITED STATES DISTRICT COURT**
 16 **NORTHERN DISTRICT OF CALIFORNIA**
 17 **SAN FRANCISCO DIVISION**

18
 19 STATE OF CALIFORNIA, et al.,

20 Plaintiffs,

21 v.

22 BUREAU OF ALCOHOL, TOBACCO,
 23 FIREARMS AND EXPLOSIVES et al.,

24 Defendants.

CIVIL CASE NO.: 3:20-CV-06761-EMC

25 **STIPULATION; ~~PROPOSED~~ ORDER**

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STIPULATION

Subject to the Court’s approval, Plaintiffs and Defendants stipulate as follows:

1. Plaintiffs challenge determinations by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) that certain receiver blanks are not “firearms” under the Gun Control Act (“GCA”) because the “fire-control cavity areas” are “solid and un-machined.” *See* Compl. ¶¶ 66–77, 86–87, 118–20, 126–31, ECF No. 1.

2. On April 7, 2021, the Administration announced that “The Justice Department, within 30 days, will issue a proposed rule to help stop the proliferation of ‘ghost guns.’”¹ Two days later, “[i]n light of recent developments regarding ATF’s regulation of products at issue in this case,” the Court *sua sponte* “temporarily stayed” proceedings and scheduled a case management conference for May 27, 2021. Order of Temporary Stay of Case, ECF No. 83.

3. On May 7, 2021, ATF issued a notice of proposed rulemaking titled “Definition of ‘Frame or Receiver’ and Identification of Firearms.” *See* Definition of “Frame or Receiver” and Identification of Firearms (proposed May 7, 2021) (to be codified at 27 C.F.R. pts. 478 and 479) (“Proposed Rule”).² As relevant here, the Proposed Rule would add a new regulatory definition for “readily.” *See* Proposed Rule at 36–37; *see also* 18 U.S.C. § 921(a)(3) (defining “firearm” as “any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive”). It would also change the current regulatory definition for “firearms frame or receiver.” *See* Proposed Rule at 24–27; *see also* 18 U.S.C. § 921(a)(3) (defining “firearm” as “the frame or receiver of any such weapon”). The proposed definition of “firearms frame or receiver” would explain when a partially complete frame or receiver becomes an actual frame or receiver under the GCA—specifically, when it crosses the line from an unregulated piece of metal (or other substance) to a regulated frame or receiver. *See* Proposed Rule at 33–35.

¹ White House, *FACT SHEET: Biden-Harris Administration Announces Initial Actions to Address the Gun Violence Public Health Epidemic* (Apr. 7, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/07/fact-sheet-biden-harris-administration-announces-initial-actions-to-address-the-gun-violence-public-health-epidemic/>.

² The Proposed Rule may be accessed here: <https://www.atf.gov/file/154586/download>.

1 4. In light of the Proposed Rule, and in the interests of judicial economy, the parties have
2 conferred and agreed to jointly request that the case be stayed until ATF issues a final rule. The
3 parties further request that the Court vacate the Case Management Conference currently set for May
4 27, 2021. Finally, the parties propose that they file a joint status report thirty days after ATF issues
5 the final rule updating the Court on whether further proceedings are necessary and, if so, proposing a
6 schedule for continuing the litigation.

7 IT IS SO STIPULATED.

8
9 Dated: May 20, 2021

/s/ Avi Weitzman

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Dated: May 20, 2021

/s/ R. Matthew Wise

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Dated: May 20, 2021

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Counsel for Defendants

~~[PROPOSED]~~ ORDER

Pursuant to stipulation, IT IS SO ORDERED.

Date: May 21, 2021


EDWARD M. CHEN
United States District Judge

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