

No. _____

**In the
Supreme Court of the United States**

EDDIE GRANT, JR., *et al.*,

Petitioners,

v.

JAMES ROVELLA, IN HIS OFFICIAL CAPACITY, *et al.*,

Respondents.

**On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Second Circuit**

PETITION FOR WRIT OF CERTIORARI

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November 7, 2025

QUESTION PRESENTED

Whether the Second and Fourteenth Amendments to the United States Constitution guarantee the right to possess semiautomatic rifles that are in common use for lawful purposes, including the most popular rifle in the country, the AR-15.

PARTIES TO THE PROCEEDING

Petitioners Eddie Grant, Jr.; Jennifer Hamilton; Michael Stiefel; Connecticut Citizens Defense League, Inc.; and Second Amendment Foundation, Inc. were the plaintiffs before the district court and the plaintiffs-appellants in the court of appeals.

Respondents James Rovella, in his official capacity as Commissioner of the Connecticut Department of Emergency Services and Public Protection; John P. Doyle, J., in his official capacity as State's Attorney for the New Haven Judicial District; Sharmese L. Walcott, in her official capacity as State's Attorney for the Hartford Judicial District; and Paul J. Narducci, in his official capacity as State's Attorney for the New London Judicial District, were the defendants before the district court and the defendants-appellees in the court of appeals.

Respondents were joined as defendants in the district court by Edward Lamont, Jr., in his official capacity as Governor of Connecticut; Patrick Griffin, in his official capacity as Chief State's Attorney; Margaret E. Kelly, in her official capacity as State's Attorney for the Ansonia/Milford Judicial District; David R. Applegate, in his official capacity as State's Attorney for the Danbury Judicial District; Joseph T. Corradino, in his official capacity as State's Attorney for the Fairfield Judicial District; David R. Shannon, in his official capacity as State's Attorney for the Litchfield Judicial District; Michael A. Gailor, in his official capacity as State's Attorney for the Middlesex Judicial District; Christian Watson, in his official capacity as State's Attorney for the New Britain Judicial District; Paul J. Ferencek, in his official capacity as State's Attorney for the Stamford Judicial District; Matthew C.

Gedansky, in his official capacity as State’s Attorney for the Tolland Judicial District; Maureen Platt, in her official capacity as State’s Attorney for the Waterbury Judicial District; and Anne F. Mahoney, in her official capacity as State’s Attorney for the Windham Judicial District. The district court dismissed these defendants, and that order was not appealed. *See Order, Grant v. Lamont*, 3:22-cv-01223, Doc. No. 51 (July 5, 2023).

CORPORATE DISCLOSURE STATEMENT

Connecticut Citizens Defense Leage, Inc., has no parent corporation, and there is no publicly held corporation that owns 10% or more of its stock.

Second Amendment Foundation, Inc., has no parent corporation, and there is no publicly held corporation that owns 10% or more of its stock.

STATEMENT OF RELATED PROCEEDINGS

This case arises from the following proceedings:

- *Grant v. Lamont*, No. 23-1344
(2d Cir. Aug. 22, 2025)
- *Grant v. Lamont*, 3:22-cv-01223
(D. Conn. Aug. 28, 2023)

There are no other proceedings in state or federal court, or in this Court, directly related to this case under Supreme Court Rule 14.1(b)(iii).

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PETITION FOR WRIT OF CERTIORARI

Last term, this Court denied certiorari in *Snope v. Brown*, 145 S. Ct. 1534 (2025) (mem.), which involved a challenge to the constitutionality of Maryland’s ban on the AR-15 platform rifle. In a statement respecting the denial, Justice Kavanaugh observed that there is a “strong argument that AR-15s are in ‘common use’ by law-abiding citizens and therefore are protected by the Second Amendment.” *Id.* at 1534 (Kavanaugh, J., statement respecting denial). He further explained that it is “analytically difficult to distinguish the AR-15[] ... from the handguns at issue in *Heller*.” *Id.* And he concluded that “this Court should and presumably will address the AR-15 issue soon, in the next Term or two.” *Id.* Following that denial, the Second Circuit joined the many circuits that have applied this Court’s decision in *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022), to refuse to enjoin a ban on so-called “assault weapons,” including the AR-15 rifle, which this Court recently called “the most popular rifle in the country.” *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280, 297 (2025).

Under this Court’s precedents, a firearm cannot be banned if it is in common use for lawful purposes. *See Heller v. District of Columbia*, 554 U.S. 570, 627–29 (2008). If the most popular rifle in the country is not in common use, it is hard to see what that phrase could possibly mean. The Second Circuit nonetheless held that a ban on that rifle does not violate the Second Amendment. And it is not alone; lower courts have uniformly upheld bans on AR-15s. But while courts have been uniform in result, they have not been

uniform in rationale, and they have often expressed confusion about this Court's precedents. This Court should intervene to address that confusion by making clear that its precedents mean what they say.

This is not the first time that lower courts have required a Second Amendment course correction. For 14 years after *Heller*, courts consistently misconstrued that decision as establishing a two-step interest balancing approach that gave much deference to legislative judgments. In *Bruen*, this Court rejected that approach, in part because it did not provide sufficient protection for Second Amendment rights. Even so, in cases involving AR-15s, lower courts have employed reasoning that is not meaningfully different from the means-end scrutiny that *Bruen* rejected.

The question whether AR-15s may be banned “is of critical importance to tens of millions of law-abiding AR-15 owners throughout the country.” *Snope*, 145 S. Ct. at 1538 (Thomas, J., dissenting from denial). Since the Founding, the rifle has been the paradigmatic American arm. It facilitated the struggle for independence from the British and was “the companion” and “tutelary protector” of the pioneers. *Heller*, 554 U.S. at 609 (citation omitted). The AR-15 is the modern descendant of our forefathers' rifles. If the Second Amendment does not protect it, then it is unclear what that Amendment does protect. Indeed, it would not be hyperbole to say that the question presented by this case is whether *Heller* identified the test for determining which arms the Second Amendment protects or rather the only class of arms that merit protection. This case presents a clean vehicle for

answering that question. This Court should grant the petition.

OPINIONS BELOW

The opinion of the court of appeals affirming the district court's denial of a preliminary injunction is reported at 153 F.4th 213, and reproduced at Pet.App. 1a–73a. The order of the district court denying Petitioners' motion for a preliminary injunction is not reported in the Federal Supplement but is available at 2023 WL 5533522. It is reproduced at Pet.App. 74a–92a.

JURISDICTION

The court of appeals issued its judgment on August 22, 2025. Petitioners invoke this Court's jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The relevant constitutional provisions and portions of the Connecticut General Statutes are reproduced in the Appendix beginning at Pet.App. 96a.

STATEMENT

I. Connecticut's arms ban.

Connecticut makes it a crime to sell, transfer, or possess so-called “assault weapons.” *See* CONN. GEN. STAT. §§ 53-202b (sale or transfer), 53-202c (possession). Section 53-202a defines the term “assault weapon” to encompass many distinct types of firearms. To begin, the term encompasses “[a]ny selective-fire firearm capable of fully automatic, semiautomatic or burst fire at the option of the user,” including

specific firearms capable of firing automatically or in burst. *Id.* § 53-202a(1)(A)(i). Petitioners do not challenge the ban on the sale, transfer, or possession of firearms with automatic or burst-fire capability.

But Section 53-202a also provides that many semiautomatic firearms are “assault weapons.” It specifically enumerates more than 70 semiautomatic firearm models, including the AR-15 platform (and “copies or duplicates thereof”). *See id.* § 53-202a(1)(A)(i), (B), (C). It also states that *all* semiautomatic firearms are “assault weapons” if they meet certain criteria. Most relevant here, Section 53-202a provides that a “semiautomatic, centerfire rifle” is an “assault weapon” if:

(i) ... [it] has an ability to accept a detachable magazine and has at least one of the following:

(I) A folding or telescoping stock;

(II) Any grip of the weapon, including a pistol grip, a thumbhole stock, or any other stock, the use of which would allow an individual to grip the weapon, resulting in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing;

(III) A forward pistol grip;

(IV) A flash suppressor; or

(V) A grenade launcher or flare launcher;
or

- (ii) ... has a fixed magazine with the ability to accept more than ten rounds; or
- (iii) ... has an overall length of less than thirty inches[.]

Id. § 53-202a(1)(E). Many commonly used semiautomatic rifles have features that make them “assault weapons” under subsection (E), including normally configured AR-15s and other AR-style rifles.

The term “assault weapon” also includes certain semiautomatic pistols and shotguns. *See id.* § 53-202a(1)(C), (D), (E)(v)–(viii).

In 2023, Connecticut amended the definition of “assault weapon” to encompass, among other firearms, certain braced pistols. *See id.* § 53-202a(1)(G) (“Assault weapon” means ... “[a]ny semiautomatic firearm *other than* a pistol, revolver, rifle or shotgun” with certain features (emphasis added)); *see also* Pet.App. 13a–14a. Braced pistols did not satisfy the pre-2023 definition of the term “assault weapon” because that definition covered only firearms that are pistols, revolvers, shotguns, and rifles, and as a matter of Connecticut law, a braced pistol is none of those things. *See* CONN. GEN. STAT. § 53a-3(16)–(18). The firearms that were swept in by the 2023 amendment are commonly referred to as “others” or “2023 assault weapons.” The parties have agreed throughout this proceeding that these firearms are not relevantly different from covered semiautomatic rifles. *See* Pet.App. 88a.

The sale or transfer of a banned “assault weapon” is a Class C felony punishable by a mandatory term of imprisonment of two years and a maximum term of

ten years. CONN. GEN. STAT. §§ 53-202b(a)(1), 53a-35a(7). The possession of a banned “assault weapon” is a Class D felony punishable by a mandatory term of imprisonment of at least one year and a maximum term of five years. *See id.* §§ 53-202c(a), 53a-35a(8). The ban contains narrow exceptions, none of which allow any Petitioner to acquire or possess a new “assault weapon.” The ban exempts the acquisition and possession of covered weapons by certain persons, mostly government officials. *See* CONN. GEN. STAT. §§ 53-202b(b); 53-202c(b). It also exempts the possession of covered firearms that were possessed before the ban on those firearms took effect, if the possessor obtained a certificate from the relevant Connecticut agency within a certain number of days. *See, e.g., id.* § 53-202d(a)(2)(A).

II. Connecticut’s ban extends to commonly used firearms, including the most popular rifle in America.

Connecticut’s law is styled as a ban on “assault weapons.” But the term “assault weapon” is not a meaningful designation; it is rather a slogan designed to exploit “the public’s confusion over fully automatic machine guns versus semi-automatic” firearms. JOSH SUGARMANN, ASSAULT WEAPONS AND ACCESSORIES IN AMERICA (1988), <https://perma.cc/WX5B-XUJY>.

In reality, Connecticut’s ban on “assault weapons” extends to many ordinary and common semiautomatic firearms—including the AR-15 rifle. These covered firearms are mechanically and functionally identical to every other semiautomatic firearm in the way that they fire. Unlike an automatic firearm, which fires continuously while its trigger is depressed,

a semiautomatic firearm fires only one shot with each pull of the trigger. *See Staples v. United States*, 511 U.S. 600, 602 n.1 (1994).

Semiautomatic firearms are exceedingly common and fully protected by the Second Amendment. *See Friedman v. City of Highland Park*, 136 S. Ct. 447, 449 (2015) (mem.) (Thomas, J., dissenting from denial of certiorari). Indeed, this Court has said, in a case specifically involving an AR-15 rifle, that semiautomatic firearms “traditionally have been widely accepted as lawful possessions.” *Staples*, 511 U.S. at 612. And for good reason—arms capable of firing multiple shots without manual reloading have been around since the Founding. For example, in 1777, Joseph Belton demonstrated a repeating rifle that could hold 16 rounds of ammunition to members of the Continental Congress. David B. Kopel & Joseph G.S. Greenlee, *The History of Bans on Types of Arms Before 1900*, 50 J. LEGIS. 223, 255 (2024). A few decades later, Meriwether Lewis set out on his expedition with William Clark carrying a Girandoni air rifle with a 22-round tubular magazine, which functioned like a semiautomatic firearm. JAMES B. GARRY, *WEAPONS OF THE LEWIS AND CLARK EXPEDITION* 100–01 (2012).

“Modern” semiautomatic firearm technology has been around for 140 years, dating to 1885. *See* Kopel & Greenlee, *supra*, at 282. It is as old as gasoline-powered automobiles. Ken W. Purdy & Christopher G. Foster, *History of the automobile*, *ENCYCLOPÆDIA BRITANNICA*, <https://perma.cc/SL57-BHTR>. Since 1885, semiautomatic firearms have been accepted as lawful possessions virtually everywhere in America. While a few laws restricted certain semiautomatic firearms in

the 1920s and 1930s, *see, e.g.*, 1927 Mich. Pub. Acts 887, 888–89 (restricting semiautomatic firearms capable of firing 16 rounds without reloading), these were short-lived aberrations, *see* 1959 Mich. Pub. Acts 249, 250.

The AR-15 rifle, specifically, has been available to civilians since the 1960s. *See* STEPHEN P. HALBROOK, *AMERICA’S RIFLE: THE CASE FOR THE AR-15* at 14–15 (2022). AR-15 rifles are

popular with civilians ... around the world because they’re accurate, light, portable, and modular. ... The AR-15 is also easy to shoot and has little recoil, making it popular with women. The AR-15 is so user-friendly that a group called “Disabled Americans for Firearms Rights” ... says the AR-15 makes it possible for people who can’t handle a bolt-action or other rifle type to shoot and protect themselves.

FRANK MINITER, *THE FUTURE OF THE GUN* 46–47 (2014). While the federal government once restricted these rifles, *see* Violent Crime Control and Law Enforcement Act, Pub. L. No. 103-322, § 110102, 108 Stat. 1796 (1994), that restriction was in place for just ten years, and it expired over twenty years ago. Today, AR-15 and similar rifles are legal in the vast majority of states. Indeed, this Court recently observed that the AR-15 is “the most popular rifle in the country.” *Smith & Wesson*, 605 U.S. at 297. And it emphasized that AR-15s and comparable semiautomatic rifles are “widely legal and purchased by ordinary consumers.” *Id.* at 283.

This Court’s observations are confirmed by a variety of sources.

Consumer surveys. In 2022, Washington Post-Ipsos surveyed a random sample of 2,104 gun owners. *Poll of current gun owners* at 1, WASH. POST-IPSOS (2022), <https://perma.cc/YSJ5-STNS> (“WashPost Poll”). The survey asked respondents whether they owned AR-15-style rifles. Twenty percent answered yes. *Id.* Extrapolating these results to all gun owners indicates that “about 16 million Americans own an AR-15.” Emily Guskin et al., *Why do Americans own AR-15s?*, WASH. POST (Mar. 27, 2023), <https://perma.cc/U6M6-QRDG>. The survey also asked respondents *why* they owned AR-15s. Respondents answered that they did so, among other reasons, to protect self, family, and property (91%); for target shooting (90%); to hedge against a breakdown in law and order (74%); and for hunting (48%). WashPost Poll at 1–2. Sixty-two percent of respondents who said that they owned an AR-15 rifle reported firing it at least a few times each year. *Id.* at 2.

In 2021, Georgetown Professor William English surveyed 16,708 gun owners. William English, *2021 National Firearms Survey: Updated Analysis Including Types of Firearms Owned* at 1, GEO. UNIV. RSCH. PAPER NO. 4109494 (May 13, 2022), <https://perma.cc/E8H9-N6RZ>. This survey asked respondents whether they had “ever owned an AR-15 or similarly styled rifle[.]” *Id.* at 33. Approximately thirty percent said yes, with many stating that they had owned more than one. *Id.* Extrapolating those results to all gun owners indicates that approximately 24.6 million Americans have owned AR-15s or similar

rifles. *Id.* The survey also asked respondents why they owned these rifles. Respondents indicated that they did so for, among other reasons, recreational target shooting (66%), home defense (61.9%), hunting (50.5%), and defense outside the home (34.6%). *Id.* Many respondents indicated that they had in fact used their rifles defensively. The survey estimated that of the approximately 1.67 million defensive gun uses each year, 13.1% involve rifles. *Id.* at 14–15. That amounts to over 200,000 defensive rifle uses annually. *Id.* Professor English’s defensive gun use findings are in line with other surveys, “with estimates of annual uses ranging from about 500,000 to more than 3 million.” Alan I. Leshner et al., *Priorities for Research to Reduce the Threat of Firearm-Related Violence* 15, NAT’L RSCH. COUNCIL (2013), <https://perma.cc/V36E-6KNC>.

Also in 2021, a National Shooting Sports Foundation (NSSF) survey estimated that more than 21 million Americans trained with an AR- or AK-platform rifle in 2020. *Sport Shooting Participation in the U.S. in 2020* at iii, NSSF (2021), <https://perma.cc/P549-STFN>. A different NSSF survey asked 2,185 AR- and AK-platform rifle owners whether they used their rifle in the previous twelve months. *See Modern Sporting Rifle: Comprehensive Consumer Report* at 10, NSSF (July 14, 2022), <https://perma.cc/TAY2-CG2X>. Eighty-eight percent said yes, and sixty-seven percent said that they had done so more than five times. *Id.* at 41. This survey also asked respondents to rate the importance, on a scale of 1 (not at all important) to 10 (very important), of different reasons for owning AR-15 or AK-47

platform rifles. Respondents rated recreational target shooting at 8.7, home/self-defense at 8.3, and varmint hunting at 5.8. *Id.* at 18.

Firearm Dealer Surveys. NSSF regularly surveys retailers about the types of firearms they sell. *See, e.g., 2021 Firearms Retailer: Survey Report*, NSSF (2021), <https://perma.cc/N59Q-6UJJ>. In 2020, respondents indicated that the category of AR/modern sporting rifles (which includes AR-15 platform rifles) was the second highest-selling category, comprising 20.3% of sales. *Id.* at 9. And 2020 was no outlier. These rifles comprised between 17.7% and 20.3% of total firearm sales each year from 2011 to 2018 (with the exception of 2017, for which no survey results were reported). *See 2019 Firearms Retailer: Survey Report* at 10, NSSF (2019), *available at* Ex. to Prelim. Inj. Mot. at 109, *Miller v. Becerra*, No. 3:19-cv-1537 (S.D. Cal. Dec. 16, 2019), Doc. 22-13.

Firearm Production Data. NSSF also analyzed production data to determine how many AR-style and comparable rifles have been produced for the American market. *Firearm Production in the United States With Firearm Import and Export Data* at 7, NSSF (2023), <https://perma.cc/P6A8-DZK2>. It determined that AR-15s and similar rifles accounted for approximately 20% of all domestic firearms produced for the American market from 2012 to 2021. *See id.* at 2–7. NSSF estimated that, from 1990 to 2022, more than thirty million of these rifles were produced for the American market. *See NSSF Releases Most Recent Firearm Production Figures*, NSSF (Jan. 15, 2025), <https://perma.cc/HJQ9-MHLV>.

In sum, the firearms that Connecticut’s law bans, including AR-15s, are owned by tens of millions of Americans for many lawful purposes, including self-defense, target shooting, and hunting.

These rifles are also rarely used for unlawful purposes. Consider homicide data. From 2014 to 2023, rifles of any kind were used in an average of 380 homicides per year. *Crime Data Explorer: Expanded Homicide Offenses Characteristics in the United States*, U.S. DEP’T OF JUSTICE, FBI, <https://perma.cc/9QFZ-RJK8>. Even granting the unlikely assumption that each of these homicides was carried out using a *different* AR-15 or a similar rifle, that would mean just .001% of these rifles are used in a homicide in a typical year. Handguns are used in homicides nearly *eighteen times* more frequently than rifles. *See id.* (average of 7,043 handgun-based homicides annually from 2014 through 2023). Homicides are also more likely to be carried out using knives or body parts. *See id.* (average of 1,592 knife-based and 691 body-part-based homicides over the same period).

III. The ban’s effect on Petitioners.

Petitioners Grant, Hamilton, and Stiefel are law-abiding adult citizens of the United States and Connecticut. Pet.App. 126a–131a. Each is legally eligible under federal and state law to acquire and possess firearms, ammunition, and magazines. *Id.* Each desires, for defensive purposes, to purchase a firearm covered by Connecticut’s ban. For example, Hamilton has been the victim of domestic violence, so she now carries a firearm to protect herself and her family

from further attack. *Id.* Hamilton seeks to acquire and possess an AR-15 rifle because of its adaptability and effectiveness, but she cannot do so because Section 53-202a designates it as a prohibited assault weapon. *Id.*

Petitioners Connecticut Citizens Defense League, Inc., and Second Amendment Foundation, Inc., have members in Connecticut, including Petitioners Grant, Hamilton, and Stiefel, who are eligible to acquire and possess firearms under federal and state law. *Id.* at 133a–134a. These members seek to acquire and possess AR-15 rifles, but they cannot do so because Section 53-202a designates them as prohibited assault weapons. *Id.*

IV. Procedural history.

A. On June 28, 2023, Petitioners filed the operative complaint in the District of Connecticut. *Id.* 124a. Petitioners then moved for a preliminary injunction. Among other things, Petitioners argued that, under *Heller*, a firearm may be banned only if it is *both* dangerous *and* unusual, and that AR-style rifles are neither because they are possessed by millions of Americans for overwhelmingly lawful purposes. *See* Pls.’ Mem. in Supp. of Am. Mot. for Prelim. Inj. at 25, 27, *Grant v. Lamont*, 3:22-cv-01223 (July 5, 2023), Doc. 51-1. The district court had subject-matter jurisdiction under 28 U.S.C. §§ 1331 and 1343.

The district court denied the motion, holding that Petitioners were not likely to succeed on the merits of their claim. Pet.App. 91a–92a. Purporting to apply *Bruen*, the court held that the ban does not implicate the Second Amendment’s plain text because Petitioners did not establish that AR-style rifles are in

“common use for self-defense.” *Id.* at 87a–89a. The court also held that the ban was justified by this Nation’s historical tradition of regulating “the types of weapons people could carry based on the new and dangerous characteristics of developing weapons technology[.]” *Id.* at 90a. Lastly, it emphasized that the ban leaves open “alternative avenues for lawful possession of firearms for purposes of self-defense.” *Id.* The court did not discuss the remaining preliminary injunction factors.

Petitioners timely appealed. *See* Notice of Appeal, *Grant v. Lamont*, 3:22-cv-01223 (Sep. 7, 2023), Doc. 73 (“Notice of Appeal”). The Second Circuit consolidated the case with *National Association for Gun Rights v. Lamont*, No. 23-1162, *cert. pending*, No. 25-421.

B. 1. The Second Circuit affirmed. The panel determined that Petitioners challenged the ban only as applied to two types of firearms: AR-15 rifles and functionally identical “others.” Pet.App. 22a. It expressed “confusion” about whether these rifles are arms within the meaning of the Second Amendment, so it assumed without deciding that they are. *Id.* at 35a.

The panel then held that the ban is consistent with this Nation’s historical tradition of firearm regulation. *Id.* at 37a. It began its historical analysis by stating that the ban warranted a less demanding historical inquiry because AR-style rifles present the unprecedented societal concerns “of mass shootings resulting in ten or more fatalities.” *Id.* at 42a. Applying that watered down standard, the panel found that AR-style rifles are “dangerous and unusual,” a category it defined to “encompass[] those arms that legislators

determined were *unusually dangerous* because of their characteristics.” *Id.* at 31a (emphasis in original); *see also id.* at 32a (“*Unusually dangerous* is the obvious fit to describe weapons that are so lethal that legislators have presumed that they are not used or intended to be used for lawful purposes, principally individual self-defense.”) (emphasis in original). The panel did not say whether the Second Amendment limits the weapons that legislatures may deem unusually dangerous. It did assert, however, that AR-style rifles, like Bowie knives, “are particularly suited for criminal violence[.]” *Id.* at 52a. And it emphasized that the ban still allows for “possession of many popular weapons, including semiautomatic weapons deemed to be less dangerous by the legislature for self-defense and other lawful purposes.” *Id.* at 50a.

For reasons that flowed from its merits analysis, the panel held that the balance of the equities and the public interest did not support a preliminary injunction. *See id.* at 61a–66a.

2. Judge Nathan joined the majority opinion and issued a concurring opinion, joined by the two other panelists, setting forth her view that a weapon can be dangerous and unusual even if it is broadly used for lawful purposes. Judge Nathan did not dispute that *Heller* held a firearm may be banned only if it is unusual, as measured by its popularity with law-abiding Americans. But she resolved to “look beyond” *Heller* and “journey to the historical sources” on which it relied. *Id.* at 68a. On her telling, those sources evince a tradition of restricting “unusually dangerous” weapons without regard for their “statistical commonality.” *Id.* at 72a.

REASONS FOR GRANTING THE PETITION

I. The issues in this case are critically important.

A. The decision below blesses a ban on the most popular rifle in America.

Connecticut’s “assault weapons” ban applies to many semiautomatic rifles, but the opinions below focused on the AR-15. The panel held that this rifle may be banned because it is “unusually dangerous.” *Id.* at 46a. As discussed below, this interpretation of the Second Amendment is wrong. Indeed, it is directly contrary to this Court’s precedents. *See* pp. 25–31, *infra*. But this interpretation also has staggering practical implications.

The AR-15 is the most popular rifle in the country, and among the most popular firearms of any type. This Court and its Justices have recognized as much. *See Smith & Wesson*, 605 U.S. at 297 (“The AR-15 is the most popular rifle in the country.”); *Snope*, 145 S. Ct. at 1534 (Kavanaugh, J., statement respecting denial) (“Americans today possess an estimated 20 to 30 million AR-15s.”); *id.* at 1535 (Thomas, J., dissenting from denial) (stating the AR-15 is “the most popular civilian rifle in America”); *Harrel v. Raoul*, 144 S. Ct. 2491, 2493 (2024) (mem.) (Thomas, J.) (calling the AR-15 “America’s most common civilian rifle”); *Garland v. Cargill*, 602 U.S. 406, 430 (2024) (Sotomayor, J., dissenting) (referring to AR-15 style rifles as “commonly available, semiautomatic rifles”). So has the federal agency charged with regulating the commercial firearms industry, which recently described the AR-15 as “one of the most popular firearms in the United

States” for “civilian use.” See ATF, *Definition of ‘Frame or Receiver’ and Identification of Firearms*, 87 Fed. Reg. 24,652-01, 24,652, 24,655 (Apr. 26, 2022) (codified at 27 C.F.R. pts. 447, 478, and 479).

The popularity of the AR-15 is well-documented and frequently discussed. See, e.g., *How the AR-15 became America’s gun* (Washington Post Podcasts, Mar. 28, 2023), <https://bit.ly/4fI7y5B>. By almost all estimates, there are more AR15s and similar rifles in the United States than Ford F-150s (America’s most popular automobile). Compare NSSF Releases Most Recent Firearm Production Figures, *supra* (over 30 million AR-15s and similar rifles), with Brett Foote, *There Are Currently 16.1 Million Ford F-Series Pickups on U.S. Roads*, Ford Auth. (Apr. 9, 2021), <https://perma.cc/8TBM-HVEU>. That is true even though tens of millions of Americans are prohibited from acquiring and possessing these rifles by laws like the one at issue here.

Several outlier States have passed bans similar to Connecticut’s. See, e.g., *Protect Illinois Communities Act*, Pub. Act. 102-1116 (Ill. 2023). The decision below seems to hold that all these bans are constitutional so long as the legislature makes the subjective judgment that AR-style rifles are too dangerous for civilians to possess and that less effective firearms are good enough. That logic turns a firearm possessed for lawful purposes by tens of millions of Americans into an item without constitutional protection, which is reason enough to grant the petition.

B. Under the rationale of the decision below, the Second Amendment permits anything short of a complete ban on all firearms.

That Connecticut's ban reaches the most popular rifle in the country suggests, if the decision below is correct, that *no* firearm in the country is protected except the handguns that this Court considered in *Heller*. Indeed, the panel comes close to saying as much.

The panel held that the Second Amendment permits governments to ban “unusually dangerous weapons,” but it did not say what makes a firearm unusually dangerous. *See* Pet.App. 30a–33a. It said only that this category “encompasses those arms that legislators determined were *unusually dangerous* because of their characteristics.” *Id.* at 31a (emphasis in original); *see also id.* at 32a (“*Unusually dangerous* is the obvious fit to describe weapons that are so lethal that legislators have presumed that they are not used or intended to be used for lawful purposes, principally individual self-defense.”) (emphasis in original).

The panel assured Petitioners that they can still acquire and possess many semiautomatic weapons that have been “deemed to be less dangerous by the legislature,” including “popular semiautomatic hunting rifles like the Ruger Mini-14.” *Id.* at 50a. But it did not explain why Connecticut could not ban all these firearms, too. It is especially difficult to see why, under the panel's rationale, Connecticut could not ban other semiautomatic hunting rifles, which are not meaningfully different from AR-15s in functionality. In fact, the panel's reasoning suggests that the only limit on Connecticut's power to ban any weapon at all

is the judgment of its legislature. Yet this Court has held three times that the Second Amendment does not countenance “judicial deference to legislative interest balancing.” *Bruen*, 597 U.S. at 26; *see Heller*, 554 U.S. at 634–35; *McDonald v. City of Chicago*, 561 U.S. 742, 790–91 (2010) (plurality op.). That is because “[t]he Second Amendment ‘is the very *product* of an interest balancing by the people’ and it ‘surely elevates above all other interests the right of law-abiding, responsible citizens to use arms’ for self-defense.” *Bruen*, 597 U.S. at 26 (quoting *Heller*, 554 U.S. at 635).

If *Heller* had applied the rationale of the decision below, that case likely would have been decided in favor of the District of Columbia. After all, the District Council determined that handguns had “a particularly strong link to undesirable activities in the District’s exclusively urban environment.” *Heller*, 554 U.S. at 696 (Breyer, J., dissenting) (discussing the committee report of the challenged law). And the Council “did not seek to prohibit possession of other sorts of weapons deemed more suitable for an ‘urban area,’” such as shotguns. *Id.* (citation omitted). It is hard to see how applying the Second Circuit’s rationale in *Heller* could have led to any conclusion other than that lawmakers were entitled to “presume” that handguns were “not used or intended to be used for lawful purposes.” Pet.App. 32a.

The panel placed special weight on the dangers posed by AR-15s in violent crime. *See, e.g., id.* at 52a (suggesting that AR-15s are “particularly suited for criminal violence”). But rifles—likely due in large part to the fact that they are difficult to conceal—are only very rarely used in crime; handguns are

overwhelmingly the weapons of choice of criminals. See Mariel Alper & Lauren Glaze, *Source and Use of Firearms Involved in Crimes: Study of Prison Inmates, 2016* at 5 tbl. 3, U.S. DEP’T OF JUST., BUREAU OF JUST. STATS. (Jan. 2019), <https://perma.cc/WSX9-FK2S>. “[I]f we are constrained to use [Connecticut’s] rhetoric, we would have to say that *handguns* are the quintessential ‘assault weapons’ in today’s society[.]” *Heller v. District of Columbia*, (*Heller II*) 670 F.3d 1244, 1290 (2011) (Kavanaugh, J., dissenting). And if we are constrained to use the Second Circuit’s reasoning, a ban on handguns like the one struck down in *Heller* would be nothing other than a permissible legislative judgment that a firearm should be banned because it is too effective. Pet. App. 32a.

If the Second Amendment is not to be relegated to second-class status—if it truly is intended to “elevate[] above all other interests the right of law-abiding, responsible citizens to use arms’ for self-defense”—then the decision below must be overturned. *Bruen*, 597 U.S. at 26 (quoting *Heller*, 554 U.S. at 635).

II. The lower courts need guidance on how to apply *Heller* and *Bruen* in this context, as many jurists have recognized.

Two terms ago, in *Rahimi*, three justices acknowledged the need for ongoing guidance to the lower courts in Second Amendment cases. *United States v. Rahimi*, 602 U.S. 680, 736 (2024) (Kavanaugh, J., concurring) (“Second Amendment

jurisprudence is still in the relatively early innings.”); *id.* at 739 (Barrett, J., concurring) (“Courts have struggled with th[e] use of history in the wake of *Bruen*.”); *id.* at 747 (Jackson, J., concurring) (“[C]ourts, which are currently at sea when it comes to evaluating firearms legislation, need a solid anchor for grounding their constitutional pronouncements.”). And in *Harrel*, Justice Thomas noted there are “essential questions” that lower courts are wrestling with in this area of the law. 144 S. Ct. at 2492. The decision below exemplifies the courts of appeals’ deep confusion and the need for this Court’s guidance.

A. The courts of appeals have professed confusion about where “common use” fits into *Bruen*’s framework.

“There is no consensus [in the lower courts] on whether the common-use issue belongs” at *Bruen*’s threshold textual inquiry or its historical inquiry. *Bevis v. City of Naperville*, 85 F.4th 1175, 1198 (7th Cir. 2023). In the decision below, the panel noted that the Second Circuit has treated this issue as an element of *Bruen*’s textual inquiry. *See* Pet.App. 34a (“This Court has understood the ‘in common use’ analysis to fall under the first step of *Bruen* (quoting *Antonyuk v. James*, 120 F.4th 941, 981 (2d Cir. 2024))). But it acknowledged that the Supreme Court had not answered the question. *Id.* at 34a. And it stated that this “lack of clarity has led to disagreement among the parties in this case and confusion among courts generally.” *Id.* at 35a. To avoid this confusion, the panel “simply assume[d] without deciding that the desired firearms and magazines are bearable arms within the

meaning of the Second Amendment and that their acquisition and possession is presumptively entitled to constitutional protection.” *Id.*

Other courts have likewise wrestled with this question, to inconsistent results. *See United States v. Rahimi*, 61 F.4th 443, 453–54 (5th Cir. 2023) (text), *rev’d*, 602 U.S. 680 (2024); *United States v. Alaniz*, 69 F.4th 1124, 1129 (9th Cir. 2023) (text); *Bianchi v. Brown*, 111 F.4th 438, 448 (4th Cir. 2024), (text) *cert. denied sub nom. Snope v. Brown*, 145 S. Ct. 1534 (2025) (mem.); *United States v. Bridges*, 150 F.4th 517, 525–26 (6th Cir. 2025) (history); *Teter v. Lopez*, 76 F.4th 938, 949–50 (9th Cir. 2023) (history), *reh’g en banc granted, op. vacated*, 93 F.4th 1150 (9th Cir. 2024) (mem.); *see also Duncan v. Bonta*, 133 F.4th 852, 900–01 (9th Cir. 2025) (Bumatay, J., dissenting) (history); *Bianchi*, 111 F.4th at 502 (Richardson, J., dissenting) (history); *United States v. Price*, 111 F.4th 392, 415 (4th Cir. 2024) (Quattlebaum, J., concurring in judgment) (concluding the “common use” question is part of *Bruen*’s historical inquiry but referring to this as a “puzzle”).

Heller makes clear that “common use” is relevant to the historical inquiry mandated by *Bruen* because it is the correlative of the historical tradition of restricting “dangerous and unusual arms.” *See* pp. 28–29, *infra*; *see also* Mark W. Smith, *What Part of “In Common Use” Don’t You Understand?: How Courts Have Defied Heller In Arms-Ban Cases—Again*, PER CURIAM, HARV. J.L. & PUB. POL’Y, (Sep. 27, 2023), <https://perma.cc/N9UN-KL78>. The lower courts’ confusion on this point is consequential. Where common use fits into *Bruen*’s framework determines which

party—the plaintiff or the government—shoulders the burden of establishing that a firearm is in common use (or dangerous and unusual). While there can be no doubt whatsoever that AR-15s and similar rifles are in common use, in other cases “the burden makes all the difference.” *Price*, 111 F.4th at 415 (Quattlebaum, J., dissenting).

B. The courts of appeals’ surface unanimity as to AR-15 bans masks deep disagreement.

More broadly, even as they have agreed on the ultimate result, the circuit court decisions upholding bans on AR-15s and similar style firearms reveals that there is no consensus about how to evaluate an arms ban under *Bruen*. On the other hand, several dissenting judges have argued, in remarkably similar opinions, that these bans are unconstitutional under this Court’s precedents.

The Fourth and Seventh Circuits have upheld AR-15 bans on the ground that these rifles are not arms within the meaning of the Second Amendment. The Fourth Circuit reasoned that AR-15s are not arms because they are “ill-suited and disproportionate to self-defense.” *Bianchi*, 111 F.4th at 461. The Seventh Circuit, in a preliminary injunction posture, reasoned that AR-15s likely are not arms because they are “predominantly useful in military service.” See *Bevis*, 85 F.4th at 1194.

For their part, the First and Second Circuits have assumed that AR-15s are arms within the meaning of the Second Amendment. See *Capen v. Campbell*, 134 F.4th 660, 668 (1st Cir. 2025); Pet.App. 35a. But

these courts have nonetheless held that AR-15 bans likely are consistent with this Nation’s historical tradition of regulating dangerous and unusual weapons. The First Circuit defined this category to include weapons that “are more dangerous, and no more useful for self-defense, than a normal handgun or rifle.” *Capen*, 134 F.4th at 672 (quotation marks and citations omitted). And it emphasized that Massachusetts’s ban on AR-style rifles was minimally burdensome because the plaintiffs before it did “not demonstrate a single instance where the AR-15 ... has actually been used in a self-defense scenario.” *Id.* at 670. *But see* p. 10, *supra* (explaining that Americans regularly use rifles for self-defense). The Second Circuit, in contrast, defined the category of dangerous and unusual weapons to include arms that “legislators determine[] [are] unusually dangerous because of their characteristics.” Pet.App. 31a (emphasis omitted). And it emphasized that Connecticut’s ban on AR-style rifles was minimally burdensome because it did not cover other firearms “deemed to be less dangerous by the legislature.” *See id.* at 50a. *But see* p. 31, *infra* (noting that *Heller* rejected this argument).

These decisions have faced opposition, of which Judge Richardson’s *Bianchi* dissent is representative. Judge Richardson reasoned that AR-style rifles are arms within the meaning of the Second Amendment. *See* 111 F.4th at 501 (Richardson, J., dissenting). He then explained that, under *Heller* and *Bruen*, an arm cannot be banned if it is in common use for lawful purposes. *Id.* at 503. Judge Richardson found that AR-style rifles are owned by millions of Americans for lawful purposes such as home defense, target

shooting, and hunting, so he concluded that they cannot be banned. *Id.* at 518–20. Judge Brennan made the same points in dissenting from the Seventh Circuit’s decision in *Bevis*. See 85 F.4th at 1214–15 (Brennan, J., dissenting). And Judges Bumatay and Walker have embraced this same reasoning in dissenting opinions addressing the related question of whether the Second Amendment permits States to ban magazines capable of holding more than ten rounds. See *Duncan*, 133 F.4th at 903 (Bumatay, J., dissenting); *Hanson v. District of Columbia*, 120 F.4th 223, 269–70 (D.C. Cir. 2024) (Walker, J., dissenting).

This divide—between inconsistent opinions upholding AR-15 bans, and consistent dissenting opinions arguing that these bans are unconstitutional—makes clear that the judiciary is confused. While this Court has plainly held that a firearm cannot be banned if it is in common use, as measured by its popularity for lawful purposes, the lower courts need more explicit guidance.

III. The decision below irreconcilably conflicts with *Heller* and *Bruen*.

This case should have been very straightforward. AR-15s and similar rifles are arms within the plain text of the Second Amendment, and they are in common use because they are owned by many millions of Americans for lawful purposes. *Heller* held, and *Bruen* reiterated, that a ban on a firearm that is in common use is incompatible with this Nation’s historical tradition. That means Connecticut’s ban on AR-style rifles violates the Second Amendment. In holding otherwise, the panel severely distorted this Court’s precedents.

A. *Heller* requires finding that the banned rifles are “arms” within the meaning of the Second Amendment’s plain text.

At *Bruen*’s threshold, the panel assumed without deciding that AR-style rifles are arms encompassed by the plain text of the Second Amendment, expressing “confusion” about how to resolve that question. Pet.App. 35a. That confusion was unwarranted. The Second Amendment encompasses all “arms,” which are “[w]eapons of offence, or armour of defence” or “any thing that a man wears for his defence, or takes into his hands, or useth in wrath to cast at or strike another.” *Heller*, 554 U.S. at 581 (citations omitted). The term “extends, prima facie, to all instruments that constitute bearable arms.” *Id.* at 582; *see also Bruen*, 597 U.S. at 28 (similar). A rifle is a bearable arm, so it is an “arm” within the meaning of the Second Amendment.

The panel was confused by the courts of appeals that have understood *Bruen* to hold that the Second Amendment’s plain text encompasses only firearms in common use. *See* Pet.App. 34a. The Second Circuit has suggested in dicta that this view may be correct. *See Antonyuk*, 120 F.4th at 982. But under *Heller* and *Bruen*, this should not be up for debate. *Bruen*’s textual analysis is about the Second Amendment’s text and “semantic meaning.” J. Joel Alicea, *Bruen Was Right*, 174 U. PA. L. REV. (forthcoming 2025) (manuscript at 12). “And, as a textual matter, nowhere in the text of the Second Amendment does ‘in common use’ appear.” *Duncan*, 133 F.4th at 900 (Bumatay, J., dissenting); *see also Bevis*, 85 F.4th at 1209 (Brennan, J., dissenting). In fact, the whole reason it matters

whether an arm is in common use is because there is “*historical tradition* of prohibiting the carrying of ‘dangerous and unusual weapons.’” *Heller*, 554 U.S. at 627 (citation omitted and emphasis added); see *Duncan*, 133 F.4th at 901 (Bumatay, J., dissenting) (“*Heller* itself directly tied the common-use inquiry to ‘the historical tradition of prohibiting the carrying of dangerous and unusual weapons.’” (quoting *Heller*, 554 U.S. at 627)). To ask whether an arm is in common use is thus to ask whether it may be regulated consistent with this Nation’s historical tradition, which is precisely the question at *Bruen*’s historical step. See 597 U.S. at 17.

In short, AR-style rifles satisfy this Court’s definition of an “arm,” which means they are presumptively protected by the Second Amendment. There should be no confusion about this obvious fact.

B. History demonstrates that arms “in common use” cannot be banned.

At *Bruen*’s historical phase, the panel held that a ban on AR-style rifles is consistent with this Nation’s historical tradition of firearms regulation. That holding was directly contrary to the decisions of this Court.

In *Heller*, this Court held that this Nation’s historical tradition does not support the ban of a weapon in common use for a lawful purpose. See 554 U.S. at 628–29 (holding that handguns cannot be banned because they are in common use for the lawful purpose of self-defense). AR-15s and similar rifles are in common use. They are semiautomatic firearms, which “traditionally have been widely accepted as lawful possessions.” *Staples*, 511 U.S. at 612. These firearms

have been available for over a century. *See Heller II*, 670 F.3d at 1287 (Kavanaugh, J., dissenting); David B. Kopel, *Rational Basis Analysis of “Assault Weapon” Prohibition*, 20 J. CONTEMP. L. 381, 413 (1994). They are legal in more than 40 states, and millions of Americans own them for lawful purposes. *See* pp. 6–12, *supra*. A firearm that is broadly legal and owned by millions of Americans is in common use under any conceivable understanding of that phrase. *See Heller*, 554 U.S. at 628–29 (holding that handguns are in common use because they are popular); *see also Caetano v. Massachusetts*, 577 U.S. 411, 420 (2016) (Alito, J., concurring).

The panel’s holding that AR-15s are nevertheless “unusually dangerous” is untenable under *Heller*. Pet.App. 37a. While this Court has recognized a tradition of restricting “dangerous and unusual” weapons, “this is a conjunctive test: A weapon may not be banned unless it is *both* dangerous *and* unusual.” *Caetano*, 577 U.S. at 420 (Alito, J., concurring) (emphasis in original). Unusual is the flipside of common: If a firearm is in common use, it is *not* unusual, and *vice versa*. *See Heller*, 554 U.S. at 625; *see also Bruen*, 597 U.S. at 47 (“[T]he Second Amendment protects only the carrying of weapons that are those in common use at the time, as opposed to those that are highly unusual in society at large.” (quotation marks and citation omitted)). As explained, AR-15s and similar rifles are possessed by millions of Americans for overwhelmingly lawful purposes. That means they are in common use and, in turn, are neither unusual nor unusually dangerous.

The panel complained that making an arm’s Second Amendment protection turn on its popularity would turn Second Amendment adjudication into a “trivial counting exercise.” Pet.App. 30a (quotation marks omitted). So, it attempted to redefine the category of dangerous and unusual to “encompasses those arms that legislators determined [are] *unusually dangerous* because of their characteristics.” *Id.* at 31a (emphasis in original). But that is flatly contrary to *Heller*, which held that the Second Amendment protects handguns precisely because they are popular with the American people. *See* 554 U.S. at 629 (“Whatever the reason, handguns are the most popular weapon chosen by Americans for self-defense in the home, and a complete prohibition of their use is invalid.”). Moreover, there is nothing “trivial” about the counting here; the broad ownership and widespread legality of AR-15s is excellent evidence of the American people’s judgment that these rifles are not dangerous and unusual. After all, if the people considered an arm to be dangerous and unusual, they would likely “rush[] to regulate [it]” rather than allowing it to be available in the same manner as any other common arm. *ANJRPC v. Att’y Gen. N.J.*, 974 F.3d 237, 258 (3d. Cir. 2020) (Matey, J., dissenting), *cert. granted, judgment vacated, and remanded sub nom.*, *ANJRPC v. Bruck*, 142 S. Ct. 2894 (2022) (mem.).

The Second Circuit’s approach is also directly contrary to this Court’s rejection of Second Amendment interest balancing. The whole point of the Second Amendment is to protect the right to keep and bear arms from legislators and other government officials. *See Bruen*, 597 U.S. at 26. Yet the panel’s test

would empower legislators to decide which arms are protected, which would turn the Second Amendment into a dead letter. In fact, the panel's test appears to be even more toothless than the old interest balancing regime. Before, courts would at least profess to apply something like intermediate scrutiny. The panel, however, appears to have held that an arm can be removed from the Second Amendment's protection on the basis of pure, unconstrained legislative whim. That is not even intermediate scrutiny but rather rational basis review.

The panel offered a few other justifications for its holding, but these, too, contradict this Court's precedents. First, the panel stated that a ban on AR-15s and similar rifles fits into "a longstanding tradition of restricting novel weapons that are particularly suited for criminal violence[.]" Pet.App. 52a. But the panel did not explain why these rifles are "particularly" suited for criminal violence. In any event, in *Heller*, this Court held that handguns are protected while entirely *ignoring* the dissent's argument that they are popular with armed criminals. See 554 U.S. at 682 (Breyer, J., dissenting). While any weapon can be used for unlawful purposes, it is indisputably true that handguns *are* used that way disproportionately often. See p. 12; see also *Heller II*, 670 F.3d at 1290 (Kavanaugh, J., dissenting) (noting that handguns are used in violent crimes far more often than rifles). What is more, the semiautomatic rifles banned by Connecticut are hardly "novel," they have been available for decades.

Second, the panel noted that Connecticut's ban is not overly burdensome because it does not apply to

arms “deemed to be less dangerous by the legislature for self-defense and other lawful purposes,” including two “popular semiautomatic hunting rifles.” Pet.App. 50a. But it does not matter that the legislature did not ban other firearms. In *Heller*, the petitioners argued that D.C. could ban handguns so long as it permitted other firearms, such as rifles. 554 U.S. at 629. This Court disagreed and called that “no answer” to the respondents’ concern. *Id.* That makes sense because such a rule would allow the government to determine which arms its citizens need for lawful purposes. It could, for example, determine that its residents do not really need firearms for self-defense because stun guns work just as well. But the Second Amendment reflects the People’s choice to disable their governments from making those sorts of judgments. See *Bruen*, 597 U.S. at 26 (the Second Amendment “elevates above all other interests the right of law-abiding, responsible citizens to use arms’ for self-defense” (quoting *Heller*, 554 U.S. 635)). In any event, the panel did not explain why, under its test, Connecticut *could not* ban those firearms that remain available.

In short, while the panel offered several reasons why it believed that “assault weapons” like the AR-15 platform rifle may be banned, *all* of them are directly contrary to this Court’s precedents. This Court should intervene to stop lower courts from watering down the right to keep and bear arms, which 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 (plurality op.)).

IV. This case is a good vehicle.

Last term, three justices noted that they would have granted certiorari to review the question whether the Second Amendment permits States to ban AR-style rifles. *See Snope*, 145 S. Ct. at 1534; *id.* at 1535 (Thomas, J., dissenting from denial). Justice Kavanaugh separately expressed his view that “this Court should and presumably will address the AR-15 issue soon, in the next Term or two.” *See id.* at 1534 (Kavanaugh, J.).

This case cleanly presents that issue. While Petitioners seek review of an order denying a preliminary injunction, that should not deter this Court from granting review. The decision of the court of appeals turned on the merits, which the court considered for almost two years. *Compare* Notice of Appeal (filed Sep. 7, 2023) *with* Pet.App. 94a (judgment issued Aug. 22, 2025). The decision did not depend on any disputed factual issue that might be clarified later in the proceeding. And the court’s merits analysis all but foreordains the final outcome, so further proceedings in the lower courts would serve no useful purpose. Moreover, this Court often considers constitutional issues in the context of preliminary-injunction proceedings, including Second Amendment issues. *See Welford v. Lopez*, No. 24-1046, 2025 WL 2808808 (U.S. Oct. 3, 2025) (mem.).

There is little to be gained from additional percolation of this issue in the lower courts. As noted, lower court majorities have set forth several different rationales for upholding bans on AR-15s and similar rifles. And dissenting judges have offered hundreds of pages explaining why these bans violate the Second

Amendment and this Court's precedents. If anything, additional percolation is likely to inject *more* confusion into Second Amendment doctrine, as the panel suggested in the decision below. *See* Pet.App. 35a (noting this Court's precedents have caused "confusion among courts generally").

CONCLUSION

The Court should grant the petition for certiorari.

Respectfully submitted,

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APPENDIX

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**APPENDIX A — OPINION OF THE UNITED
STATES COURT OF APPEALS FOR THE
SECOND CIRCUIT, FILED AUGUST 22, 2025**

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Nos. 23-1162, 23-1344

NATIONAL ASSOCIATION FOR GUN RIGHTS,
TONI THERESA SPERA FLANIGAN,

Plaintiffs-Appellants,

PATRICIA BROUGHT,

Plaintiff,

v.

NED LAMONT, IN HIS OFFICIAL CAPACITY
AS THE GOVERNOR OF THE STATE OF
CONNECTICUT, PATRICK J. GRIFFIN, IN HIS
OFFICIAL CAPACITY AS THE CHIEF STATES
ATTORNEY OF THE STATE OF CONNECTICUT,
SHARMESE L. WALCOTT, IN HER OFFICIAL
CAPACITY AS THE STATE'S ATTORNEY,
HARTFORD JUDICIAL DISTRICT,

Defendants-Appellees,

DAVID R. SHANNON, IN HIS OFFICIAL
CAPACITY AS THE STATE'S ATTORNEY,
LITCHFIELD JUDICIAL DISTRICT,

Defendant.

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EDDIE GRANT, JR., JENNIFER HAMILTON,
MICHAEL STIEFEL, CONNECTICUT
CITIZENS DEFENSE LEAGUE, INC., SECOND
AMENDMENT FOUNDATION, INC.,

Plaintiffs-Appellants,

v.

JAMES ROVELLA, JOHN P. DOYLE, JR.,
SHARMESE L. WALCOTT, PAUL J. NARDUCCI,
IN THEIR OFFICIAL CAPACITIES,

Defendants-Appellees,

EDWARD LAMONT, JR., PATRICK GRIFFIN,
MARGARET E. KELLY, DAVID R. APPLGATE,
JOSEPH T. CORRADINO, DAVID R. SHANNON,
MICHAEL A. GAILOR, CHRISTIAN WATSON,
PAUL J. FERENCEK, MATTHEW C. GEDANSKY,
MAUREEN PLATT, ANNE F. MAHONEY, IN
THEIR OFFICIAL CAPACITIES,

*Defendants.**

Argued: October 16, 2024

Decided: August 22, 2025

On Appeal from the United States District Court
for the District of Connecticut

Before: LIVINGSTON, *Chief Judge*, WALKER, and NATHAN,
Circuit Judges.

* The Clerk of Court is respectfully directed to amend the caption as set forth above.

*Appendix A***OPINION**

Before the Court are two related appeals principally challenging certain gun-control legislation enacted by the Connecticut legislature in the wake of the 2012 mass homicide at Sandy Hook Elementary School in Newtown, Connecticut. The Connecticut laws at issue restrict the acquisition and possession of “assault weapons” and “large capacity magazines.” Plaintiffs in both underlying cases are individuals and organizations opposed to those restrictions who would seek to acquire and possess weapons restricted by the legislation, including AR-platform firearms and magazines capable of holding more than ten rounds. Plaintiffs sought to preliminarily enjoin the legislation on the basis that it violated their right to keep and bear arms under the Second Amendment of the United States Constitution. The district court (Arterton, *J.*), after concluding that Plaintiffs in both cases had failed to demonstrate a sufficient likelihood of success on the merits of their Second Amendment challenges, denied the respective motions for a preliminary injunction. Plaintiffs now appeal from those rulings.

The Second Amendment protects an individual right to “keep and bear Arms,” but that right is not unlimited. Using the tools of history and tradition required by the analytical framework set forth by the Supreme Court in *District of Columbia v. Heller*, 554 U.S. 570 (2008), and *New York State Rifle & Pistol Association v. Bruen*, 597 U.S. 1 (2022), we conclude that Plaintiffs have not shown a sufficient likelihood of success on the merits of their Second Amendment claims. The challenged Connecticut

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laws, which impose targeted restrictions on unusually dangerous weapons while preserving numerous legal alternatives for self-defense and other lawful purposes, are consistent with our Nation's historical tradition of regulation of such weapons. We additionally conclude that Plaintiffs have not demonstrated that the balance of equities and public interest tip in their favor.

Accordingly, we **AFFIRM** the district court's denial of the preliminary injunction in both cases.

Nathan, *Circuit Judge*, joined by Livingston, *Chief Judge*, and Walker, *Circuit Judge*, concurs in a separate opinion.

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JOHN M. WALKER, JR., *Circuit Judge*.

On December 14, 2012, twenty-year-old Adam Lanza walked into Sandy Hook Elementary School in Newtown, Connecticut carrying a lawfully-purchased Bushmaster XM15-E2S, an AR-15-style semiautomatic rifle, with 30-round magazines in taped reloads to reduce reload time. An amateur shooter trained by first-person shooter video games, Lanza unleashed 154 5.56-millimeter rounds in under five minutes. He killed twenty first-grade students and six educators, then himself.

The Sandy Hook shooting prompted a rapid response from Connecticut legislators. Within four months, the State had enacted new legislation restricting access to certain military-style firearms and large capacity magazines. And, a decade later, Connecticut passed additional restrictions on access to certain assault weapons.

Before the Court are two related appeals principally challenging this gun-control legislation. Plaintiffs in both underlying cases are individuals and organizations opposed to those restrictions who would seek to acquire and possess weapons restricted by the legislation, including AR-platform firearms and magazines capable of holding more than ten rounds. Plaintiffs sought to preliminarily enjoin the legislation on the basis that it violated their right to keep and bear arms under the Second Amendment of the United States Constitution. The district court (Arterton, *J.*), after concluding that Plaintiffs in both cases had failed to demonstrate a sufficient likelihood of success

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on the merits of their Second Amendment challenges, denied the respective motions for a preliminary injunction. Plaintiffs now appeal from those rulings.

The Second Amendment protects an individual right to “keep and bear Arms,” but that right is not unlimited. Using the tools of history and tradition required by the analytical framework set forth by the Supreme Court in *District of Columbia v. Heller*, 554 U.S. 570 (2008), and *New York State Rifle & Pistol Association v. Bruen*, 597 U.S. 1 (2022), we conclude that Plaintiffs have not shown a sufficient likelihood of success on the merits of their Second Amendment claims. Assuming that Plaintiffs’ proposed possession of the firearms and magazines at issue is presumptively entitled to constitutional protection, we nonetheless find that the Government has satisfied its burden of showing that the challenged laws are consistent with our Nation’s historical tradition of firearm regulation. The challenged Connecticut laws impose targeted restrictions on unusually dangerous weapons while preserving numerous legal alternatives for self-defense and other lawful purposes. Such restrictions impose a burden comparable to historical antecedents that regulated other unusually dangerous weapons unsuitable for and disproportionate to the objective of individual self-defense. These historical antecedents are analogous to the restrictions at issue in this case.

We additionally conclude that Plaintiffs have not demonstrated that the balance of equities and public interest tip in their favor.

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Accordingly, we **AFFIRM** the district court’s denial of the preliminary injunction in both cases.

BACKGROUND¹

Before we discuss the merits of the constitutional claims in the two appeals, we describe the statutes they challenge and the procedural history of the two appeals.

I. The Challenged Statutes

After the Sandy Hook Elementary School shooting, Connecticut lawmakers declared that “the tragedy in Newtown demand[ed] a powerful response.” Senate Tr., 2013 Sess. (Conn. April 3, 2013) (statement of Sen. Donald E. Williams), *NAGR* App’x 645.² Four months later, Connecticut’s duly-elected legislators enacted the law at the heart of these appeals: An Act Concerning Gun Violence

1. References within citations to “*NAGR*” refer to filings in *National Association for Gun Rights v. Lamont*, No. 23-1162-cv (“*NAGR*”). For example, citations to “Br. of *NAGR* Appellants,” refer to the briefs on appeal of Plaintiffs-Appellants National Association for Gun Rights *et al.* in the *NAGR* matter. References within citations to “*Grant*” refer to filings in *Grant v. Rovella*, No. 23-1344-cv (“*Grant*”). For example, citations to “Br. of *Grant* Appellants” refer to the briefs on appeal of Plaintiffs-Appellants Eddie Grant, Jr., *et al.* in the *Grant* matter. “App’x” refers to the joint appendix, “Sp. App’x” refers to the special appendix, and “Suppl. App’x” refers to the supplemental appendix in the designated matter.

2. Decl. of John J. Donohue ¶ 98, *NAGR* App’x 239; Br. of Amici Mark Barden *et al.* at 7-10.

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Prevention and Children’s Safety, 2013 Conn. Pub. Acts 13-3. This legislation amended and expanded Connecticut’s existing limits on the acquisition and possession of certain military-style firearms (“assault weapons”), initially enacted in 1993, and imposed restrictions for the first time on magazines capable of holding more than ten rounds (“large capacity magazines”).³ *See N.Y. State Rifle & Pistol Ass’n v. Cuomo*, 804 F.3d 242, 248, 250-51 (2d Cir. 2015) (describing Connecticut’s prior “assault weapon” legislation). Ten years later, Connecticut again expanded the types of restricted assault weapons to include additional firearms (“2023 assault weapons”) in An Act Addressing Gun Violence, 2023 Conn. Pub. Acts 23-53.

The cumulative effect of the challenged firearms restrictions is that Connecticut now prohibits most people in the state from acquiring or possessing “assault weapons,” “2023 assault weapons,” and “large capacity magazines,” as defined below. *See* Conn. Gen. Stat. §§ 53-202b, 53-202c, 53-202d, 53-202w(b).⁴ At the same time,

3. Plaintiffs argue the terms “assault weapons” and “large capacity magazines” are “rhetorically charged political term[s].” Br. of *NAGR* Appellants at 2-4. We use the terms “assault weapons” and “large capacity magazines” because the challenged statutes use those terms, and because we used those terms in addressing an earlier challenge that included the same Connecticut regulatory scheme. *See Cuomo*, 804 F.3d at 247.

4. Conn. Gen. Stat. § 53-202b (restricting the giving, distributing, transporting or importing into the state, exposing or keeping for sale, or selling of an “assault weapon”); *id.* §§ 53-202c, 53-202d (restricting the possession of an “assault weapon,” unless the owner lawfully owned the firearm before the applicable

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Connecticut allows firearms that, while dangerous, as all firearms are to varying degrees, are not so uniquely designed to create mayhem.

To appreciate the reach of the carefully calibrated restrictions, we describe the covered weapons in greater detail than we might otherwise find necessary.

A. Assault Weapons

Broadly, Connecticut defines “assault weapon” to include many, but not all, types of fully automatic and semiautomatic firearms. Its prohibitions apply to selective-fire firearms; types of semiautomatic rifles, pistols, and shotguns with military-style features; and various examples of semiautomatic firearms specified by name with military-style features (and their commercially-available or do-it-yourself copies and duplicates).⁵ *See Cuomo*, 804 F.3d at 260 (observing that the challenged regulatory scheme restricts only a “limited subset” of

regulations went into effect and the individual obtained a certificate of possession from the designated state agency); *id.* § 53-202w(b) (restricting the keeping, offering, or exposing for sale of large capacity magazines; transferring large capacity magazines; or buying, distributing, or bringing them into Connecticut).

5. Under Connecticut law, a “rifle” is a firearm “designed . . . to be fired from the shoulder” using a “cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.” Conn. Gen. Stat. § 53a-3(16). A “pistol” or “revolver” is any firearm with a barrel that is less than twelve inches long. *Id.* § 53a-3(18). A “shotgun” is a firearm “designed . . . to be fired from the shoulder” using a “shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.” *Id.* § 53a-3(17).

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firearms). Our non-exhaustive summary focuses on the aspects of the restrictions applicable to, or helpful to understanding their application to, the firearms and ammunition that Plaintiffs would purchase but for the challenged statutes. A general description of the types of weapons that are restricted “assault weapons” follows.

First, an “assault weapon” includes any selective-fire firearm capable of both fully automatic and semiautomatic fire.⁶ *See* Conn. Gen. Stat. § 53-202a(1)(A)(i). The longtime standard-issue rifle for the United States military, the M-16, and its successor, the M4 carbine, are representative selective-fire firearms qualifying as “assault weapons.”

Second, an “assault weapon” includes any semiautomatic centerfire rifle that has (1) the capacity to accept a detachable magazine and (2) one or more of five specified military-style features, any one of which satisfies a one-feature test.⁷ *See* Conn. Gen. Stat. § 53-202a(1)(E)

6. A selective-fire firearm permits its operator “to choose between semiautomatic and fully automatic” firing capability. Decl. of Brindiana Warenda ¶ 22, *NAGR* App’x 199. Whereas semiautomatic firearms “fire[] one round for each squeeze of the trigger,” fully automatic firearms (i.e., machine guns) “fire continuously for as long as the trigger is pressed.” *Id.* ¶¶ 20-21.

7. A centerfire rifle is one designed to be used with centerfire cartridges, in which the gunpowder explosion is initiated by the firing pin striking the primer in the center of the cartridge base. Br. of Amicus Int’l Law Enforcement Educators & Trainers Ass’n at 21 n.11. Centerfire cartridges have larger bullets, higher velocity, greater range, and more foot pounds of energy or “stopping power” than other types of cartridges, such as rimfire or pistol ammunition. Warenda Decl. ¶ 29, *NAGR* App’x 200.

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(i). The Bushmaster XM15-E2S used in the Sandy Hook school shooting and other AR-15-style rifles that Plaintiffs would seek to purchase and possess are representative examples of semiautomatic centerfire rifles qualifying as “assault weapons.”⁸

Third, an “assault weapon” includes a semiautomatic rimfire rifle that has (1) an ability to accept a detachable magazine and (2) two or more of five specified military-style features, any two of which satisfy a two-feature test.⁹ Conn. Gen. Stat. § 53-202a(1)(H). To be considered

A magazine is a “container that holds ammunition for a firearm” and feeds the ammunition into the firearm. Warenda Decl. ¶ 39, *NAGR* App’x 201. A detachable magazine is one that can be removed without disassembling the firearm. Conn. Gen. Stat. § 53-202a(4).

A semiautomatic centerfire rifle is an “assault weapon” if it (1) is able to accept a detachable magazine and (2) has one or more of the five following military-style features: (A) a folding or telescoping stock; (B) a pistol grip, thumbhole stock, or any other stock that would result “in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing”; (C) a forward pistol grip (i.e., a vertical forward grip or a foregrip); (D) a flash suppressor; or (E) a grenade launcher or flare launcher. Conn. Gen. Stat. §§ 53-202a(1), (1)(E), (6), (8).

8. The original AR-15 was manufactured as a selective-fire machine gun and adopted by the U.S. military as the M-16 during the Vietnam War. Warenda Decl. ¶ 24, *NAGR* App’x 199. The Colt Manufacturing Company retained the AR-15 trademark, however, and used that name for the semiautomatic version of the M-16 later developed for the civilian market. *Id.* ¶ 25; *see also Staples v. United States*, 511 U.S. 600, 603 (1994).

9. A rimfire weapon is one in which the firing pin strikes the rim of the cartridge, releasing a less powerful charge than centerfire

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“assault weapons,” rimfire firearms are subject to a two-feature test that is less stringent than the one-feature test applicable to their more powerful centerfire counterparts.

Fourth, an “assault weapon” includes numerous specified semiautomatic firearms, identified by make and model, and their “copies or duplicates.” Conn. Gen. Stat. § 53-202a(1)(A)-(D). Most of these specified firearms, which generally would also satisfy the applicable “features test,” are “semiautomatic versions of the original selective-fire AR-15/M-16, the AK-47, or variants of these weapon platforms in an assortment of calibers.” Decl. of Brindiana Warena ¶ 23, *NAGR* App’x 199. Firearms prohibited by name include the Bushmaster XM15 and variants of AR-15-style firearms.

cartridges. See Richard Mann, *Rimfire vs. Centerfire, What’s the Difference?*, FIELD & STREAM (July 4, 2023), <https://www.fieldandstream.com/guns/rimfire-vs-centerfire/> [<https://perma.cc/5FLY-RAM6>].

A rimfire rifle is an “assault weapon” if it has (1) an ability to accept a detachable magazine and (2) two or more of the five following military-style features: (A) a folding or telescoping stock; (B) a pistol grip that protrudes conspicuously beneath the action of the weapon; (C) a bayonet mount; (D) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and (E) a grenade launcher. 2001 Conn. Pub. Acts 01-130; see also CONN. OFF. OF LEG. RSCH., 2024-R-0163, Summary of State Gun Laws 28 (2024) (explaining that Connecticut law also classifies as an assault weapon “rimfire weapons that met the two-feature test under the [2001 amendment to the assault weapons] law”).

*Appendix A***B. 2023 Assault Weapons**

In 2023, Connecticut further expanded its definition of “assault weapon” to include “[a]ny semiautomatic firearm *other than* a pistol, revolver, rifle or shotgun” (colloquially, an “other”) that has one or more of seven specified military-style features, any of which satisfy a one-feature test.¹⁰ 2023 Conn. Pub. Acts 23-53, § 23 (codified at Conn. Gen. Stat. § 53-202a(1)(G)) (emphasis added). Consistent with Connecticut law, we refer to those “other” undefined firearms (with one or more of the specified military-style features) as “2023 assault weapon[s].” Conn. Gen. Stat. § 53-202a(10).

Prior to the 2023 amendment, there was a “loophole” in Connecticut’s regulatory scheme. Warendo Decl. ¶ 21,

10. An “other,” i.e., a firearm that is not a “pistol,” “revolver,” “rifle,” or “shotgun,” as defined in Connecticut law (*see supra* note 5), is an “assault weapon” if it has one or more of the seven following military-style features: (A) any grip that permits its operator to grip the weapon in a manner “resulting in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing” (e.g., a pistol grip or thumbhole stock); (B) an ability to accept a detachable ammunition magazine that attaches at some location outside of the pistol grip; (C) a fixed magazine with the ability to accept more than ten rounds; (D) a flash suppressor or silencer, or a threaded barrel capable of accepting a flash suppressor or silencer; (E) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the operator to fire the firearm without being burned, except a slide that encloses the barrel; (F) a second hand grip; or (G) an arm brace or other stabilizing brace that could allow such firearm to be fired from the shoulder, with or without a strap designed to attach to an individual’s arm. Conn. Gen. Stat. § 53-202a(1)(G); *see also Grant* Sp. App’x 2-3.

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Grant App’x 328. Connecticut’s reliance on applying varying one- or two-feature tests to firearms that met the statutory definition of a “pistol,” “revolver,” “rifle,” or “shotgun,” as defined in Conn. Gen. Stat. § 53a-3, allowed firearms that were *not* pistols, revolvers, rifles, or shotguns to avoid the statute’s proscriptions, Conn. Gen. Stat. § 53-202a(1)(G). The 2023 amendment closed the loophole by extending the features test to those “other” firearms. Warenda Decl. ¶ 21, *Grant* App’x 328.

Those weapons now categorized as 2023 assault weapons frequently use pistol braces, which attach to a person’s forearm to provide stability. Such an “other” firearm equipped with a pistol brace looks similar to a rifle like an AR-15, even though those “other” firearms were not designed to be fired from the shoulder.¹¹ Br. of *Grant* Appellants at 8; Warenda Decl. ¶¶ 20-22, *Grant* App’x 328.

C. Features and Features Tests

As discussed above, Connecticut’s definition of “assault weapon” takes into account, for some categories of firearms, whether the firearm has one or more or two or more specified features. The applicable features tests pertain to military-like features that, in the legislature’s judgment, enhance the lethality or concealability of the firearm. We discuss some of them here.

11. We observe, like the district court, that the *Grant* Plaintiffs acknowledge that the 2023 assault weapons are all semiautomatic firearms. *Grant* Sp. App’x 11. We likewise infer “significant overlap” in the key features of “assault weapons” and “2023 assault weapons.” *Id.*

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Pistol grips and thumbhole stocks are protruding handles underneath the action of the firearm¹² that permit the rifle's operator to grip the firearm at a more vertical angle (as one might hold a pistol). Similarly, forward pistol grips are protruding grips for the non-trigger hand shaped like a standard pistol grip that are fitted to the front end of the firearm. Conn. Gen. Stat. § 53-202a(6); Warenda Decl. § 17, *NAGR* App'x 199. Pistol grips, thumbhole stocks, and forward pistol grips facilitate quickly “spray[ing] . . . a large number of bullets over a broad killing zone, without having to aim at each individual target.” *NAGR* App'x 381; *see also* Decl. of John J. Donohue § 65, *NAGR* App'x 224.

Barrel shrouds are ventilated covers that shield the operator from the burning temperatures caused by firing multiple rounds, enabling the operator to hold the overheated barrel during continuous firing.

Telescoping, collapsing, and folding stocks shorten firearms and make them easier to conceal.

Flash suppressors reduce firearms' visible signature when firing and help shooters avoid detection.

D. Large Capacity Magazines

The challenged statutes further restrict the acquisition and possession of “large capacity magazine[s],” which the

12. The “action” of the firearm is “the part of the firearm that loads, fires and ejects a cartridge, which part includes, but is not limited to, the upper and lower receiver, charging handle, forward assist, magazine release and shell deflector.” Conn. Gen. Stat. § 53-202a(3).

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statute defines as “any firearm magazine, belt, drum, feed strip or similar device that has the capacity of, or can be readily restored or converted to accept, more than ten rounds of ammunition.” Conn Gen. Stat. §§ 53-202w(a) (1), (b). Consistent with Connecticut law, we refer to these devices as “large capacity magazines.”

Firearms that come with or can accommodate large capacity magazines permit a shooter to fire more than eleven rounds¹³ without pausing to reload, enabling the firing of a barrage of bullets.

E. Exemptions

The challenged statutes exempt from their restrictions, among others, certain trained professionals and grandfathered individuals who timely obtained a certification of possession. *See* Conn. Gen. Stat. §§ 53-202b(b)(1), 53-202c, 53-202d.

II. Procedural History

As noted above, in the two related cases before us, groups of plaintiffs challenge Connecticut’s highly specific restrictions on assault weapons, 2023 assault weapons, and large capacity magazines as violating their Second Amendment right to keep and bear arms.

13. The eleven rounds encompass one bullet in the chamber and the ten rounds in the full magazine.

*Appendix A***A. *National Association for Gun Rights v. Lamont*,
No. 23-1162**

The first case is *National Association for Gun Rights v. Lamont*, No. 23-1162-cv (“*NAGR*”). The *NAGR* Plaintiffs-Appellants are the National Association for Gun Rights, a nonprofit organization, and Toni Theresa Spera Flanigan, a Connecticut resident legally qualified to possess firearms who wants to own an AR-15 or a similar rifle and magazines that hold more than 10 rounds. On November 3, 2022, predating the latest restrictions, the *NAGR* Plaintiffs sought from the district court a preliminary injunction enjoining the governor of Connecticut and various state prosecutors from enforcing the restrictions on assault weapons and large capacity magazines on the basis that the restrictions violated Plaintiffs’ Second Amendment right to keep and bear arms.

The district court denied the injunction on the basis that the *NAGR* Plaintiffs were unlikely to succeed on the merits of their claims. In assessing the merits, the district court recognized that *New York State Rifle & Pistol Association v. Bruen*, 597 U.S. 1 (2022), had abrogated in part *New York State Rifle & Pistol Association v. Cuomo*, 804 F.3d 242 (2d Cir. 2015), which addressed both New York and Connecticut firearm regulations and had previously stood as the leading circuit authority for type-of-weapons cases. The district court therefore developed a new Second Amendment analytical framework based on *Bruen*. The district court held that (1) plaintiffs bear the burden of demonstrating that their conduct is protected

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by the Second Amendment’s plain text, and (2) they must do so by producing evidence that the specific firearms they seek to use and possess are in common use for self-defense, that the people possessing them are typically law-abiding citizens, and that the purposes for which the firearms are typically possessed are lawful ones. Defendants may attempt to demonstrate that the regulated firearms are instead unprotected dangerous and unusual weapons by showing either that the weapons are unusually dangerous or that they are not commonly used or possessed for self-defense.

If plaintiffs successfully show that the Second Amendment’s plain text covers their conduct, the burden then shifts to defendants to justify their regulation based on *Bruen*’s requirements for establishing relevant similarity to history and tradition.

Applying that framework, the district court concluded that the *NAGR* Plaintiffs did not carry their burden of demonstrating that their conduct was protected by the Second Amendment—that is, that the regulated weapons and accessories are commonly sought out, purchased, and used for self-defense. The district court accepted Defendants’ argument that assault weapons and large capacity magazines are typically acquired for their military characteristics, not self-defense; are disproportionately dangerous because of their increased capacity for lethality; and are more often used in committing crimes and mass shootings than in self-defense.

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In the alternative, the district court concluded that the record evinced a history and tradition of regulating arms associated with growing rates of violence and lethality, both because of technological innovations in the arms themselves and changing patterns of human behavior. The district court found a history and tradition of regulating the particular kinds of weapons or modes of carry that were most often employed by those causing violence, while permitting the possession of other weapons for the purpose of self-defense. Because the challenged statutes restrict only a subset of each category of firearms that possess new and dangerous characteristics that make them susceptible to abuse by non-law-abiding citizens wielding them for unlawful purposes, the district court found the challenged statutes analogous to regulations in their day of Bowie knives, percussion cap pistols, and other dangerous or concealed weapons.

B. *Grant v. Rovella*, No. 23-1344

The second case is *Grant v. Rovella*, No. 23-1344-cv (“*Grant*”). The *Grant* Plaintiffs-Appellants are Eddie Grant, Jr.; Jennifer Hamilton; and Michael Stiefel, Connecticut residents who seek to own AR-15 platform firearms and firearms qualifying as 2023 assault weapons, including “a .300 Blackout in a Connecticut ‘other’ configuration” with pistol grips and fore grips, Br. of *Grant* Appellants at 11;¹⁴ the Connecticut Citizens

14. The *Grant* Plaintiffs provide scant information about the .300 Blackout in their briefs. It appears to be a type of ammunition rather than a firearm. See Dep. of Eddie Grant, *Grant* Suppl. App’x 83:23 (referring to “.300 Blackout rounds”); Richard Mann, *The*

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Defense League, Inc., and the Second Amendment Foundation, Inc., two nonprofit associations. On February 3, 2023, the *Grant* Plaintiffs sought from the district court a preliminary injunction enjoining the Connecticut Department of Emergency Services and Public Protection Commissioner and various state prosecutors from enforcing the restrictions on assault weapons, 2023 assault weapons, and large capacity magazines.

The district court denied the preliminary injunction after concluding that the *Grant* Plaintiffs were unlikely to succeed on the merits of their claims for substantially the same reasons as in *NAGR*. Because the *Grant* Plaintiffs had failed to provide specific evidence that the 2023 assault weapons were commonly used for self-defense where pre-June 2023 assault weapons were not, the district court again concluded that they had failed to establish that the weapons were protected by the Second Amendment. And in the alternative, the district court upheld the law based on its determination that the challenged restrictions were consistent with the Nation’s history and tradition of firearm regulation for the same reasons as in *NAGR*.

New Black, SHOOTING ILLUSTRATED (Dec. 16, 2013), <https://www.shootingillustrated.com/content/the-new-black/> [https://perma.cc/54P2-A3YV] (describing the .300 Blackout as a “30-caliber cartridge that would fit in a standard AR-15 magazine”). Plaintiffs nevertheless contend that the .300 Blackout, in their intended configuration, is prohibited by Connecticut law. We accept Plaintiffs’ characterization of the .300 Blackout, from which we infer that Plaintiffs refer to a semiautomatic “other” firearm chambered with a .300 Blackout cartridge. *See* Warenda Decl. ¶¶ 67-68, *Grant* App’x 358-60 (discussing the Aero Precision X15, an AR-15 type firearm that can be chambered in .300 Blackout).

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Both the *NAGR* and the *Grant* Plaintiffs timely appealed pursuant to 28 U.S.C. § 1292(a)(1). Amici curiae lined up on both sides.

DISCUSSION**I. Standard of Review**

A preliminary injunction is “an extraordinary remedy” that courts may only award “upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). To establish their entitlement to a preliminary injunction, Plaintiffs must show that (1) they are likely to succeed on the merits of their claims, (2) they are likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in their favor, and (4) issuing an injunction is in the public interest.¹⁵ *Id.* at 20. We review the denial of a preliminary injunction for abuse of discretion but “assess *de novo* whether the court proceeded on the basis of an erroneous view of the applicable law.” *Friends of the E. Hampton Airport, Inc. v. Town of E. Hampton*, 841 F.3d 133, 143 (2d Cir. 2016) (quotation marks omitted).

15. The parties dispute whether Plaintiffs seek a mandatory injunction and must meet the higher standard applicable to obtain that kind of relief. *See N. Am. Soccer League, LLC v. U.S. Soccer Fed’n, Inc.*, 883 F.3d 32, 36-37 (2d Cir. 2018) (discussing the differences between mandatory and prohibitory injunctions). Because we conclude that Plaintiffs are unlikely to succeed on the merits under the lower standard for prohibitory injunctions, it is unnecessary to resolve this dispute.

*Appendix A***II. Likelihood of Success on the Merits**

To assess the merits of Plaintiffs’ request for a preliminary injunction, we first determine whether the challenged statutes likely violate Plaintiffs’ Second Amendment right. To prevail, Plaintiffs must show that: (1) the Second Amendment’s plain text, as informed by history, covers acquiring and possessing assault weapons, 2023 assault weapons, and large capacity magazines; and (2) Defendants cannot carry their burden of justifying the challenged statutes by demonstrating that they comport with the Nation’s historical tradition of firearm regulation. *See Nken v. Holder*, 556 U.S. 418, 433-34 (2009) (providing that the party seeking the injunction bears the burden of showing that they are entitled to the relief sought).

Although Plaintiffs bring a facial challenge to the entirety of the Connecticut restrictions, they have offered no arguments or evidence in opposition to many of the challenged statutes’ applications, thereby failing to “establish that no set of circumstances exists under which the [challenged statutes] would be valid.” *Rahimi*, 602 U.S. at 693 (quoting *United States v. Salerno*, 481 U.S. 739, 745 (1987)). We therefore focus our review on Plaintiffs’ specific challenge to the statutes as-applied to the weapons they seek to possess: AR-15-style rifles, a .300 Blackout-chambered “other” firearm in Plaintiffs’ intended configuration, and large capacity magazines (together, the “desired firearms and magazines”).¹⁶ *Accord*

16. The Court has acknowledged that the distinction between facial and as-applied challenges “goes to the breadth of the remedy employed by the court, not what must be pleaded in a complaint.” *Citizens United v. Fed. Election Comm’n*, 558 U.S. 310, 331 (2010).

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Bianchi v. Brown, 111 F.4th 438, 452-55 (4th Cir. 2024) (en banc), *cert. denied sub nom. Snope v. Brown*, 145 S. Ct. 1534 (2025).

We undertake our analysis with the benefit of the district court’s thorough opinions and the extensive preliminary records assembled by the parties.

A. The Second Amendment

The Second Amendment to the United States Constitution 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. Over the course of the last two decades, the Supreme Court has issued four opinions that principally inform our understanding of that command. We summarize them here.

So while we would have to conclude the law has no conceivable constitutional application to grant the requested remedy—the complete invalidation of the statutes at issue—the Supreme Court has instructed us to consider partial invalidation (and by extension, a provision’s severability), when evaluating facial challenges. *See Brockett v. Spokane Arcades, Inc.*, 472 U.S. 491, 507 (1985) (holding that “the Court of Appeals should have pursued . . . partial invalidation”); *Regan v. Time, Inc.*, 468 U.S. 641, 652 (1984) (explaining that when a law “contains unobjectionable provisions separable from those found to be unconstitutional, it is the duty of this court to so declare, and maintain the act in so far as it is valid”). We therefore accept Plaintiffs’ theory that we may consider their challenge as limited to the portions of the statutes restricting possession of their desired firearms and magazines and proceed to consider the constitutionality of only those specific sections of the statutes.

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In *District of Columbia v. Heller*, the Court announced for the first time that the Second Amendment “confer[s] an individual right to keep and bear arms.” 554 U.S. 570, 595 (2008). To reach that conclusion, the Court found determinative the operative clause of the Amendment: “the right of the people to keep and bear Arms, shall not be infringed.” *Id.* at 577-95. Notably, it found that “Arms” encompasses “all instruments that constitute bearable arms, even those that were not in existence at the time of the founding,” *id.* at 582, and that the textual elements of the operative clause “guarantee the individual right to possess and carry weapons in case of confrontation,” *id.* at 592. The Court also concluded that the prefatory clause of the Amendment (“A well regulated Militia, being necessary to the security of a free State”) supported its reading of the operative clause. *Id.* at 598-600. Applying its interpretation of the Second Amendment, the Court ruled that the regulation at issue in *Heller*, an absolute ban of handgun possession in the home, was unconstitutional. *Id.* at 635.

But even as it announced the Second Amendment right to keep and bear arms, the Court in *Heller* made clear that this right was “not unlimited.” *Id.* at 595. The Court did “not read the Second Amendment to protect the right of citizens to carry arms for *any sort* of confrontation.” *Id.* at 595. Instead, *Heller* recognized that the Second Amendment “codified a *pre-existing* right” to keep and bear arms, *id.* at 592, which was understood at the founding to be a “right of self-preservation,” *id.* at 595 (quoting 1 Blackstone’s Commentaries 145-46, n.42 (St. George Tucker ed., 1803)); *see also id.* at 594 (“[Americans]

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understood the right to enable individuals to defend themselves.”). The Court emphasized that self-defense was “the *central component* of the right.” *Id.* at 599.

In cautioning that the right was not unlimited, the Court noted that nothing in *Heller* “should be taken to cast doubt on” certain “longstanding prohibitions on the possession of firearms.” *Id.* at 626. The Court indicated “that the sorts of weapons protected were those ‘in common use at the time,’” *id.* at 627 (quoting *United States v. Miller*, 307 U.S. 174, 179 (1939)), and limitations on Second Amendment protections for certain types of arms were “fairly supported by the historical tradition of prohibiting the carrying of ‘dangerous and unusual weapons,’” *id.* (citing, *inter alia*, 4 William Blackstone, Commentaries *148-49 (1769)). The Court acknowledged that some weapons “most useful in military service,” such as M-16 rifles and machineguns, “may be banned,” observing that a typical militia was “formed from a pool of men bringing arms in common use at the time for lawful purposes like self-defense.” *Id.* at 624 (quotation marks omitted), 627. The Court did not elaborate further on the types of arms that are, or are not, protected by the Second Amendment.

Soon after *Heller*, the Court decided *McDonald v. City of Chicago*, which held “that the Second Amendment right is fully applicable to the States” under the Fourteenth Amendment. 561 U.S. 742, 750 (2010). The Court stressed that the right to bear arms is not “a second-class right” subject to “different” rules than other guarantees in the Bill of Rights. *Id.* at 780. And the Court repeated *Heller*’s

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emphasis on the centrality of self-defense to the Second Amendment right, *see id.* at 767, as well as *Heller*'s assurance that the Second Amendment right was not "a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose," *id.* at 786 (quoting *Heller*, 554 U.S. at 626).

Following *Heller* and *McDonald*, appellate courts were left to determine the extent of the Amendment's protections on a case-by-case basis. Our court, like others, adopted a two-step framework for evaluating challenges to arms regulations, which combined an historical analysis with means-end scrutiny. *See, e.g., Kachalsky v. Cnty. of Westchester*, 701 F.3d 81, 96 (2d Cir. 2012), *abrogated by Bruen*, 597 U.S. 1. Under our pre-*Bruen* standard, we inquired at step one whether the challenged statutes burdened conduct covered by the Second Amendment, as informed by text and history. *Antonyuk v. James*, 120 F.4th 941, 963 (2d Cir. 2024) (describing our pre-*Bruen* standard), *cert. denied*, 145 S. Ct. 1900 (2025). If so, we proceeded at step two to evaluate whether the challenged statutes burdened "the core of the Second Amendment, defined by *Heller* as self-defense in the home." *Id.* (describing our pre-*Bruen* standard). If we determined that the burden was *de minimis*, we subjected the challenged statutes to intermediate scrutiny. *Id.* If we determined that the burden was substantial and affected the core of the right, we subjected the challenged statutes to strict scrutiny. *Id.* Applying that analysis, we held in *New York State Rifle & Pistol Association v. Cuomo* that the same 2013 legislation challenged by the plaintiffs in this case survived constitutional scrutiny. 804 F.3d 242, 263-64 (2d Cir. 2015).

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Eventually, the Supreme Court intervened to course correct the analytical framework. Its decision in *New York State Rifle & Pistol Association v. Bruen* rejected the two-part framework we had employed. 597 U.S. 1, 17 (2022). The Court reasoned that means-end scrutiny was inconsistent with *Heller* and established a different two-step framework “rooted in the Second Amendment’s text, as informed by history.” *Id.* at 19, 22. Under this framework, courts are to consider first whether “the Second Amendment’s plain text covers an individual’s conduct.” *Id.* at 17. If not, our inquiry ends and there is no Second Amendment protection. But if it does, “the Constitution presumptively protects that conduct,” and we must determine if the regulator—whether the federal government, a state, or a municipality—has carried its burden to show “that the regulation is consistent with this Nation’s historical tradition of firearm regulation.” *Id.*; *see also id.* at 33-34 (discussing burden). “Only if a firearm regulation is consistent with this Nation’s historical tradition may a court conclude that the individual’s conduct falls outside the Second Amendment’s unqualified command.” *Id.* at 17 (quotation marks and citation omitted).

In terms of analytical methodology, *Bruen* acknowledged that, while some cases would present straightforward comparisons between historical and modern firearms regulation, courts might have to use a “more nuanced approach” in “cases implicating unprecedented societal concerns or dramatic technological changes.” *Id.* at 27. In such cases, a court may compare the regulations at issue to “relevantly similar” historical regulations. *Id.* at 28-29. The Court noted two important

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metrics of similarity: “*how* and *why* the regulations burden a law-abiding citizen’s right to armed self-defense.” *Id.* at 29 (emphasis added).

Two years after *Bruen*, the Supreme Court decided *United States v. Rahimi*, which held that 18 U.S.C. § 922(g)(8)—a statute that criminalizes the possession of firearms by certain individuals subject to domestic violence restraining orders—was facially constitutional. 602 U.S. 680, 700 (2024). Although the regulation at issue in *Rahimi*, restricting who may possess firearms, is notably distinct from the regulation at issue here, restricting what firearms may be possessed, *Rahimi* remains instructive. For one thing, *Rahimi* rejected the contention that the Second Amendment permits only “those regulations *identical* to ones that could be found in 1791.” *Id.* at 692 (emphasis added); *see also id.* at 691-92 (observing that the Court’s Second Amendment “precedents were not meant to suggest a law trapped in amber”). Thus, *Rahimi* applied *Bruen*’s “relevantly similar” analysis to § 922(g)(8) without first determining that the statute implicated unprecedented societal concerns or dramatic technological changes. *Id.* at 692 (quotation marks omitted). And *Rahimi* demonstrated that we may look to different historical traditions “[t]aken together” in assessing the constitutionality of challenged statutes. *Id.* at 698. Applying those principles, *Rahimi* identified an historical tradition of disarming individuals that pose a clear threat of physical violence to another person and identified relevantly similar historical regulations from the founding era, such as surety and going armed

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laws. *See id.* at 693-98.¹⁷ *Rahimi* thus serves as a useful methodological guide for the use of historical analogues.

With the background from these cases in mind, we consider the constitutionality of the challenged Connecticut statutes.

B. Preliminary Considerations

We begin our analysis by discussing three concepts, as to each of which the parties have offered competing interpretations, that guide our analysis..

1. “In Common Use”

Plaintiffs insist that the challenged restrictions on the desired firearms and magazines violate the Second Amendment because they constitute a categorical ban on “widely popular” weapons in common use today for lawful purposes. Br. of *Grant* Appellants at 7. This, Plaintiffs contend, is “sufficient” for finding that possessing the regulated weapons is protected by the Second Amendment.

17. Surety laws “authorized magistrates to require individuals suspected of future misbehavior to post a bond.” *Rahimi*, 602 U.S. at 695. Some surety laws specifically targeted the misuse of firearms, and authorized the imposition of bonds from individuals “who went armed with” certain weapons, including “a dirk, dagger, sword, pistol, or other offensive and dangerous weapon.” *Id.* at 696 (cleaned up). Going armed laws, also known as affray laws, “prohibited riding or going armed, with dangerous or unusual weapons, to terrify the good people of the land.” *Id.* at 697 (cleaned up).

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Br. of *NAGR* Appellants at 8. Even assuming *arguendo* that the desired firearms and magazines are “typically possessed” and “in common use” for lawful purposes, *see Cuomo*, 804 F.3d at 255-57, we disagree.

Plaintiffs distort the precedents on which their argument relies. *Heller* and *Bruen* provide that the Second Amendment “protects *only* the carrying of weapons that are those ‘in common use’ at the time, as opposed to those that ‘are highly unusual in society at large.’” *Bruen*, 597 U.S. at 47 (quoting *Heller*, 554 U.S. at 627) (emphasis added). The cases do not hold that the Second Amendment *necessarily* protects *all* weapons in common use. They do not shield popular weapons from review of their potentially unusually dangerous character. And further, Plaintiffs’ proposed “common use” standard would strain both logic and administrability, as it would hinge the right on what the Fourth Circuit aptly called a “trivial counting exercise” that would “lead[] to absurd consequences” where unusually dangerous arms like the M-16 or “the W54 nuclear warhead” can “gain constitutional protection merely because [they] become[] popular before the government can sufficiently regulate [them].” *Bianchi*, 111 F.4th at 460.

2. “Unusually Dangerous”

The Supreme Court has recognized an “historical tradition of prohibiting the carrying of ‘dangerous and unusual weapons.’” *Bruen*, 597 U.S. at 21. Defendants argue that the challenged statutes fall within this tradition. Plaintiffs and their amici counter that this

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limitation on the Second Amendment right applies only to those weapons that, unlike AR-15s and large-capacity magazines, are *both* dangerous *and* unusual. *See* Br. of *Grant* Appellants at 22, 31-35; Br. of Firearms Policy Coalition Amici at 10-12. We conclude, however, that this historical tradition encompasses those arms that legislators determined were *unusually dangerous* because of their characteristics.

Our understanding of the Second Amendment is informed by history. *Bruen*, 597 U.S. at 26. Historical prohibitions on affray used both the formulations “dangerous *and* unusual” *and* “dangerous *or* unusual.”¹⁸ Notwithstanding the variations, both the conjunctive and disjunctive formulations were traditionally understood as meaning “unusually dangerous.” Decl. of Saul Cornell ¶ 20, *Grant* App’x 1220-21 (“Educated readers in the Founding era would have interpreted both phrases to mean the same thing, a ban on weapons that were ‘unusually dangerous.’”).

Plaintiffs challenge our “unusually dangerous” interpretation by pointing to a concurring Supreme Court opinion characterizing the exception as a “conjunctive

18. Blackstone defined the offense of affray as the act of riding or going armed with “dangerous *or* unusual” weapons. *Bruen*, 597 U.S. at 46 (quoting 4 William Blackstone, Commentaries *148-49). Contemporary and historic judicial authorities have repeated Blackstone’s disjunctive formulation. *See id.* (“dangerous or unusual weapons”); *Rahimi*, 602 U.S. at 697 (same); *State v. Huntly*, 25 N.C. 418, 420 (1843) (same); *State v. Lanier*, 71 N.C. 288, 289 (1874) (same); *English v. State*, 35 Tex. 473, 476 (1871) (same).

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‘dangerous *and* unusual test.’” Br. of *Grant* Appellants at 31-33 (quoting *Caetano v. Massachusetts*, 577 U.S. 411, 417 (2016) (Alito, J., concurring)). But given the historical evidence cited here, this non-binding concurrence cannot bear the weight Plaintiffs place on it.

What is more, Plaintiffs’ argument strips coherence from the historical limitation to the Second Amendment right applicable to dangerous and unusual weapons. It is axiomatic that to some degree all firearms are “dangerous,” *see Caetano*, 577 U.S. at 417-18 (Alito, J., concurring), so that word does no work by itself. And the phrase “and unusual” or the phrase “or unusual” standing alone raises more questions than it answers. What is meant by “unusual” standing alone? “Dangerous” needs a modifier, and its companion “unusual” needs something to modify. *Unusually dangerous* is the obvious fit to describe weapons that are so lethal that legislators have presumed that they are not used or intended to be used for lawful purposes, principally individual self-defense.¹⁹

In an excellent concurring opinion, our colleague Judge Nathan further elaborates on why Plaintiffs’ emphasis on

19. Defendants’ expert describes the phrase “dangerous and unusual” as a hendiadys, which individuals in the founding era would have interpreted as “unusually dangerous.” Cornell Decl. ¶ 20, *Grant* App’x 1220-21. A hendiadys is “two terms,” often with one modifying the other, that are “separated by a conjunction” (here, “and”) “that work together as a single complex expression.” *Lac du Flambeau Band of Lake Superior Chippewa Indians v. Coughlin*, 599 U.S. 382, 413 (2023) (Gorsuch, J., dissenting) (quotation marks and alteration omitted).

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the “and” in the phrase “dangerous and unusual” does not survive the historical scrutiny that we must undertake and contributes to the historical provenance of the “unusually dangerous” formulation that we posit. We fully join in Judge Nathan’s concurrence..

3. “Interest Balancing by the People”

The Supreme Court has made clear that, “[l]ike most rights, the right secured by the Second Amendment is not unlimited.” *Heller*, 554 U.S. at 626. Historically, the right “was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.” *Id.* These historical limitations make apparent that the Second Amendment “is the very *product* of an interest balancing by the people.” *Id.* at 635. We endeavor to faithfully apply “the terms of the [*people’s*] balance enshrined in the Constitution’s text” based on history and tradition rather than our personal intuitions or preferences about how to balance individual rights with societal prerogatives. *Bianchi*, 111 F.4th at 472. We thus engage in analogical reasoning that invokes historical practice without resorting to judicial interest balancing.

C. Presumptive Constitutional Protection

Under *Bruen* step one, we first ask whether the Second Amendment presumptively protects Plaintiffs’ individual right to acquire and possess the desired firearms and magazines because the “plain text of the Second Amendment protects [Plaintiffs’] proposed course of conduct.” *Bruen*, 597 U.S. at 32.

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Supreme Court authority has not settled the precise scope of the Second Amendment’s protections. The Court has elucidated that the Constitution only protects possession of arms that are typically possessed and in common use by law-abiding citizens for lawful purposes (principally individual self-defense), and that are not dangerous and unusual. *Heller*, 554 U.S. at 625, 627. This Court has understood the “in common use” analysis to fall under the first step of *Bruen*. *Antonyuk*, 120 F.4th at 981 (holding that the “threshold inquiry” at *Bruen* step one “requires courts to consider . . . whether the weapon concerned is in common use” (quotation marks omitted)). But the Supreme Court has not made clear how and at what point in the analysis we are to consider whether weapons are unusually dangerous. Nor has the Court clarified how we are to evaluate a weapon’s “common use.” The Court’s opinions may reasonably be read to require such considerations at the first step of *Bruen*’s two-step inquiry, cabinining the meaning of “Arms” to those that are not unusually dangerous and that are generally owned and used by ordinary citizens for lawful purposes, principally self-defense.²⁰ Or the

20. See *Bianchi*, 111 F.4th at 461 (concluding that because the AR-15 “is a combat rifle that is both ill-suited and disproportionate to self-defense,” it is “outside the scope of the Second Amendment”); *Bevis*, 85 F.4th at 1193 (defining “bearable Arms” to reach “only . . . weapons in common use for . . . individual self-defense”); *Hanson v. District of Columbia*, 120 F.4th 223, 232 (D.C. Cir. 2024), *cert. denied*, No. 24-936, 2025 WL 1603612, at *1 (U.S. June 6, 2025) (considering at step one whether extra-large capacity magazines “constitute bearable arms,” and, if so, whether they are “in common use for a lawful purpose, such as self-defense” (cleaned up)).

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Court’s precedents may reasonably be read to require those considerations at *Bruen*’s second step, as part of our analogical comparison of contemporary restrictions to historical analogues embodying constitutionally sound exceptions to the Second Amendment right.²¹ This lack of clarity has led to disagreement among the parties in this case and confusion among courts generally.²²

We prefer not to venture into an area in which such uncertainty abounds and that is not necessary to resolve this appeal. Because of the outcome we reach on other grounds, we will simply assume without deciding that the desired firearms and magazines are bearable arms within the meaning of the Second Amendment and that their acquisition and possession is presumptively entitled to constitutional protection. We thus proceed to *Bruen* step two, which provides a resolution to our quest.

21. See *Ocean State Tactical, LLC v. Rhode Island*, 95 F.4th 38, 47 (1st Cir. 2024) (situating the “dangerous and unusual” inquiry at step two), *cert. denied sub nom. Ocean State Tactical v. Rhode Island*, No. 24-131, 2025 WL 1549866 (U.S. June 2, 2025); *Hanson*, 120 F.4th at 235 (same).

22. See, e.g., *Harrel v. Raoul*, 144 S. Ct. 2491, 2492 (2024) (Mem.) (statement of Thomas, J.) (The Court’s “minimal guidance” is “far from a comprehensive framework for evaluating restrictions on types of weapons” and “leaves open essential questions such as what makes a weapon ‘bearable,’ ‘dangerous,’ or ‘unusual.’”); *Bevis*, 85 F.4th at 1198 (observing that there is “no consensus whether the common-use issue belongs at *Bruen* step or *Bruen* step two”).

*Appendix A***D. Historical Tradition of Firearm Regulation**

We now turn to whether Defendants, at this preliminary stage, have provided sufficient evidence that the challenged statutes are “consistent with the Nation’s historical tradition of firearm regulation.” *Bruen*, 597 U.S. at 24. For the reasons that follow, we conclude that they have done so.

Because the challenged statutes are state laws, “the prevailing understanding of the right to bear arms” in both 1791 (the year in which the states ratified the Second Amendment) and in 1868 (the year that the Fourteenth Amendment, which *McDonald* held to incorporate the Second Amendment against the states through the Due Process Clause, was ratified) are relevant to our analysis. *Antonyuk*, 120 F.4th at 972-73. We therefore consider limitations imposed on the Second Amendment right during these time periods and whether these historical traditions of regulation are analogous to the challenged statutes. 691-92. We also note that while the Court has not “provide[d] an exhaustive survey of the features that render regulations relevantly similar,” it has provided “two metrics: how and why the regulations burden a law-abiding citizen’s right to armed self-defense.” *Bruen*, 597 U.S. at 29. We therefore attend to the Court’s instruction to consider “whether modern and historical regulations impose a comparable burden on the right of armed self-defense and whether that burden is comparably justified” as “*central* considerations” in our “analogical inquiry.” *Id.* (quotation marks omitted). If we determine that the challenged statutes’ restrictions on acquiring and possessing the desired firearms and magazines are

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relevantly similar to the Nation’s historical tradition of firearms regulation, we may conclude that Plaintiffs are unlikely to succeed on the merits of their challenge and thus the preliminary relief Plaintiffs seek should be denied.

Plaintiffs are unlikely to succeed on the merits. Connecticut’s restrictions on AR-15s, .300 Blackout-chambered “other” firearms (in Plaintiffs’ intended configuration), and large capacity magazines are one more chapter in the historical tradition of limiting the ability to “keep and carry” dangerous and unusual weapons. *Heller*, 554 U.S. at 627. The challenged statutes are “relevantly similar,” *Bruen*, 597 U.S. at 29, to historical antecedents that imposed targeted restrictions on unusually dangerous weapons of an offensive character—dirk and Bowie knives, as well as machine guns and submachine guns—after they were used by a single perpetrator to kill multiple people at one time or to inflict terror in communities. At the same time, the historical antecedents, like the challenged statutes, preserved alternative avenues for the legal possession of less inherently dangerous arms for self-defense and other lawful purposes. The challenged statutes thus impose a “comparable burden” and are “comparably justified” as those historical comparators offered by Defendants. *Id.*

1. The Need for Nuanced Analogical Reasoning

Defendants have not identified, and we have not independently found in the record before us, any exact

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historical analogues to the challenged statutes. The apparent absence of an exact historical analogue, however, is not necessarily determinative. *See Rahimi*, 602 U.S. at 692. To be sure, *Bruen* instructs that “when a challenged regulation addresses a general societal problem that has persisted since the 18th century, the lack of a distinctly similar historical regulation addressing that problem is relevant evidence that the challenged regulation is inconsistent with the Second Amendment.” 597 U.S. at 26-27. But the Court also instructs that in cases that are not so “straightforward,” the lack of a distinctly similar historical analogue may be excused in favor of “nuanced” analogical reasoning. *Bruen*, 597 U.S. at 27-28. Here, we conclude that because the challenged legislation addresses novel societal problems stemming from newly developed technology, a nuanced analysis is warranted.

As we discuss below, there is no evidence before the twentieth century that any firearms could be used to carry out mass shootings. Indeed, commonly used firearms “did not have the capacity to occasion a societal concern with mass shootings . . . until dramatic technological changes vastly increased their capacity and the rapidity of firing.” *Hanson v. District of Columbia*, 120 F.4th 223, 240 (D.C. Cir. 2024), *cert. denied*, No. 24-936, 2025 WL 1603612 (U.S. June 6, 2025). Therefore, there “simply is no relevantly similar historical analogue to a modern, semiautomatic [firearm] equipped with [a large capacity magazine].” *Id.*

As technology has facilitated an increase in mass shootings, mass shootings have become the object of

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widespread fear and societal concern. Together they have provoked a spate of state legislation to address a problem that is without direct historical precedent. *Bruen* had this type of situation in mind when it counseled that where direct analogues are absent and the analysis is not “straightforward,” we may employ a “more nuanced approach” to evaluate relevant historical antecedents. *Bruen*, 597 U.S. at 26-27.

We will say a bit more about the situation we face: (a) the dramatic technological changes and (b) the unprecedented societal concerns..

a. Dramatic Technological Changes

The record before us reveals that contemporary assault weapons represent dramatic technological changes. Their advanced military-like features enable them to inflict catastrophic injuries that bear no similarity to those injuries caused by the comparatively primitive firearms that were widely available in the founding and reconstruction eras.

Plaintiffs and their amici identify unregulated firearms invented in the founding and reconstruction eras capable of shooting a dozen or more shots before reloading. In their view, this means that there has been no dramatic technological change. They contend that the existence of historical multi-shot firearms, coupled with the absence of distinctly similar historical regulations, is dispositive evidence that the challenged statutes are unconstitutional. *Br. of Grant Appellants* at 53. But the cherry-picked arms

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on which Plaintiffs rely were different. Unlike today's assault weapons and large capacity magazines, the early multi-shot firearms were neither reliable nor widely used.

Plaintiffs cite Joseph Belton's 16-shot repeating rifle, the Jennings 12-shot flintlock rifles, Pepperbox pistols capable of firing 6 to 24 shots, the Winchester Model 1866 (which could shoot 18 rounds), the 1873 Evans Repeating Rifle (which could shoot 34 rounds), and Bennet and Haviland Rifles (which could shoot 12 rounds), among others. Br. of *Grant* Appellants 48-51; *see also* Br. of Firearms Policy Coalition Amici 19-37. These multi-shot firearms, however, were substantially more difficult to operate and prone to technological failings than contemporary firearms like AR-15s. *See Hanson*, 120 F.4th at 242, 249-51 (explaining that because of these differences, the Jennings multi-shot flintlock rifles, Pepperbox pistols, Bennet & Haviland Revolving Rifles, and the Winchester Model 1866 are irrelevant and unpersuasive comparators). And these malfunctions did not merely cause the weapon to jam or misfire. Rather, early multi-shot arms using "superposed loads," like Belton's 16-shot repeating rifle, were prone to explode if "the sequencing between rounds was off." Brian DeLay, *The Myth of Continuity in American Gun Culture*, 113 Calif. L. Rev. 1, 23, 27 (2025). The technological limitations of these arms prevented their use for most practical purposes and assuredly prevented a single gunman from using them to unleash a massacre in a matter of seconds.

The purported multi-shot analogues, moreover, do not appear to have been widely used. In the founding and reconstruction eras, most firearms were muskets

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and fowling pieces, which are flintlock muzzle-loading firearms. Plaintiffs and their amici discuss the designs of early multi-shot firearms, but they do not provide evidence of their prevalence. This makes sense, as many of the proffered multi-shot firearms were expensive curios, more likely to be seen in exhibitions than in practical use. *Id.* at 23. But even if they were prevalent, there is no evidence that these arms were used for mass murder. The record instead reveals that early multi-shot firearms never “achieve[d] sufficient market penetration to impact gun violence.” Cornell Decl. ¶ 41, *NAGR* App’x 955.

The prevalent firearms of the founding and reconstruction eras, as Plaintiffs concede, are technologically distinguishable from modern AR-15-style firearms. Flintlock muzzle-loaders generally held just one round at a time (and often had to be pre-loaded); had a maximum accurate range of 55 yards; had a muzzle velocity of roughly 1,000 feet per second; required at least thirty seconds for the shooter to manually reload a single shot; and were frequently liable to misfire. *See* Decl. of Randolph Roth ¶ 16, *NAGR* App’x 894; Br. of Amici Giffords Law Center to Prevent Gun Violence et al. at 11. As a result, they could do much less harm. A shooter using such a firearm could kill only at a rate of less than one person per minute. *NAGR* Sp. App’x 57. After all, in the 1770 Boston Massacre, seven British soldiers firing flintlock muskets into a crowd managed to take only five lives. Roth Decl. ¶ 41, *NAGR* App’x at 918-19.

By contrast, today’s assault weapons—fed continuously by large capacity magazines—are dramatically and

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reliably lethal. An AR-15 can hold 30 rounds; is accurate within 400 yards; has a muzzle velocity of approximately 3,251 feet per second; can be reloaded with full magazines in as little as three seconds; and can empty a thirty-round magazine in five seconds. *See* Decl. of Randolph Roth ¶ 49, *NAGR* App'x 926; Br. of Amici Giffords Law Center to Prevent Gun Violence et al. at 11. That's how, in 2019, one terrorist in Dayton, Ohio armed with an AR-15 equipped with 100-round magazines could fire 41 shots in just 32 seconds, killing nine people and wounding 17 others before he was stopped.²³ And unlike their predecessors, contemporary semiautomatic firearms are also widely commercially available, though only recently so.²⁴

Modern assault weapons, such as the AR-15, and large capacity magazines represent dramatic technological changes that have given rise to the unprecedented societal concern of mass shootings fueled by this dependable, widespread, and substantially more lethal technology..

b. Unprecedented Societal Concerns

We find in the record no direct historical precedent for the contemporary, growing societal concern over and fear of mass shootings resulting in ten or more fatalities.

23. Holly Yan, et al., *The Dayton gunman killed 9 people by firing 41 shots in 30 seconds. A high-capacity rifle helped enable that speed*, CNN (Aug. 5, 2019), <https://www.cnn.com/2019/08/05/us/dayton-monday-shooter-stopped-in-seconds/index.html> [<https://perma.cc/8RZG-HNXG>]; *Bianchi*, 111 F.4th at 463-64.

24. Automatic and semiautomatic weapons initially became widely commercially available in the twentieth century. AR-15s, in particular, proliferated among civilians in the twenty-first century.

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Plaintiffs point to historical mass casualty events for the proposition that mass killings are not an unprecedented societal concern. But there is “no direct precedent for the contemporary and growing societal concern that [assault weapons with large capacity magazines] have become the preferred tool for murderous individuals intent on killing as many people as possible, as quickly as possible.” *Ocean State Tactical, LLC v. Rhode Island*, 95 F.4th 38, 44 (1st Cir. 2024), *cert. denied*, No. 24-131, 2025 WL 1549866 (U.S. June 2, 2025); *see also Hanson*, 120 F.4th at 241 (concluding “mass shootings incidents cause outsized collective trauma on society” and constitute an “unprecedented societal concern”).

Early firearms by themselves did not facilitate mass killings. In the founding era, firearms were common but rarely used to perpetuate homicides. Mass murders have occurred throughout history, but the “limits of existing technologies” meant that they generally involved the use of multiple people and multiple weapons. Roth Decl. ¶ 41, *NAGR* App’x 918. Until the late nineteenth and early twentieth century, mass homicides could only be carried out by groups using primitive firearms and melee weapons—clubs, knives, and nooses—that, though lethal, “did not provide individuals or small groups of people the means to inflict mass casualties on their own.” *Id.*

The Founders faced no problem comparable to a single gunman carrying out a mass murder in seconds. How could they, when there was “no known occurrence of a mass shooting resulting in double-digit fatalities at any point in time during the 173-year period between

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the nation’s founding in 1776 and 1948”? Decl. of Louis Klarevas ¶ 18, *NAGR* App’x 285. The first single-gunman shooting resulting in ten or more deaths did not occur until 1949. *Id.*²⁵ From 1949 to 2004, there were ten mass shootings with double-digit fatalities. *Id.* ¶ 21, *NAGR* App’x 288.

The proliferation of unusually dangerous weapons, however, has led to a frequent, growing, and extremely lethal threat to public safety, actual and widely perceived. An assault weapon was first used to perpetuate a mass shooting resulting in ten or more fatalities in 1982. *Id.* ¶ 20, *NAGR* App’x 288. After there were five such mass shootings within five years, Congress enacted three significant federal firearms restrictions. *Id.* ¶¶ 20-21, *NAGR* App’x 285-88. In the eighteen years after the most significant of those restrictions expired in 2004, there were *twenty* mass shootings each resulting in ten or more deaths. *Id.* ¶ 21, *NAGR* App’x 288. Mass shootings continue to be a growing threat unlike anything that the Framers could have imagined.

Certainly it would have been shocking to the Framers to witness the mass shootings of our day, to see children’s bodies “stacked up . . . like cordwood” on the floor of a church in Sutherland Springs, Texas; to hear a Parkland, Florida high school student describe her classroom as

25. See also Patrick Sauer, *The Story of the First Mass Shooting in U.S. History*, SMITHSONIAN MAG. (Oct. 14, 2015), <https://www.smithsonianmag.com/history/story-first-mass-murder-us-history-180956927/> [<https://perma.cc/ZS89-AL6J>].

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a “war zone” with “blood everywhere”; to be at a movie in Aurora, Colorado when suddenly gunfire erupted, leaving “bodies” strewn and “blood on seats, blood on the wall, blood on the emergency exit door”; to run past “shoes scattered, blood in the street, bodies in the street” while bullets blazed through the sky in Dayton, Ohio; to watch law enforcement officers encounter “a pile of dead children” in Sandy Hook, Connecticut; to stand next to one of those officers as he tried to count the dead children, but “kept getting confused,” as his “mind would not count beyond the low teens.”

Bianchi, 111 F.4th at 463 (quoting Silvia Foster-Frau et al., *Terror on Repeat: A Rare Look at the Devastation Caused by AR-15 Shootings*, WASH. POST (Nov. 16, 2023)) (cataloguing thirty-three mass shootings resulting in nine or more fatalities); see also *Ocean State Tactical*, 95 F.4th at 44; *Duncan v. Bonta*, 133 F.4th 852, 873 (9th Cir. 2025); *Hanson*, 120 F.4th at 241. And such incidents remain distressingly frequent.

Bruen thus had in mind the very situation we face here when it counseled that where direct analogues are absent because of unprecedented societal concerns and dramatic technological changes, our analysis may adopt a “more nuanced” approach. It is that approach we undertake here. In employing this “nuanced approach,” we examine how the challenged statutes work and the reasons behind them.

*Appendix A***2. The Challenged Statutes**

The challenged statutes—as applied to AR-15s, .300 Blackout-chambered “other” firearms in Plaintiffs’ intended configuration,²⁶ and large capacity magazines—are, as Defendants contend, targeted restrictions on unusually dangerous weapons that leave open many lawful alternatives to Connecticut residents for armed self-defense.

The challenged statutes focus on unusually dangerous firearms, in substantial part those more powerful semiautomatic centerfire rifles that can accept a large capacity magazine and have an additional military-style feature that increases the firearm’s lethality. In so doing, these statutes restrict unusually dangerous weapons that have grave capacity for inflicting harm disproportionate to the Second Amendment’s “core lawful purpose of self-defense.” *Heller*, 554 U.S. at 630. Consider, as a

26. The relevant features of a .300 Blackout-chambered “other” firearm in Plaintiffs’ intended configuration (i.e., with a pistol grip and fore grip) make this firearm substantively similar to the AR-15. *See NAGR* App’x at 381 (discussing how such features enable user to “spray . . . a large number of bullets over a broad killing zone, without having to aim at each individual target”). And Plaintiffs have not argued or provided evidence distinguishing between these categories of challenged weapons. *See Grant* Sp. App’x 11 (observing that “neither side argues that there are any significant differences in the key functionality between the 2023 assault weapons and the more limited group of firearms classified as assault weapons prior to” the 2023 legislation). The reasoning applicable to the AR-15 set forth in this section therefore applies to both types of desired firearms.

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paradigmatic example, the AR-15s and large capacity magazines that Plaintiffs seek to purchase.

The AR-15 was initially developed for modern military combat. It has the same basic structure and operation, as well as near-equivalent muzzle velocity as its military counterpart, the M-16. Warenda Decl. ¶ 22, *NAGR* App'x 199; Roth Decl. ¶ 49, *NAGR* App'x 925; *Capen v. Campbell*, 708 F. Supp. 3d 65, 85 (D. Mass. 2023), *aff'd*, 134 F.4th 660 (1st Cir. 2025). The AR-15 is more lethal to victims, bystanders, and law enforcement than ordinary handguns typically used for self-defense. Its powerful centerfire ammunition can penetrate standard construction walls, car doors, and law enforcement officers' body armor. *Kolbe v. Hogan*, 849 F.3d 114, 127 (4th Cir. 2017). Its standard configuration comes equipped with .223 caliber rounds "designed to fragment and mushroom" in a victim's body, though it may alternatively be configured to fire larger .300 Blackout rounds that inflict even larger entry wounds. Donohue Decl. ¶ 66, *NAGR* App'x 224. Whereas an ordinary handgun causes injuries equivalent to a "stabbing with a bullet," an AR-15 exacts serious injuries tantamount to being shot "with a Coke can." *Id.* ¶ 109, *NAGR* App'x 242. It has combat-functional features—like the ability to accept large capacity magazines as well as grips and barrel shrouds that facilitate spray firing—that dramatically increase its utility for lethality and its appeal to mass shooters. *See id.* ¶ 65, *NAGR* App'x 224.

The primary difference between the M-16 and AR-15 is that the AR-15 does not have fully automatic

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firing capability.²⁷ Warenda Decl. ¶ 22, *NAGR* App'x 199. Plaintiffs point to this distinction as the critical difference between weapons that can be permissibly regulated and those that cannot. Br. of *Grant* Appellants at 41. But Plaintiffs have not offered evidence that this distinguishing factor fundamentally transforms the AR-15 into a weapon that is substantially less dangerous than its military counterpart. Rather, Defendants have offered evidence that “[a]t ranges over 25 meters, rapid semiautomatic fire is superior to automatic fire in all measures: shots per target, trigger pulls per hit, and time to hit.” Donohue Decl. ¶ 168, *NAGR* App'x 263 (quoting Dep't of the U.S. Army, FM 3-22.9: Rifle Marksmanship M16-/M4-Series Weapons, § 7-15 (2008));²⁸ see also *Capen*, 708 F. Supp. 3d at 85 (noting that the “U.S. Marine Corps discarded” the M-16’s fully automatic function “in favor of a maximum setting of a three-round burst” to “enhance lethality by. . . improving accuracy”).

27. An M-16 set to fully automatic can fire approximately 750 to 900 rounds per minute. Roth Decl. ¶ 49, *NAGR* App'x 925. The maximum rate of fire over the same period for a semi-automatic rifle, which requires the user to pull the trigger for each shot, will vary based on the experience and skill of the user. The U.S. Army, however, defines “rapid semiautomatic fire” as 45 rounds per minute. Dep't of the U.S. Army, TC 3-22.9: Rifle and Carbine, § 8-19 (2016).

28. This U.S. Army manual has since been replaced with an updated version, which again emphasizes the drawbacks of automatic fire, noting that “[a]utomatic or burst fires drastically decrease the probability of hit due to the rapid succession of recoil impulses and the inability of the Soldier to maintain proper sight alignment and sight picture on the target.” TC 3-22.9: Rifle and Carbine, *supra* note 27, § 8-21.

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In addition, the AR-15, unlike an ordinary handgun, has features that actually limit its usefulness for self-defense. *Cf. Heller*, 554 U.S. at 629 (discussing characteristics of handguns that make them “the quintessential self-defense weapon”). It is “significantly heavier and longer,” “less concealable, more difficult to use, and less readily accessible, particularly for an inexperienced user” than a typical pistol. *Capen*, 708 F. Supp. 3d at 86. And with their high muzzle velocity, AR-15-style weapons are more likely to penetrate a house or apartment wall when fired in a self-defense scenario, threatening family members or the building’s other occupants. Donohue Decl. ¶ 154, *NAGR* App’x 257; Roth Decl. ¶ 50, *NAGR* App’x 926.

Moreover, assault rifles with large capacity magazines, like the AR-15, are especially dangerous in mass shootings. An assault weapon, large capacity magazine, or both, has been used in each of the ten deadliest mass shooting events in American history.²⁹ *See* Donohue Decl. ¶ 49, tbl. 1, *NAGR* App’x 217. Criminals, terrorists, and the mentally ill armed with such weapons may easily fire more than eleven rounds before pausing to reload, thereby eliminating breaks that afford victims time to escape and law enforcement time to intervene.

29. In addition, the perpetrators of one-third of the more numerous high-fatality mass shooting events in the last 32 years used assault weapons or other firearms outfitted with large capacity magazines. Klarevas Decl. ¶ 23, *NAGR* App’x 289. And AR-15 or AK-47 type assault rifles were used in “every major terrorist attack on U.S. soil in the past decade.” *Bianchi*, 111 F.4th at 457 (citing attacks in San Bernadino, CA; Orlando, FL; Pittsburg, PA; El Paso, TX; and Buffalo, NY).

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At the same time that the Connecticut statutes restrict access to unusually dangerous weapons, Defendants show, the statutes still allow the lawful possession of many popular weapons, including semiautomatic weapons deemed to be less dangerous by the legislature for self-defense and other lawful purposes. *See* Warenda Decl. ¶ 33, *NAGR* App’x 200. And while Plaintiffs at times characterize Connecticut’s law as a “categorical[] ban [on] the possession of multi-shot, semi-automatic firearms,” Br. of *Grant* Appellants at 52, Connecticut residents remain able to purchase and possess more than 1,000 firearms for self-defense, hunting, and sport shooting. Among others, the challenged statutes permit Connecticut residents to own and possess popular semiautomatic handguns like the Glock 17 and M9 Barretta, and popular semiautomatic hunting rifles like the Ruger Mini-14 and the Ruger 10/22 Target.³⁰

30. Many popular hunting rifles fall outside of Connecticut’s definition of “assault weapon” because they are bolt-action rather than semiautomatic. *Top 25 Rifles for Hunting in the Last 50 Years*, PETERSEN’S HUNTING, <https://www.petersenshunting.com/editorial/top-25-hunting-rifles-last-50-years/389930> [<https://perma.cc/6UQK-QVJT>] (last visited May 30, 2025) (including 22 bolt-action rifles in a list of the top 25 hunting rifles in the last 25 years); Richard Mann, *The 6 Best Rifles, Tested and Reviewed*, FIELD & STREAM (Jan. 20, 2021), <https://www.fieldandstream.com/guns/best-rifles> [<https://perma.cc/K5T5-Z8MC>] (listing sixteen of the “most exciting” rifles of 2024, including 15 bolt-action rifles, one lever-action, and no semiautomatic rifles); Jordan Sillars, *The Best Deer Hunting Rifle at Every Price Point*, MEATEATER (June 7, 2024), <https://www.themeateater.com/gear/general/the-best-deer-hunting-rifle-at-every-price-point> [<https://perma.cc/2L7B-RXNY>] (recommending only bolt-action rifles). These bolt-action rifles are often preferred due to their superior accuracy. Texas Parks

*Appendix A***3. The Comparators**

Having considered “how and why” the challenged statutes “burden a law-abiding citizen’s right to armed self-defense,” *Bruen*, 597 U.S. at 29, we next look to whether Defendants are likely to succeed in establishing there are “relevantly similar” historical analogues that “work[] in the same way” and “for the same reasons,” as required by our nuanced approach. *Rahimi*, 602 U.S. at 711 (Gorsuch, J., concurring). On the record at this stage, we find that Defendants have provided sufficient evidence of analogous historical regulations and that Plaintiffs are therefore unlikely to succeed on the merits.

& Wildlife, *Common Firearms*, <https://tpwd.texas.gov/education/hunter-education/online-course/firearms-and-ammunition-1/common-firearms> [<https://perma.cc/XN9N-RP3V>] (last visited June 25, 2025). But the ability of semiautomatic weapons to quickly place follow-up shots has led to the popularity of some semiautomatic guns for hunting small- to medium-sized game. Examples of guns popular for this use include the Ruger Mini-14 and the Ruger 10/22 Target. See Joseph von Benedikt, *Is it Better to Have a Bolt Action or Semiauto?*, PETERSEN’S HUNTING (Feb. 22, 2023), <https://www.petersenshunting.com/editorial/great-debate-boltaction-semiauto/469183> [<https://perma.cc/A29D-LTWC>] (explaining that for hunting under 60 or 70 yards, “a Ruger Mini-14 or the like can serve”); David E. Petzel, *Field & Stream’s Ultimate Guide to Hunting Rifles*, FIELD & STREAM, Aug. 2017 (listing the Ruger 10/22 Target as the “top pick” for small game hunting). Because the Ruger Mini-14 and the Ruger 10/22 Target are not specifically banned weapons and lack features that would otherwise result in their classification as assault weapons, both of these popular hunting weapons are lawful in Connecticut today.

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While the Connecticut statutes lack an “historical twin,” *id.* at 701 (quotation marks omitted), Defendants have provided evidence of a longstanding tradition of restricting novel weapons that are particularly suited for criminal violence—a tradition that was “liquidate[d] and settle[d]” by “a regular course of practice” of regulating such weapons throughout our history. *Bruen*, 597 U.S. at 35-36.

This tradition can be traced back to pre-colonial England, with the enactment of laws prohibiting “riding or going armed, with dangerous or unusual weapons [to] terrify[] the good people of the land.” *Rahimi*, 602 U.S. at 697 (quoting 4 William Blackstone, *Commentaries* *148-49). The Statute of Northampton prohibited the carrying of launcegayes, which were shorter and lighter than a full knights’ lance and designed for thrusting, that were “generally worn or carried only when one intended to . . . breach the peace.” *Bruen*, 597 U.S. at 41; *see also* 7 Rich. 2, ch. 13 (1383) (prohibiting riding with launcegayes in pre-colonial England).

The tradition of regulating weapons used for criminal violence continued in the 19th century, with state legislatures targeting unusually dangerous, novel, and concealable weapons, including uniquely configured dirk and Bowie knives. *Hanson*, 120 F.4th at 237. These ubiquitous historical restrictions on dirk and Bowie knives exemplify a relevantly similar historical tradition. *See Capen*, 708 F. Supp. 3d at 83 (observing that Bowie knives were subject to regulation by 49 states). The relevance of this history is supported by the text of the Second Amendment, which speaks to the right to keep and bear

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“arms,” not just firearms. *See* U.S. Const. amend. II; *State v. DeCiccio*, 315 Conn. 79, 117, 128 (2014) (concluding that dirks are “Arms” within the meaning of the Second Amendment).

Like the weapons regulated by the challenged statutes, dirk and Bowie knives were technological advancements over ordinary defensive arms because they were designed “expressly for fighting,” with longer blades, crossguards to protect fighters’ hands, and clip points to facilitate cutting or stabbing adversaries. Roth Decl. ¶ 25, *NAGR* App’x 903. In certain respects, these knives were superior even to contemporary firearms, which had limited effectiveness in close quarters.³¹ As with the regulated weapons before us, legislators singled out fighting knives after they were first used in a widely-publicized act of violence resulting in multiple fatalities: Colonel Jim Bowie’s “Sandbar Fight” at the Mississippi River on September 19, 1827 that led to two deaths and multiple non-fatal casualties.³² Ultimately, these knives were used, among other concealable weapons liable to criminal misuse, in “an alarming proportion of the era’s murders and serious assaults.” Roth Decl. ¶ 24, *NAGR* App’x 902. And, like the regulated weapons here, the large blades of Bowie knives wreaked particularly “bloody” and “gruesome” injuries.³³

31. Roth Decl. ¶ 25, *NAGR* App’x 903; David B. Kopel et. al., *Knives and the Second Amendment*, 47 U. MICH. J.L. REFORM 167, 185 (2013).

32. Kopel, *supra* note 31, at 180; *The Bowies and Bowie Knives*, N.Y. TIMES, Jan. 27, 1895, at 2.

33. Kopel, *supra* note 31, at 187 (comparing Bowie knife wounds to the “surgical” and “cosmetic” consequences of low-velocity early firearms).

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Restrictions on dirk and Bowie knives could be severe, whereas restrictions on other types of household and utility knives were nonexistent. Most states and territories restricted their concealed carry.³⁴ *Kachalsky*, 701 F.3d at 95. These prohibitions at times restricted the concealed carry of all, or nearly all, weapons,³⁵ failing to provide support for the existence of an historical tradition of heightened regulations on unusually dangerous weapons. But many laws specifically targeted the concealed carry of only those “unlawful weapons,” Act of Jan. 14, 1820, ch. 23, 1820 Ind. Acts at 39, “usually used for the infliction of personal injury,” Act of Dec. 24, 1880, no. 362, 1880 S.C. Acts 448, § 1C, such as Bowie and dirk knives.³⁶

34. *See, e.g.*, Act of Feb. 1, 1839, ch. 77, 1839 Ala. Acts at 67-68; Act of Feb. 1, 1881, 1881 Colo. Sess. Laws at 74; Act of Jan. 14, 1820, ch. 23, 1820 Ind. Acts at 39; 29 Ky. Gen. Stat. art. 29, § 1 (as amended through 1880); Act of Mar. 25, 1813, 1813 La. Acts at 172; 1886 Md. Laws, ch. 375, § 1; Act of Mar. 5, 1879, ch. 127, 1879 N.C. Sess. Laws at 231; Act of Mar. 18, 1859, 1859 Ohio Laws at 56; Act of Feb. 18, 1885, 1885 Or. Laws at 33; Act of Dec. 24, 1880, no. 362, 1880 S.C. Acts at 447-48; S.D. Terr. Pen. Code § 457 (1883); Act of Feb. 2, 1838, ch. 101, 1838 Va. Acts at 76; Wash. Code § 929 (1881); W. Va. Code, ch. 148, § 7 (1891); *see Kachalsky*, 701 F.3d at 96 n.21 (also collecting statutes).

35. *See, e.g.*, Act of Mar. 25, 1813, 1813 La. Acts at 172 (prohibiting carrying “any concealed weapon”); 29 Ky. Gen. Stat. art. 29, § 1 (as amended through 1880) (prohibiting the concealed carry of any weapon “other than an ordinary pocket knife”); Act of Feb. 18, 1885, 1885 Or. Laws at 33 (same); Wash. Code § 929 (1881) (prohibiting carrying “any concealed weapon”).

36. *See, e.g.*, Act of Feb. 1, 1839, ch. 77, 1839 Ala. Acts at 67-68 (prohibiting, *inter alia*, the concealed carry of “any bowie knife, Arkansas tooth-pick, or any other knife of the like kind”); Act of Jan. 14, 1820, ch. 23, 1819 Ind. Acts at 39 (prohibiting the

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Defendants also offer evidence of state laws banning the open carry of Bowie knives, dirks, and weapons identified as unusually dangerous, with no or limited exceptions. *See* Act of Apr. 1, 1881, ch. 96, § 1, 1881 Ark. Acts at 191 (prohibiting “carry[ing], in any manner whatever . . . any dirk or bowie knife”); Act of Apr. 12, 1871, ch. 34, 1871 Tex. Gen. Laws at 25-27 (imposing severe limitations on the “carry[]” of a “bowie-knife, or any other kind of knife manufactured or sold for the purposes of offense or defense”); *see also* *Hanson*, 120 F.4th at 237 (collecting statutes). And Defendants provide examples of states imposing severe taxes on the sale of such weapons. In 1837, Alabama imposed a law placing a tax of “one hundred dollars” on the sale of “Bowie Knives,” “Arkansaw [sic] Tooth-picks,” or knives that “resemble” these weapons. Act of June 30, 1837, No. 11, § 2, 1837 Ala. Acts 7. Florida imposed a tax of “two hundred dollars per annum” on sellers of “dirks, pocket pistols, sword canes, or bowie knives,” and levied a tax of “ten dollars per annum” on those carrying such weapons. Act of Jan. 30, 1838, No. 24, § 1, 1838 Fla. Laws 36. And Tennessee outright banned the sale of such weapons in 1838. Act of Jan. 27, 1838, ch. 137, § 1, 1837 Tenn. Pub. Acts 200.

concealed carry of any “unlawful weapon,” such as a “dirk” or “sword in cane”); Act of Mar. 5, 1879, ch. 127, 1879 N.C. Sess. Laws at 231 (prohibiting the concealed carry of “deadly weapon[s]” including the “bowie-knife”); Act of Dec. 24, 1880, no. 362, 1880 S.C. Acts at 447-48 (prohibiting the concealed carry of specific “deadly weapon[s] usually used for the infliction of personal injury,” including “dirk[s]”); 1838 Va. Acts at 76 (prohibiting the concealed carry of any “dirk, bowie knife, or any other weapons of the like kind, from this use of which the death of any person might probably ensue”).

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These laws imposing the most severe restrictions on unusually dangerous weapons were enacted largely by those southern states facing the most severe increases in violence in the pre-Civil War period. Roth Decl. ¶ 23, *Grant* App’x 1148-49. Contemporaneous state court decisions indicate that such regulations were considered permissible exercises of state police power—with different states permitted to make different decisions on how best to protect their citizens. There is limited historical evidence that courts viewed constitutional rights to self-defense as impaired by regulations that restricted unusually dangerous weapons of an offensive character (including dirk and Bowie knives) while preserving the availability of alternative weapons for self-defense.³⁷ To the contrary, state courts repeatedly upheld the constitutionality of such restrictions, affirming that these state legislatures acted “within the scope of their police powers in responding to the demands of [their] own citizens.” *Bianchi*, 111 F.4th at 447; *see also Heller*, 554 U.S. at 626 (“[T]he majority of the 19th-century courts to consider the question held that prohibitions on carrying concealed weapons were lawful under the Second Amendment or state analogues.”); *Bruen*, 597 U.S. at 50-55.

Among other examples, the Tennessee Supreme Court rejected the argument of a defendant convicted under an 1837 Tennessee law banning the concealed carry

37. For example, in 1837, Georgia forbade the sale, possession, or carry of dirk and Bowie knives, among others. The Georgia Supreme Court later held that the statute violated the Second Amendment, except to the extent that it prohibited concealed carry. *See Nunn v. State*, 1 Ga. 243 (1846).

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of Bowie knives that the law violated his rights arising under Tennessee’s constitutional analogue to the Second Amendment. *Aymette v. State*, 21 Tenn. 154, 155 (1840). There, the court noted that “[t]he Legislature . . . ha[d] a right to prohibit the wearing or *keeping* [of] weapons dangerous to the peace and safety of the citizens” that was not impeded by the state constitutional right to bear arms. *Id.* at 159. The Tennessee Supreme Court recognized that the state’s restrictions were justified to protect the community from acts of terror by individuals employing unusually dangerous weapons:

To hold that the Legislature could pass no law upon this subject by which to preserve the public peace, and protect our citizens from the terror which a wanton and unusual exhibition of arms might produce, or their lives from being endangered by desperadoes with concealed arms, would be to pervert a great political right to the worst of purposes, and to make it a social evil of infinitely greater extent to society than would result from abandoning the right itself.

Id. at 159. Other courts rejected similar constitutional challenges for nearly identical reasons.³⁸

38. See *Cockrum v. State*, 24 Tex. 394, 402-03 (1859) (rejecting a constitutional challenge to a law imposing higher penalties for killings committed with Bowie knives because Bowie knives were an “instrument of almost certain death” and because “[h]e who carries such a weapon, for lawful defense, as he may, makes himself more dangerous to the rights of others . . . than if he carried a less dangerous weapon”); *State v. Workman*, 35 W. Va. 367, 373

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Twentieth-century regulation of automatic and semiautomatic weapons continued the relevantly similar tradition of imposing targeted restrictions on unusually dangerous weapons after their use in multiple-fatality homicides and terror.³⁹ The development of the Thompson submachine gun in 1918, and its subsequent use by gangsters in mass shootings, led to the National Firearms Act of 1934, which prohibited ownership of machine guns, submachine guns, and short-barreled shotguns, as well as numerous state analogues. *See* Cornell Decl. ¶¶ 41, 53, *NAGR* App'x 956 (analogizing “pre-Civil War fears about weapons of ‘bravado[] and affray’” to “[f]ears about gangster weapons” because both reflected the “ancient common law tradition of singling out weapons capable of

(1891) (“So, also, in regard to the kind of arms referred to in the [Second A]mendment, it must be held to refer to the weapons of warfare to be used by the militia . . . and not to” weapons including Bowie knives that “are usually employed in brawls, street fights, duels, and affrays, and are only habitually carried by bullies, blackguards, and desperadoes, to the terror of the community and the injury of the state.”).

39. Historical evidence postdating ratification of the Second and Fourteenth Amendments is less instructive than earlier evidence but may be considered so long as it does not contradict the text of the Second Amendment or evidence from before or during the period of ratification. *See Bruen*, 597 U.S. at 34-37 (“[T]o the extent later history contradicts what the text says, the text controls.”); *id.* (“[P]ost-ratification adoption or acceptance of laws that are *inconsistent* with the original meaning of the constitutional text obviously cannot overcome or alter that text.” (quotation marks omitted)); *Antonyuk*, 120 F.4th at 990 n.41 (“Twentieth-century evidence is not as probative as nineteenth-century evidence. . . . But such laws are not weightless.”).

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producing a terror”); *Ocean State Tactical*, 95 F.4th at 47 (observing that Congress began regulating sawed-off shotguns after they were used by the “mass shooters of their day” (quotation marks omitted)). But even the National Firearms Act’s severe restrictions on these unusually dangerous weapons did not unlawfully burden the Second Amendment right. *See United States v. Miller*, 307 U.S. 174, 178 (1939) (upholding the constitutionality of the Act’s prohibition on possession of sawed-off shotguns).

We acknowledge that statutes that restricted the concealed or open carry of particular arms in public are distinguishable from restrictions on the acquisition and possession of certain weapons. But that does not diminish the constitutionality of appropriate restrictions that, like the Connecticut statutes, do not impair the core constitutional right under the Second Amendment. We conclude that historical prohibitions on unusually dangerous weapons used in affray and restrictions on the concealed or open carry of unusually dangerous weapons, when accompanied by statutes that imposed taxes on the sale and possession of such weapons, provide an historical tradition of restricting unusual weapons that is relevantly similar to the challenged statutes. Historical legislators regulated these unusually dangerous arms, like here, after observing the regulated weapons’ unprecedented lethality. They did so, like here, to prevent the use of these especially dangerous variants of otherwise lawful types of weapons in further acts of mass homicide and terror. And they did so, in a relevantly similar fashion, by singling out unusually dangerous weapons.

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In sum, we conclude that Defendants have, at this preliminary stage, satisfied their burden to demonstrate that permissible historical arms regulations that singled out the unusually dangerous weapons of their day are “relevantly similar” to the challenged statutes.⁴⁰ At the same time, both the historical and the contemporary legislatures did not impair the Second Amendment right to self-defense by allowing many weapons to go unchecked.

The less-than-absolute right codified by the Second Amendment permits Connecticut legislators to honor the constitutional balance captured by its text, as interpreted by the Supreme Court in light of history. The Second

40. Today, we join the First, Fourth, Seventh, Ninth, and D.C. Circuits (every Circuit to address the question) in approving restrictions on assault weapons and large capacity magazines and in recognizing a historical tradition of regulating unusually dangerous weapons after their use in terror or to perpetuate mass casualties. *See Ocean State Tactical*, 95 F.4th at 46 (recognizing the tradition of regulating dangerous aspects of weapons “once their popularity in the hands of murderers became apparent”); *Capen*, 134 F.4th at 671 (recognizing a tradition of “protect[ing] the public from the danger caused by weapons that create a particular public safety threat”); *Bianchi*, 111 F.4th at 464-72 (describing “a strong tradition of regulating those weapons that were invented for offensive purposes and were ultimately proven to pose exceptional dangers to innocent civilians” and that are “excessively dangerous”); *Bevis*, 85 F.4th at 1199 (describing “the long-standing tradition of regulating the especially dangerous weapons of the time”); *Duncan*, 133 F.4th at 874 (identifying tradition of “laws to protect innocent persons from especially dangerous uses of weapons once those perils have become clear”); *Hanson*, 120 F.4th at 237-38 (recognizing the tradition of regulating “weapons that are particularly capable of unprecedented lethality”).

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Amendment thus allows these legislators to do what they did here: implement targeted regulations designed to protect residents and their children from experiencing tragedies like the one at Sandy Hook Elementary School that Connecticut and the nation experienced on December 14, 2012, without sacrificing the self-defense core of the “right of the people to keep and bear Arms.” U.S. Const. amend. II.

Accordingly, based upon the foregoing discussion in this section, we have no difficulty concluding that Plaintiffs have failed to establish a likelihood of success on the merits.

III. Other Preliminary Injunction Factors

The district court did not reach, and Plaintiffs only cursorily argue on appeal, that they will be irreparably harmed absent injunctive relief and that the balance of equities and the public interest favor an injunction. Such cursory treatment is not unexpected, given that Plaintiffs define the irreparable harm as the denial of their constitutional rights and describe the equities and public interest as disfavoring such a denial. In other words, Plaintiffs argue that each of the injunction factors depends upon the merits of their constitutional claims.

But the Supreme Court has made clear that Plaintiffs must do more to warrant the extraordinary remedy of preliminary injunctive relief. An injunction “does not follow from [a likelihood of] success on the merits as a matter of course.” *Winter*, 555 U.S. at 32;

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see also Del. State Sportsmen's Ass'n, Inc. v. Del. Dep't of Safety & Homeland Sec., 108 F.4th 194, 197 (3d Cir. 2024) (explaining that a preliminary injunction “is not a shortcut to the merits”). Rather, plaintiffs “must make a clear showing” on the remaining factors, which have persisted as “commonplace considerations” in awarding injunctive relief throughout “several hundred years of history.” *Starbucks Corp. v. McKinney*, 602 U.S. 339, 346 (2024) (quotation marks omitted). As we have been recently reminded, our power to grant equitable relief “encompasses only those sorts of equitable remedies ‘traditionally accorded by courts of equity’ at our country’s inception.” *Trump v. CASA, Inc.*, 145 S. Ct. 2540, 2551 (2025) (quoting *Grupo Mexicano de Desarrollo, S.A. v. All. Bond Fund, Inc.*, 527 U.S. 308, 319 (1999)). Accepting Plaintiffs’ argument and concluding that these factors are essentially superfluous when a constitutional harm is alleged would be the sort of “major departure from the long tradition of equity practice” that “should not be lightly implied.” *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 320 (1982).

Accepting that “[o]ur authority to alter legal rights and obligations generally derives from . . . our determination of the merits,” we attend closely to these factors, as they “enforce a vital, structural limitation on the role of courts” by restricting grants of relief before the opportunity for a full adversarial testing of the merits. *Hanson*, 120 F.4th at 243; *see also Del. State Sportsmen's Ass'n*, 108 F.4th at 199-201.

*Appendix A***A. Irreparable Harm**

For Plaintiffs to satisfy the irreparable harm requirement, they “must demonstrate that absent a preliminary injunction they will suffer an injury that is neither remote nor speculative, but actual and imminent, and one that cannot be remedied if a court waits until the end of trial to resolve the harm.” *Faiveley Transport Malmo AB v. Wabtec Corp.*, 559 F.3d 110, 118 (2d Cir. 2009) (quoting *Grand River Enter. Six Nations, Ltd. v. Pryor*, 481 F.3d 60, 66 (2d Cir. 2007) (alterations accepted)). This requirement stems from the fundamental purpose of a preliminary injunction, which is not to guarantee the parties suffer no harm during the pendency of litigation but “merely to preserve the relative positions of the parties until a trial on the merits can be held.” *Starbucks*, 602 U.S. at 346 (quoting *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981)). To satisfy this requirement, however, Plaintiffs argue only that a “violation of constitutional rights per se constitutes irreparable injury.” Br. of NAGR Appellants at 66. This general assertion is incorrect.

To be sure, we have presumed irreparable harm for alleged deprivations of certain constitutional rights. *Brewer v. W. Irondequoit Cent. Sch. Dist.*, 212 F.3d 738, 744 (2d Cir. 2000) (noting this Circuit has presumed that the requirement of irreparable harm was met when plaintiffs alleged deprivations of their Fourth and Eighth Amendment rights). But the Supreme Court has never applied this presumption outside the First Amendment context. See *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (“The loss of First Amendment freedoms, for even minimal

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periods of time, unquestionably constitutes irreparable injury.”). And even in that context, our Court has not axiomatically applied the presumption that plaintiffs alleging deprivations of First Amendment rights have satisfied the requirement of irreparable harm. *See, e.g., Latino Officers Ass’n v. Safir*, 170 F.3d 167, 171 (2d Cir. 1999) (concluding that the plaintiffs had not “establish[ed] real and imminent irreparable harm” stemming from the alleged First Amendment violation).

Plaintiffs offer little argument as to why we should extend the presumption of irreparable harm in the context of this case. And the Supreme Court’s recent emphasis on the limits of our equitable powers caution against extending the presumption to new contexts. But we are also reluctant to run afoul of the Supreme Court’s admonishment that the Second Amendment is not a “second-class right,” *McDonald*, 561 U.S. at 780, by treating this constitutional harm differently than we have treated others in the past. We therefore proceed to the final requirement for this Court to grant Plaintiffs’ requested relief without ruling on the nondispositive issue of whether Plaintiffs have established irreparable harm.

B. Balance of the Equities and Public Interest

Even if we accept Plaintiffs’ argument that we may presume irreparable harm in this context, we must also “balance the competing claims of injury and . . . consider the effect on each party of the granting or withholding of the requested relief.” *Winter*, 555 U.S. at 24. And we are instructed to “pay particular regard for the public

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consequences in employing the extraordinary remedy of injunction.” *Id.* (quoting *Romero-Barcelo*, 456 U.S. at 312). These two factors merge when the government is party to the suit. *We The Patriots USA, Inc. v. Hochul*, 17 F.4th 266, 295 (2d Cir. 2021) (per curiam).

In balancing the equities, we first acknowledge the harm the government Defendants would suffer if “enjoined . . . from effectuating statutes enacted by representatives of its people.” *CASA*, 145 S. Ct. at 2562 (quoting with approval *Maryland v. King*, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers)). And specific to these challenged statutes, Defendants have provided evidence that granting the requested preliminary injunction would lead to a “flood” of currently restricted weapons entering Connecticut—and that these weapons will be near-impossible to retrieve once within the state.⁴¹ Defendants also provide evidence that the enforcement of laws restricting assault weapons, large capacity magazines, or both, “is associated with a statistically significant decrease in per capita rates of deaths and casualties due to mass shootings.” Donohue Decl. ¶ 82, *NAGR* App’x at 232. Taken together, these considerations—implicating both the government’s interest in enforcing laws enacted by duly-elected legislators and in protecting the lives of its citizens—weigh heavily in the balance.

41. Br. of *NAGR* Appellees at 72-73 (citing Matthew Green, *Gun Groups: More Than a Million High-Capacity Magazines Flooded California During Weeklong Ban Suspension*, KQED (Apr. 12, 2019), <https://www.kqed.org/news/11740000/gun-groups-more-than-a-million-high-capacity-magazines-flooded-california-during-weeklong-suspension-of-ban> [<https://perma.cc/3R62-X6VL>]).

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For their part, Plaintiffs rely only on the assertion that “securing constitutional rights is always in the public interest.” Br. of *NAGR* Appellants at 66. We agree that the potential denial of a party’s constitutional rights is surely a significant consideration. But the fact that a plaintiff alleges constitutional harm does not end our balance-of-the-equities inquiry. *See, e.g., Am. Civ. Liberties Union v. Clapper*, 785 F.3d 787, 825-26 (2d Cir. 2015). While Plaintiffs point to their inability to use the desired firearms for self-defense, Br. of *NAGR* Appellants at 12; Br. of *Grant* Appellants at 9-14, they do not explain why the thousands of firearms Connecticut’s statutes leave available, including several semiautomatic handguns, are insufficient for this purpose during the pendency of the case. And although Plaintiffs have been unable to possess the desired AR-15s and large capacity magazines since 2013, when the relevant legislation was enacted, they offer no instances in which the many remaining available firearms in the years since were insufficient for self-defense purposes. Plaintiffs have offered no other argument or consequences to the public that outweigh the serious effects of granting the requested relief highlighted by Defendants. We require more of plaintiffs seeking the “extraordinary and drastic remedy” of preliminary injunctive relief. *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997). Plaintiffs have not demonstrated that the balance of equities and public interest tip in their favor.

CONCLUSION

For the foregoing reasons and for the reasons set forth in Judge Nathan’s opinion, we **AFFIRM** the district court’s denial of the preliminary injunctions in both cases.

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NATHAN, *Circuit Judge*, joined by LIVINGSTON, *Chief Judge*, and WALKER, *Circuit Judge*, concurring:

I join Judge Walker’s excellent and thorough opinion for the Court in full. I write additionally to explain why Plaintiffs’ proposed “dangerous and unusual” standard is particularly untenable in light of our duty—as instructed by the Supreme Court—to engage in actual historical analysis.

Judge Walker’s opinion carefully explains why historical restrictions on “dangerous and unusual” weapons would have been contemporaneously understood as “unusually dangerous.” *See* Op. at 29-31. Nonetheless, Plaintiffs urge a contrary historical analysis based on one word in *Heller*—the “and” in “dangerous and unusual.” *District of Columbia v. Heller*, 554 U.S. 570, 627 (2008) (quotation marks omitted). Plaintiffs contend that *Heller*’s use of the word “and” means that only those weapons both dangerous *and* unusual are unprotected. Br. of NAGR Appellants at 59; Br. of *Grant* Appellants at 31-32. In this view, only weapons that are numerically uncommon, and therefore unusual, may be regulated.

Adoption of Plaintiffs’ conjunctive test would flatly betray our duty to engage in a careful historical analysis. *Bruen* instructs that the contours of the Second Amendment right are historically determined. *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1, 17 (2022). Accordingly, when the people challenge a law on Second Amendment grounds, the judicial role is to “examin[e] text, pre-ratification and post-ratification

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history, and precedent.” *United States v. Rahimi*, 602 U.S. 680, 714 (2024) (Kavanaugh, J., concurring).

Our commitment to history requires us to look beyond Plaintiffs’ reliance on one word in *Heller* and journey to the historical sources of their proposed standard. *Heller*, the first time the Supreme Court seems to have referenced the “dangerous and unusual” tradition, reads as follows:

We also recognize another important limitation on the right to keep and carry arms. *Miller* said, as we have explained, that the sorts of weapons protected were those “in common use at the time.” [*United States v. Miller*, 307 U.S. 174, 179 (1939)]. We think that limitation is fairly supported by the historical tradition of prohibiting the carrying of “dangerous and unusual weapons.” See 4 Blackstone 148-149 (1769); 3 B. Wilson, Works of the Honourable James Wilson 79 (1804); J. Dunlap, The New-York Justice 8 (1815); C. Humphreys, A Compendium of the Common Law in Force in Kentucky 482 (1822); 1 W. Russell, A Treatise on Crimes and Indictable Misdemeanors 271-272 (1831); H. Stephen, Summary of the Criminal Law 48 (1840); E. Lewis, An Abridgment of the Criminal Law of the United States 64 (1847); F. Wharton, A Treatise on the Criminal Law of the United States 726 (1852).

Heller, 554 U.S. at 627. Thus, the line in *Heller* on which Plaintiffs rely appears to be a quote of Blackstone. *Id.*

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And indeed, *Rahimi* confirms that *Heller* derived the “dangerous and unusual” language from Blackstone. 602 U.S. at 691 (quoting *Heller* for the “dangerous and unusual” formulation and noting that *Heller* cited Blackstone).

A historically faithful analysis would therefore lead us to the text of Blackstone itself, which reads as follows:

The offence of riding or going armed, with dangerous or unusual weapons, is a crime against the public peace, by terrifying the good people of the land; and is particularly prohibited by the Statute of Northampton, 2 Edw. III c. 3. upon pain of forfeiture of the arms, and imprisonment during the king’s pleasure: in like manner as, by the laws of Solon, every Athenian was finable who walked about the city in armor. [Pott. Antiqu. b. 1. c. 26].

4 Blackstone 148-49 (1769). As is clear, Blackstone did not use the phrase “dangerous and unusual” and instead described prohibitions on the carrying of “dangerous *or* unusual weapons.” *Id.* (emphasis added). It would seem a serious subversion of our commitment to history to enshrine a conjunctive test based on the *Heller* opinion’s possible misquote of Blackstone.

Even if *Heller* were not quoting Blackstone and instead derived “dangerous and usual” from the string cite of treatises and cases that followed the cite to Blackstone, our historical analysis still requires us to reject Plaintiffs’ argument. The remaining sources to

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which *Heller* cites use a mix of “dangerous or unusual” and “dangerous and unusual.” *See, e.g.*, H. Stephen, Summary of the Criminal Law 48 (1840) (“dangerous or unusual”); 3 B. Wilson, Works of the Honourable James Wilson 79 (1804) (“dangerous and unusual”). In light of this historical context, the word “and” cannot do the work that Plaintiffs ask it to do. Instead, the interchangeable use of “dangerous and unusual” and “dangerous or unusual” supports the proposition that neither “and” nor “or” should be read so literally. *See* Cornell Decl. ¶ 20, *Grant* App’x 1220-21; Elizabeth Fajans & Mary R. Falk, *Hendiadys in the Language of the Law: What Part of “And” Don’t You Understand?*, 17 Legal Comm. & Rhetoric: JAWLD 39, 40 (2020). Molding these variegated historical descriptions into a doctrinal test—as we must—the majority rightly reconstructs “unusually dangerous” as the most faithful formulation.

What’s more, the historical *reasons* for regulating “dangerous or unusual” weapons further counsel against Plaintiffs’ interpretation. *See Rahimi*, 602 U.S. at 692 (“Why and how the regulation burdens the [Second Amendment] right are central to this inquiry.”). Closer scrutiny of historical regulations on “dangerous and unusual weapons” reveals a tradition of restrictions on public affray—that is, terrifying the public. Blackstone, for example, described “[t]he offence of riding or going armed, with dangerous or unusual weapons” as a crime that “terrif[ies] the good people of the land.” Blackstone, *supra*, at 148 (emphasis omitted). Hawkins, another historical source that does use “dangerous and unusual,” conveys in substance something identical. 1 W. Hawkins, A Treatise of the Pleas of the Crown, 135 (1716) (describing

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the offense of affray as “where a Man arms himself with dangerous and unusual Weapons, in such a Manner as will naturally cause a Terror to the People”).

Taken together, the various historical sources on affray laws reveal a common concern about how “terrifying” dangerous and unusual weapons are to the public. In fact, Blackstone, Hawkins, and other historical sources repeatedly cite one particular statute: the Statute of Northampton of 1328. *See* Blackstone, *supra*, at 148-49; Hawkins, *supra*, at 135; 1 W. Russell, *A Treatise on Crimes and Indictable Misdemeanors* 271-72 (2d. Am. ed. 1831); F. Wharton, *A Treatise on the Criminal Law of the United States* 726 (2d ed. 1852); Stephen, *supra*, at 48; W. Lambard, *Eirenarcha: Or of the Office of the Justices of Peace* 128-29 (4th ed. 1599); *see also Rahimi*, 602 U.S. at 693-94. And that statute—without explicit reference to the type of weapon used—prohibits “bring[ing]” any “force in affray of the peace.” 2 Edw. III c. 3.¹ This broad

1. In relevant part:

[I]t is enacted, that no man great nor small, . . . except the King’s servants in his presence and his ministers] . . . , be so hardy to come before the King’s justices, or other of the King’s ministers doing their office, with force and arms, nor bring no force in affray of the peace, nor to go nor ride armed by night nor by day, in fairs, markets, nor in the presence of the justices or other ministers, nor in no part elsewhere, upon pain not forfeit their armour to the King, and their bodies to prison at the King’s pleasure.

2 Edw. III c. 3 (1328) (“ne force mesner en affrai de la pees”). A translation of the statute, which was originally written in

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restriction, at the heart of the “dangerous and unusual” standard, makes clear that the tradition emerges from concern about danger to the public, not statistical commonality of the threatening weapon. Indeed, glaringly absent from these historical laws is any particular focus on the commonality of the weapons used to cause that terror. Rather, when these historical sources mention weapons, they name ones that were certainly in common use. *See* Blackstone, *supra*, at 149 (citing Pott. Antiqu. b. 1. c. 26 for an Athenian law that fined those who were seen carrying a sword or wearing armor on the city streets); E. Coke, Third Part of the Institutes of the Laws of England: Concerning High Treason, and Other Pleas of the Crown, and Criminal Causes 161 (1797) (understanding armed force, in the context of the Statute of Northampton, to include the use of sticks and stones if picked up during the course of an argument).²

Plaintiffs ask us to go no further than our first intuition about the word “and.” But we *must* go further because the Supreme Court has instructed us to take historical analysis seriously. And history requires us to reject the argument that the “dangerous and unusual” tradition focused on the numerosity of the weapons in

Law French, can be found at <https://firearmslaw.duke.edu/laws/statute-of-northampton-1328-2-edw-3-c-3-eng> [<https://perma.cc/P396-JVBH>; PDF available at <https://perma.cc/2FLM-NNTU>].

2. The relevant passage in Coke, which is in Latin, quotes 3 H. Bracton, On the Laws and Customs of England 20 (c. 1235) [<https://perma.cc/Z3EM-NZ2C>]. A translation of Bracton can be found at <https://amesfoundation.law.harvard.edu/Bracton/> [<https://perma.cc/6MNE2NJJ>].

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modern society. The majority's "unusually dangerous" test earnestly and faithfully carries out the historical inquiry the Supreme Court has mandated. For these reasons and those stated in Judge Walker's opinion, I join the opinion of the Court in full.

**APPENDIX B — RULING OF THE UNITED
STATES DISTRICT COURT FOR THE DISTRICT
OF CONNECTICUT, FILED AUGUST 28, 2023**

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

No. 3:22-cv-01223 (JBA)

EDDIE GRANT, JR.,

Plaintiffs,

v.

EDWARD M. LAMONT, JR., IN HIS OFFICIAL
CAPACITY, *et al.*,

Defendants.

Filed August 28, 2023

**RULING ON PLAINTIFFS' MOTION
FOR A PRELIMINARY INJUNCTION**

Plaintiffs move for a preliminary injunction against Defendants in their official capacities that enjoins them from enforcing Conn. Gen. Stat. §§ 53-202a-f, 53-202h-j, and Conn. Public Act No. 23-53, § 23 (the “Challenged Statutes”) (Pls.’ Mem. for Prelim. Inj. [Doc. # 51]), arguing that the Challenged Statutes infringe on their Second Amendment right to keep and bear arms as articulated by *District of Columbia v. Heller*, 554 U.S. 570 (2008) and *New York State Rifle & Pistol Association, Inc. v. Bruen*,

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142 S. Ct. 2111 (Jun. 23, 2022). Defendants argue *inter alia* that Plaintiffs cannot show a likelihood of success on the merits because the weapons Plaintiffs seek to possess are not protected by the Second Amendment and that the Challenged Statutes are consistent with this nation’s tradition and history of firearm regulation. (Defs.’ Opp’n to Mot. for Prelim. Inj. [Doc. # 59].) Based on this Court’s prior ruling on the preliminary injunction motion in *National Ass’n for Gun Rights, et al, v. Lamont*, 3:22-1118(JBA), [Doc. # 85] (Aug. 3, 2023) (“NAGR PI Ruling”) and for the reasons set forth below, the motion is denied.¹

I. Background**A. Challenged Statutes**

Conn. Gen. Stat. §§ 53-202a-f and Conn. Gen. Stat. §§ 53-202h-j restrict ownership of certain categories of firearms categorized as “assault weapons”, which the statute defines both by naming specific firearms and by outlining categories of firearms with certain features that qualify. *Id.* The possession, sale, and transfer of those

1. Plaintiffs’ motion to for leave to file excess pages [Doc. # 61] is granted *nunc pro tunc*, but Plaintiffs are reminded that any motion to depart from the page limit requirements is to be filed “at least seven (7) days before the deadline for the filing of the memorandum at issue,” and a motion for permission not in compliance with the rule will “ordinarily be denied”. D. Conn. Loc. R. 7. Further motions to depart from the page limits set in Rule 7 that are not filed in advance will not be considered absent extraordinary circumstances, and in the future, pages in excess of the page limit will not be considered by the Court.

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firearms is prohibited, and violation of the statute is a Class D felony punishable by a mandatory 1-year sentence, with a maximum of 5 years incarceration. Conn. Gen. Stat. § 53-202c(a); Conn. Gen. Stat. § 53a-35a(8). Distributing, transporting, importing, stocking for sale, advertising for sale, or gifting an assault weapon is a Class C felony, carrying a mandatory minimum of two years incarceration with a maximum of up to 10 years. Conn. Gen. Stat. § 53-202b(a)(1); Conn. Gen. Stat. § 53a-35a(7).

Previously, the statutes regulated only pistols, rifles, and shotguns; the term “other firearms” was commonly used to refer to weapons that did not meet the Connecticut statutory definition of either a pistol, a rifle, or a shotgun, and therefore did not qualify as an assault weapon. (Pls.’ Mem. at 5.) “Others” often use “pistol braces”, which attach to a person’s forearm to provide stability and are visually similar to shoulder stocks but which manufacturers claim are not meant to allow for firing from the shoulder. (*Id.*) On January 31, 2023, the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) published a rule clarifying that firearms equipped with “stabilizing braces” (also referred to as “wrist braces” or “pistol braces”) are now classified either as “rifles” or “short-barreled rifles” (depending on the length of the barrel) under federal law. (TRO Order at 2.) Individuals owning these firearms may keep them under the ATF’s new rule but must register them with the ATF; however, the Department of Justice announced in an online public information session held on January 31, 2023 that ATF would not accept registrations from Connecticut residents because it viewed the previously

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categorized “others” as now meeting the definition of “assault weapons” under Connecticut law because of the ATF reclassification of such “others” as being types of rifles. (Pl.’s Mot. at 7.) However, on February 8, 2023, the Connecticut Department of Emergency Services and Public Protection’s Special Licensing and Firearms Unit released an official memorandum clarifying that despite the change in the ATF classification, it did not consider “others” to be assault weapons covered by the ban under Connecticut law. (Order Denying TRO [Doc. # 41] at 3-4.)

The classification of Connecticut “others” under Connecticut law changed on June 6, 2023, when Defendant Lamont signed into law Conn. Public Act No. 23-53, expanding the definition of “assault weapon” to include many of the weapons that were formerly defined as “others” if they meet the following criteria:

(G) Any semiautomatic firearm other than a pistol, revolver, rifle or shotgun, regardless of whether such firearm is listed in subparagraphs (A) to (D), inclusive, of this subdivision, and regardless of the date such firearm was produced, that has at least one of the following:

(i) Any grip of the weapon, including a pistol grip, a thumbhole stock or any other stock, the use of which would allow an individual to grip the weapon, resulting in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing;

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(ii) An ability to accept a detachable ammunition magazine that attaches at some location outside of the pistol grip;

(iii) A fixed magazine with the ability to accept more than ten rounds;

(iv) A flash suppressor or silencer, or a threaded barrel capable of accepting a flash suppressor or silencer;

(v) A shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to fire the firearm without being burned, except a slide that encloses the barrel;

(vi) A second hand grip; or

(vii) An arm brace or other stabilizing brace that could allow such firearm to be fired from the shoulder, with or without a strap designed to attach to an individual's arm;

(H) Any semiautomatic firearm that meets the criteria set forth in subdivision (3) or (4) of subsection (a) of section 53-202a of the general statutes, revision of 1958, revised to January 1, 2013, that was legally manufactured prior to September 13, 1994; or

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(I) A combination of parts designed or intended to convert a firearm into an assault weapon, as defined in any provision of subparagraph (G) or (H) of this subdivision, or any combination of parts from which an assault weapon, as defined in any provision of subparagraph (G) or (H) of this subdivision, may be assembled if those parts are in the possession or under the control of the same person;

See Conn. Gen. Stat. §§ 53-202a. The newly added “other” firearms that now qualify as assault weapons are called “2023 assault weapon[s]” in the statute. *Id.* at Section 53-202a(10).

B. Plaintiffs**1. Connecticut Citizens Defense League**

Plaintiff Connecticut Citizens Defense League, Inc. (“CCDL”) is a non-profit whose mission is to “preserve the effectiveness of the Second Amendment through legislative and grassroots advocacy, outreach, education, research, publication, legal action, and programs focused on the constitutional right to keep and bear arms.” (Second Amend. Compl. ¶ 32) It alleges that it brings this action on behalf of its members, supporters, and similarly situated members of the public, and that it has “diverted, and continues to divert, significant time, money, effort, and resources” that were “otherwise reserved for different institutional functions and purposes” to address the Challenged Statutes. (*Id.* ¶¶ 32-34.)

*Appendix B***2. Second Amendment Foundation**

Second Amendment Foundation (“SAF”) is a nonprofit headquartered in Washington which maintains over 700,000 “members and supporters nationwide, including many members in Connecticut.” (*Id.* ¶ 37.) SAF’s purpose is “education, research, publishing, and legal action focusing on the constitutional right to privately own and possess firearms under the Second Amendment, and the consequences of gun control.” (*Id.* ¶ 38.) It alleges that the “Court’s interpretation of the Second Amendment directly impacts SAF’s organizational interests” and those of its members and supporters in Connecticut, on whose behalf it brings this suit. (*Id.*) According to SAF, “individual Connecticut members have been adversely and directly harmed and injured by Defendants’ enforcement of the statutory prohibition on the sale, transfer, and ownership” of assault weapons. (*Id.*) SAF has dedicated “resources that would otherwise be available for other purposes” to engage in this lawsuit. (*Id.* ¶ 39.)

3. Eddie Grant Jr.

Plaintiff Eddie Grant Jr. is a Meriden, Connecticut resident and retired Connecticut Department of Corrections officer. (Pls.’ Mem. in Support of Prelim. Inj. [Doc. # 52-1] at 8.) He has a Connecticut pistol permit, which he has had for over 30 years. (*Id.*) He has also been trained on the safe and effective use of AR-15-platform firearms as part of his Corrections officer training and was “repeatedly qualified as a safe and effective user” while working there. (*Id.* at 9.) He “seeks to lawfully purchase

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and possess an AR-15-platform firearm for defensive purposes.” (*Id.* at 9.) His desire stems in part from his background as an African American man whose parents witnessed the struggle for civil rights in the Deep South, and his understanding that “racially motivated attacks were repelled in large part by the private ownership of effective defensive firearms as African-Americans bravely defended their lives and their right to equality under the rights guaranteed by the Constitution.” (*Id.* at 9-10.)

4. Jennifer Hamilton

Plaintiff Jennifer Hamilton is a Nuisance Wildlife Control Operator working for the Connecticut Department of Energy and Environmental Protection; she is also a firearms instructor. (*Id.* at 10-11.) Hamilton lives in Enfield, Connecticut, and has pistol permits for both Connecticut and Massachusetts. (*Id.* at 11.) Hamilton “seeks, and intends, to lawfully purchase one or more firearms prohibited in Conn. Gen. Stat. § 53-202a – likely an AR-15-platform firearm – because of their adaptability and effectiveness for defensive purposes,” as well as a firearm “with a telescopic stock in order to adjust the firearm’s length of pull to fit her specific body type and size, which will, in turn, give her greater control over the firearm and improve her accuracy with it.” (*Id.* at 11.) Hamilton, who has been the victim of domestic violence, states in her affidavit that she relies on defensive firearms to protect herself and her family from threats and attacks. (*Id.*)

*Appendix B***5. Michael Stiefel**

Plaintiff Michael Stiefel is a retired Connecticut Department of Corrections officer who has held a Connecticut pistol permit for over thirty years. (*Id.* at 12.) During his career, he was trained on the safe and effective use of AR-15 platform firearms and qualified annually as a safe and effective user of AR-15 platform firearms. (*Id.* at 12-13.) He “seeks, and intends, to lawfully purchase and possess an AR-15 platform firearm for defensive purposes.” (*Id.* at 13.)

All three individual Plaintiffs submit in their affidavits that they are CCDL and SAF members, that they meet “all federal and state requirements to lawfully acquire and possess firearms, ammunition, and magazines,” that they have Connecticut pistol permits, and that they own firearms categorized as 2023 assault weapons and have taken active steps to attempt to acquire additional 2023 assault weapons. (Pls.’ Mem. at 8-12.)

C. Defendants

Defendants are Commissioner of Connecticut’s Department of Emergency Services and Public Protection (“DESPP”) James Rovella, and Connecticut’s State’s Attorneys Walcott, Doyle, and Narducci.² (*See* Second Amend. Compl). All Defendants are sued in their official capacities.

2. Defendants Lamont, Griffin, Kelley, Applegate, Corradino, Shannon, Gailor, Ferencek, Watson, Gedansky, Platt, and Mahoney were dismissed from the suit. *See* [Doc. # 63].

*Appendix B***D. Procedural History**

Plaintiffs filed their initial complaint on September 29, 2022, and filed their first amended complaint on October 24, 2022. On February 3, 2023, Plaintiffs filed an emergency motion for temporary restraining order and preliminary injunction (“TRO”) barring enforcement of Conn. Gen. Stat. §§ 53-202a, 53-202b, and 53-202c (“the Assault Weapons Ban”), and, in the alternative, sought to enjoin Defendants from treating firearms “that have been considered legal ‘others’ under Connecticut law as ‘assault weapons’ until the Court can determine the merits of their application for a preliminary injunction.” [Doc. # 28]. On February 8, 2023, Defendants filed a motion to dismiss based on 11th Amendment immunity, [Doc. # 29], which was granted. (*See* [Doc. # 63].) The TRO was dismissed for lack of standing on June 1, 2023, based on a lack of evidence that Plaintiffs were subject to a credible and imminent threat of enforcement of the ATF rule against them. [Doc. # 41]. After Governor Lamont signed Conn. Public Act No. 23-53 into law on June 6, 2023, the Court permitted Plaintiffs to file a Second Amended Complaint and an amended motion for preliminary injunction to add challenges to the newly defined categories of assault weapons.

II. Legal Standard

To obtain a preliminary injunction, “the movant has to demonstrate (1) irreparable harm absent injunctive relief, (2) a likelihood of success on the merits, and (3) public interest weighing in favor of granting the injunction.

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The movant also must show that the balance of equities tips in his or her favor.” *Yang v. Kosinski*, 960 F.3d 119, 127 (2d Cir. 2020).³ When “the moving party seeks to stay governmental action taken in the public interest pursuant to a statutory or regulatory scheme,” the injunction will only be granted if both irreparable harm and a likelihood of success on the merits are shown. *Plaza Health Laboratories, Inc. v. Perales*, 878 F.2d 577, 580 (2d Cir. 1989).

This Court held in *NAGR* that an injunction seeking to enjoin enforcement of Connecticut’s assault weapon ban was a prohibitory one, rather than a mandatory one. *NAGR* PI Ruling at 13. Defendants urge the Court to find in this case that the injunction is a mandatory one because Plaintiffs “seek to enjoin enforcement of an in-force statute that has been upheld as constitutional” in *New York State Rifle & Pistol Ass’n, Inc. v. Cuomo*, 804 F.3d 242 (2d Cir. 2015) (Defs.’ Opp’n at 7.) Defendants cite to *Consumer Directed Pers. Assistance Ass’n of New York State, Inc. v. Zucker*, No. 118CV746FJSCFH, 2018 WL 3579860, at *2 (N.D.N.Y. July 25, 2018), in which the district court interpreted the “status quo” as being the time that the statute plaintiffs sought to enjoin enforcement of came into effect; however, *Consumer Directed Pers. Assistance Ass’n* failed to address the Second Circuit’s *Mastrovincenzo v. City of New York*, 435 F.3d. 78, 90 (2d Cir. 2006) finding that enjoining enforcement of a statute is prohibitory, rather than mandatory. *Pankos Diner*

3. Unless otherwise indicated, this opinion omits internal quotation marks, alterations, citations, and footnotes in text quoted from court decisions.

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Corp. v. Nassau Cnty. Legislature, 321 F. Supp. 2d 520, 523 (E.D.N.Y. 2003), suffers from a similar flaw.⁴ Thus, the Court finds that absent any demonstration that granting the injunction would grant Plaintiffs all the relief sought, it is of a prohibitory injunction rather than a mandatory one.

III. Discussion

In *NAGR*, the Court ruled on a motion for a preliminary injunction involving the same statute being challenged here, but which challenged only the firearms that were banned prior to the June 6, 2023 amendment. The Court adopts its prior holding in *NAGR* as to the analytical framework that now applies to Second Amendment challenges *post-Bruen* and the burdens borne by Plaintiffs and Defendants under that analytical framework. Thus, the only questions remaining to be decided on this motion are whether the Plaintiffs have (1) come forward with different or additional evidence that would warrant a different result in this case as to the pre-amendment categories of firearms, and (2) whether 2023 assault weapons may be constitutionally banned.

4. Defendants' arguments might have more weight if they were distinguishing *Mastrovincenzo* on the basis that the statute they were defending had been found constitutional, thus establishing a status quo of enforcement, by a case whose holding was still binding; however, *Cuomo's* ultimate holding that the Challenged Statutes were constitutional was premised primarily on the means-end analysis rejected by *Bruen*, and further was decided before the Challenged Statutes were amended in June of 2023.

*Appendix B***A. Standard for Evaluating Second Amendment Claims**

Under *Heller* and *Bruen*, Plaintiffs “bear the burden of producing evidence that the specific firearms they seek to use and possess are in common use for self-defense, that the people possessing them are typically law-abiding citizens, and that the purposes for which the firearms are typically possessed are lawful ones.” *NAGR* PI Ruling at 33. “To the extent that Defendants seek to demonstrate that the regulated firearms are instead dangerous and unusual weapons that are not protected by the Second Amendment, Defendants must demonstrate either that the weapons are unusually dangerous, or that they are not commonly used or possessed for self-defense.” *Id.* at 34. “If Plaintiffs establish each of those elements, the burden shifts to Defendants to justify their regulation based on *Bruen*’s requirements for establishing relevant similarity to history and tradition.” *Id.* at 36.

B. Facial Challenges

This Court recently held that the standard for bringing facial challenges is that plaintiffs must show “that no set of circumstances exists” under which the Challenged Statutes would be constitutional based on the standard established in *United States v. Salerno*, 481 U.S. 739, 745 (1987) and reaffirmed as the governing standard in this Circuit by *Cnty. Hous. Improvement Program v. City of New York*, 59 F.4th 540, 548 (2d Cir. 2023). *See NAGR* PI Ruling at 13-16. However, the Supreme Court has also cautioned that “whenever an act of Congress contains

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unobjectionable provisions separable from those found to be unconstitutional, it is the duty of this court to so declare, and to maintain the act in so far as it is valid[.]” *Regan v. Time, Inc.*, 468 U.S. 641, 652 (1984), and the Second Circuit followed this principle in *New York State Rifle and Pistol Ass’n, Inc. v. Cuomo*, 804 F.3d 242, 265, 269 (2d Cir. 2015) by finding certain provisions of New York and Connecticut’s statutory scheme regulating firearms to be unconstitutional (for example, Connecticut’s ban on the Remington Tactical 7615 pump action rifle) and invalidating only those specific provisions while leaving the larger regulatory scheme intact. Thus, the Court will determine for each challenged portion of the statutes whether Plaintiffs have established that there is no set of circumstances under which the bans of the various types of firearms standing alone and in conjunction with their accessories, and of large capacity magazines, could be constitutional.

C. Merits of Plaintiffs’ Second Amendment Challenge

1. Whether Assault Weapons are Commonly Used for Self-Defense, and Typically Possessed by Law Abiding Citizens for Lawful Purposes, or are Dangerous and Unusual

Plaintiffs argue that there is “absolutely no question that the Plaintiffs meet the first requirement” under *Bruen* that their proposed conduct of keeping and bearing assault weapons for the purpose of self-defense “falls

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within the protections of the Second Amendment’s text.” (Pls.’ Mem. at 19.) However, in *NAGR*, this Court held that showing mere statistical numerosity is insufficient to show that a weapon is in “common use for self-defense,” and that there is no evidence that assault weapons are commonly used for that purpose; none of the evidence presented by Plaintiffs here gives the Court a basis for finding otherwise. *See NAGR* PI Ruling at 26-33.⁵

Although the classification of “others” as 2023 assault weapons was not challenged as part of the preliminary injunction motion brought in *NAGR*, neither side argues that there are any significant differences in the key functionality between the 2023 assault weapons and the more limited group of firearms classified as assault weapons prior to the June 6, 2023 amendment; Defendants take the position that 2023 assault weapons are “functionally similar to firearms captured under the original ban,” (Defs.’ Opp’n at 6), and Plaintiffs posit that the “key distinction” between 2023 assault weapons and pre-2023 assault weapons is that 2023 assault weapons often use “pistol braces” (Pls.’ Mem. at 5). While Plaintiffs use the phrase “modern sporting rifles” and “others”

5. Defendants also note that Thompson submachine guns, or “Tommy Guns”, were “all too common” before Congress passed the National Firearms Act of 1934, but that *Heller* nevertheless affirmed the holding of *United States v. Miller*, 307 U.S. 174, 179 (1939) that the National Firearms Act banning Tommy Guns was constitutional because certain weapons were “not eligible for Second Amendment protection.” *Heller*’s affirmation of *Miller* provides yet another reason to interpret “common use” as requiring more than a simple showing that many people own the firearm in question.

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separately on several occasions, they also acknowledge that the 2023 assault weapons being criminalized are all semiautomatic, and Plaintiff Grant described owning an “other” in an “AR15 configuration”, from which the Court infers that there is significant overlap in the key features. (Defs.’ Opp’n at 48) (quoting Plaintiff Grant’s Deposition Tr., Defs.’ Ex. I.). Detective Warendt also identifies several examples of “others” that are “AR-15 type”, (Warendt Aff. ¶¶ 67-69) and submits that assault weapons – without distinguishing between pre-2023 categories and the new 2023 assault weapons – are a subcategory of all semiautomatic weapons, the majority of which are essentially civilian versions of military weapons. (Warendt Aff. ¶¶ 27, 19.) Plaintiffs also provide no evidence specific to common use of the 2023 assault weapons category besides the statistics of how many Connecticut “others” are registered with the state and the individual testimony of each Plaintiff regarding how they use their 2023 assault weapon, neither of which shows whether the firearms are commonly used for self-defense.

Thus, absent any specific evidence that 2023 assault weapons are commonly used for self-defense where pre-June 2023 assault weapons were not, Plaintiffs have failed to meet their burden here as well. Plaintiffs are correct that the Second Amendment “provides them with the freedom to choose a firearm . . . that is not ‘dangerous and unusual’ and that is normally used for self-defense (Pls.’ Reply at 14); however, until they submit evidence that supports a finding that the assault weapons in the Challenged Statutes meet those requirements, they cannot show a likelihood of success on the merits of their Second Amendment claim.

*Appendix B***2. Whether the Firearm Regulations are Consistent with the Nation's Historical Tradition of Firearm Regulation**

Plaintiffs' failure to produce evidence sufficient to show common use for self-defense of the assault weapons is fatal to their motion; however, the Court also finds that as in *NAGR*, the Challenged Statutes are consistent with the nation's history and tradition of firearm regulation. There, this Court concluded as a matter of law that the Challenged Statutes were enacted for the same reason as historical statutes regulating the method of carry and the types of weapons people could carry based on the new and dangerous characteristics of developing weapons technology: "to respond to growing rates of violence and lethality caused by modern innovations in technology and changing patterns of human behavior by regulating the particular kinds of weapons or modes of carry that were being most often employed by those causing the violence, while leaving open alternative avenues for lawful possession of firearms for purposes of self-defense." *NAGR* PI Ruling at 66. Because the Challenged Statutes ban "only a subset of each category of firearms that possess new and dangerous characteristics that make them susceptible to abuse by non-law abiding citizens wielding them for unlawful purposes," the Court also found that the Challenged Statutes impose "a comparable burden to the regulations on Bowie knives, percussion cap pistols, and other dangerous or concealed weapons[.]" *Id.*

A number of other district courts have reached the same conclusion about the purpose for which early firearm

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and weapons regulations were enacted. *See, e.g., Oregon Firearms Fed’n v. Kotek Oregon All. for Gun Safety*, No. 2:22-CV-01815-IM, 2023 WL 4541027, at *46 (D. Or. July 14, 2023) (holding that “[t]hroughout this Nation’s history, new technologies have led to the creation of particularly dangerous weapons,” which “became tied with violence and criminality” as they became more common, and that the statutes being challenged shared the same driving motivation of “address[ing] the features of those weapons that made them particularly dangerous to public safety” as historical analogues); *Delaware State Sportsmen’s Ass’n, Inc. v. Delaware Dep’t of Safety & Homeland Sec.*, No. CV 22-951-RGA, 2023 WL 2655150, at *13 (D. Del. Mar. 27, 2023) (finding that the statutes being challenged were comparably justified to historical analogues that “were enacted in response to pressing public safety concerns regarding weapons determined to be dangerous.”) Plaintiffs offer no new evidence that undermines or refutes the Court’s prior analysis of this Nation’s history, or its ultimate holding. Thus, the Court will not repeat the same historical analysis to hold that even if Plaintiffs had demonstrated that assault weapons in the Challenged Statutes were commonly used for self-defense, they cannot show a likelihood of success on the merits because bans on certain semiautomatic weapons are consistent with and justified by this nation’s history and tradition of firearm regulation.

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IV. Conclusion

Plaintiffs' Motion for a Preliminary Injunction is
DENIED.

IT IS SO ORDERED.

/s/ Janet Bond Arterton
Janet Bond Arterton, U.S.D.J.

Dated at New Haven, Connecticut
this 28th day of August, 2023

**APPENDIX C — JUDGMENT OF THE UNITED
STATES COURT OF APPEALS FOR THE
SECOND CIRCUIT, FILED AUGUST 22, 2025**

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Nos. 23-1162, 23-1344

NATIONAL ASSOCIATION FOR GUN RIGHTS,
TONI THERESA SPERA FLANIGAN,

Plaintiffs-Appellants,

PATRICIA BROUGHT,

Plaintiff,

v.

NED LAMONT, IN HIS OFFICIAL CAPACITY
AS THE GOVERNOR OF THE STATE OF
CONNECTICUT, PATRICK J. GRIFFIN, IN HIS
OFFICIAL CAPACITY AS THE CHIEF STATES
ATTORNEY OF THE STATE OF CONNECTICUT,
SHARMESE L. WALCOTT, IN HER OFFICIAL
CAPACITY AS THE STATE'S ATTORNEY,
HARTFORD JUDICIAL DISTRICT,

Defendants-Appellees,

DAVID R. SHANNON, IN HIS OFFICIAL
CAPACITY AS THE STATE'S ATTORNEY,
LITCHFIELD JUDICIAL DISTRICT,

Defendant.

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EDDIE GRANT, JR., JENNIFER HAMILTON,
MICHAEL STIEFEL, CONNECTICUT
CITIZENS DEFENSE LEAGUE, INC., SECOND
AMENDMENT FOUNDATION, INC.,

Plaintiffs-Appellants,

v.

JAMES ROVELLA, JOHN P. DOYLE, JR.,
SHARMESE L. WALCOTT, PAUL J. NARDUCCI,
IN THEIR OFFICIAL CAPACITIES,

Defendants-Appellees,

EDWARD LAMONT, JR., PATRICK GRIFFIN,
MARGARET E. KELLY, DAVID R. APPELEGATE,
JOSEPH T. CORRADINO, DAVID R. SHANNON,
MICHAEL A. GAILOR, CHRISTIAN WATSON,
PAUL J. FERENCEK, MATTHEW C. GEDANSKY,
MAUREEN PLATT, ANNE F. MAHONEY, IN
THEIR OFFICIAL CAPACITIES,

Defendants.

Filed August 22, 2025

JUDGMENT

Before: Debra Ann Livingston, *Chief Judge*, John M.
Walker, Jr., Alison J. Nathan, *Circuit Judges*.

The appeals in the above captioned cases from orders of the United States District Court for the District of Connecticut were argued on the District Court's record and the parties' briefs.

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IT IS HEREBY ORDERED, ADJUDGED and
DECREED that the district court's orders denying the
preliminary injunction in both cases are AFFIRMED.

For the Court:
Catherine O'Hagan Wolfe,
Clerk of Court

s/ Catherine O'Hagan Wolfe

**APPENDIX D — CONSTITUTIONAL PROVISIONS,
STATUTES, AND REGULATIONS INVOLVED**

U.S. CONST. amend. II

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. XIV, § 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

*Appendix D***CONN. GEN. STAT. § 53-202a**

As used in this section and sections 53-202b to 53-202k, inclusive:

(1) “Assault weapon” means:

(A) (i) Any selective-fire firearm capable of fully automatic, semiautomatic or burst fire at the option of the user or any of the following specified semiautomatic firearms: Algimec Agmi; Armalite AR-180; Australian Automatic Arms SAP Pistol; Auto-Ordnance Thompson type; Avtomat Kalashnikov AK-47 type; Barrett Light-Fifty model 82A1; Beretta AR-70; Bushmaster Auto Rifle and Auto Pistol; Calico models M-900, M-950 and 100-P; Chartered Industries of Singapore SR-88; Colt AR-15 and Sporter; Daewoo K-1, K-2, Max-1 and Max-2; Encom MK-IV, MP-9 and MP-45; Fabrique Nationale FN/FAL, FN/LAR, or FN/FNC; FAMAS MAS 223; Feather AT-9 and Mini-AT; Federal XC-900 and XC-450; Franchi SPAS-12 and LAW-12; Galil AR and ARM; Goncz High-Tech Carbine and High-Tech Long Pistol; Heckler & Koch HK-91, HK-93, HK-94 and SP-89; Holmes MP-83; MAC-10, MAC-11 and MAC-11 Carbine type; Intratec TEC-9 and Scorpion; Iver Johnson Enforcer model 3000; Ruger Mini-14/5F folding stock model only; Scarab Skorpion; SIG 57 AMT and 500 series; Spectre Auto Carbine and Auto Pistol; Springfield Armory BM59, SAR-48 and G-3; Sterling MK-6 and MK-7; Steyr AUG; Street Sweeper and Striker 12 revolving cylinder shotguns; USAS-12; UZI Carbine,

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Mini-Carbine and Pistol; Weaver Arms Nighthawk;
Wilkinson “Linda” Pistol;

(ii) A part or combination of parts designed or intended to convert a firearm into an assault weapon, as defined in subparagraph (A)(i) of this subdivision, or any combination of parts from which an assault weapon, as defined in subparagraph (A)(i) of this subdivision, may be rapidly assembled if those parts are in the possession or under the control of the same person;

(B) Any of the following specified semiautomatic centerfire rifles, or copies or duplicates thereof with the capability of any such rifles, that were in production prior to or on April 4, 2013: (i) AK-47; (ii) AK-74; (iii) AKM; (iv) AKS-74U; (v) ARM; (vi) MAADI AK47; (vii) MAK90; (viii) MISR; (ix) NHM90 and NHM91; (x) Norinco 56, 56S, 84S and 86S; (xi) Poly Technologies AKS and AK47; (xii) SA 85; (xiii) SA 93; (xiv) VEPR; (xv) WASR-10; (xvi) WUM; (xvii) Rock River Arms LAR-47; (xviii) Vector Arms AK-47; (xix) AR-10; (xx) AR-15; (xxi) Bushmaster Carbon 15, Bushmaster XM15, Bushmaster ACR Rifles, Bushmaster MOE Rifles; (xxii) Colt Match Target Rifles; (xxiii) Armalite M15; (xxiv) Olympic Arms AR-15, A1, CAR, PCR, K3B, K30R, K16, K48, K8 and K9 Rifles; (xxv) DPMS Tactical Rifles; (xxvi) Smith and Wesson M&P15 Rifles; (xxvii) Rock River Arms LAR-15; (xxviii) Doublestar AR Rifles; (xxix) Barrett REC7; (xxx) Beretta Storm; (xxxi) Calico Liberty 50, 50 Tactical, 100, 100 Tactical, I, I Tactical, II and II Tactical Rifles; (xxxii) Hi-Point Carbine Rifles; (xxxiii) HK-PSG-1;

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(xxxiv) Kel-Tec Sub-2000, SU Rifles, and RFB; (xxxv) Remington Tactical Rifle Model 7615; (xxxvi) SAR-8, SAR-4800 and SR9; (xxxvii) SLG 95; (xxxviii) SLR 95 or 96; (xxxix) TNW M230 and M2HB; (xl) Vector Arms UZI; (xli) Galil and Galil Sporter; (xlii) Daewoo AR 100 and AR 110C; (xliii) Fabrique Nationale/FN 308 Match and L1A1 Sporter; (xliv) HK USC; (xlv) IZHMAISH Saiga AK; (xlvi) SIG Sauer 551-A1, 556, 516, 716 and M400 Rifles; (xlvii) Valmet M62S, M71S and M78S; (xlviii) Wilkinson Arms Linda Carbine; and (xlix) Barrett M107A1;

(C) Any of the following specified semiautomatic pistols, or copies or duplicates thereof with the capability of any such pistols, that were in production prior to or on April 4, 2013: (i) Centurion 39 AK; (ii) Draco AK-47; (iii) HCR AK-47; (iv) IO Inc. Hellpup AK-47; (v) Mini-Draco AK-47; (vi) Yugo Krebs Krink; (vii) American Spirit AR-15; (viii) Bushmaster Carbon 15; (ix) Doublestar Corporation AR; (x) DPMS AR-15; (xi) Olympic Arms AR-15; (xii) Rock River Arms LAR 15; (xiii) Calico Liberty III and III Tactical Pistols; (xiv) Masterpiece Arms MPA Pistols and Velocity Arms VMA Pistols; (xv) Intratec TEC-DC9 and AB-10; (xvi) Colefire Magnum; (xvii) German Sport 522 PK and Chiappa Firearms Mfour-22; (xviii) DSA SA58 PKP FAL; (xix) I.O. Inc. PPS-43C; (xx) Kel-Tec PLR-16 Pistol; (xxi) Sig Sauer P516 and P556 Pistols; and (xxii) Thompson TA5 Pistols;

(D) Any of the following semiautomatic shotguns, or copies or duplicates thereof with the capability of any

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such shotguns, that were in production prior to or on April 4, 2013: All IZHMAISH Saiga 12 Shotguns;

(E) Any semiautomatic firearm regardless of whether such firearm is listed in subparagraphs (A) to (D), inclusive, of this subdivision, and regardless of the date such firearm was produced, that meets the following criteria:

(i) A semiautomatic, centerfire rifle that has an ability to accept a detachable magazine and has at least one of the following:

(I) A folding or telescoping stock;

(II) Any grip of the weapon, including a pistol grip, a thumbhole stock, or any other stock, the use of which would allow an individual to grip the weapon, resulting in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing;

(III) A forward pistol grip;

(IV) A flash suppressor; or

(V) A grenade launcher or flare launcher; or

(ii) A semiautomatic, centerfire rifle that has a fixed magazine with the ability to accept more than ten rounds; or

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(iii) A semiautomatic, centerfire rifle that has an overall length of less than thirty inches; or

(iv) A semiautomatic pistol that has an ability to accept a detachable magazine and has at least one of the following:

(I) An ability to accept a detachable ammunition magazine that attaches at some location outside of the pistol grip;

(II) A threaded barrel capable of accepting a flash suppressor, forward pistol grip or silencer;

(III) A shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to fire the firearm without being burned, except a slide that encloses the barrel; or

(IV) A second hand grip; or

(v) A semiautomatic pistol with a fixed magazine that has the ability to accept more than ten rounds; or

(vi) A semiautomatic shotgun that has both of the following:

(I) A folding or telescoping stock; and

(II) Any grip of the weapon, including a pistol grip, a thumbhole stock, or any other stock,

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the use of which would allow an individual to grip the weapon, resulting in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing; or

(vii) A semiautomatic shotgun that has the ability to accept a detachable magazine; or

(viii) A shotgun with a revolving cylinder; or

(ix) Any semiautomatic firearm that meets the criteria set forth in subdivision (3) or (4) of subsection (a) of section 53-202a of the general statutes, revision of 1958, revised to January 1, 2013; or

(F) A part or combination of parts designed or intended to convert a firearm into an assault weapon, as defined in any provision of subparagraphs (B) to (E), inclusive, of this subdivision, or any combination of parts from which an assault weapon, as defined in any provision of subparagraphs (B) to (E), inclusive, of this subdivision, may be assembled if those parts are in the possession or under the control of the same person;

(G) Any semiautomatic firearm other than a pistol, revolver, rifle or shotgun, regardless of whether such firearm is listed in subparagraphs (A) to (D), inclusive, of this subdivision, and regardless of the date such firearm was produced, that has at least one of the following:

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- (i) Any grip of the weapon, including a pistol grip, a thumbhole stock or any other stock, the use of which would allow an individual to grip the weapon, resulting in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing;
 - (ii) An ability to accept a detachable ammunition magazine that attaches at some location outside of the pistol grip;
 - (iii) A fixed magazine with the ability to accept more than ten rounds;
 - (iv) A flash suppressor or silencer, or a threaded barrel capable of accepting a flash suppressor or silencer;
 - (v) A shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to fire the firearm without being burned, except a slide that encloses the barrel;
 - (vi) A second hand grip; or
 - (vii) An arm brace or other stabilizing brace that could allow such firearm to be fired from the shoulder, with or without a strap designed to attach to an individual's arm;
- (H) Any semiautomatic firearm that meets the criteria set forth in subdivision (3) or (4) of subsection (a) of

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section 53-202a of the general statutes, revision of 1958, revised to January 1, 2013, that was legally manufactured prior to September 13, 1994; or

(I) A combination of parts designed or intended to convert a firearm into an assault weapon, as defined in any provision of subparagraph (G) or (H) of this subdivision, or any combination of parts from which an assault weapon, as defined in any provision of subparagraph (G) or (H) of this subdivision, may be assembled if those parts are in the possession or under the control of the same person;

(2) “Assault weapon” does not include

(A) any firearm modified to render it permanently inoperable, or

(B) a part or any combination of parts of an assault weapon, that are not assembled as an assault weapon, when in the possession of a licensed gun dealer, as defined in subsection (f) of section 53-202f, or a gunsmith who is in the licensed gun dealer’s employ, for the purposes of servicing or repairing lawfully possessed assault weapons under sections 53-202a to 53-202k, inclusive;

(3) “Action of the weapon” means the part of the firearm that loads, fires and ejects a cartridge, which part includes, but is not limited to, the upper and lower receiver, charging handle, forward assist, magazine release and shell deflector;

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(4) “Detachable magazine” means an ammunition feeding device that can be removed without disassembling the firearm action;

(5) “Firearm” means a firearm, as defined in section 53a-3;

(6) “Forward pistol grip” means any feature capable of functioning as a grip that can be held by the nontrigger hand;

(7) “Lawfully possesses” means:

(A) With respect to an assault weapon described in any provision of subparagraphs (B) to (F), inclusive, of subdivision (1) of this section, (i) actual possession that is lawful under sections 53-202b to 53-202k, (ii) constructive possession pursuant to a lawful purchase transacted prior to or on April 4, 2013, regardless of whether the assault weapon was delivered to the purchaser prior to or on April 4, 2013, which lawful purchase is evidenced by a writing sufficient to indicate that (I) a contract for sale was made between the parties prior to or on April 4, 2013, for the purchase of the assault weapon, or (II) full or partial payment for the assault weapon was made by the purchaser to the seller of the assault weapon prior to or on April 4, 2013, or (iii) actual possession under subparagraph (A)(i) of this subdivision, or constructive possession under subparagraph (A)(ii) of this subdivision, as evidenced by a written statement made under penalty of false statement on such form as the Commissioner of Emergency Services and Public Protection prescribes; or

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(B) With respect to a 2023 assault weapon, (i) actual possession that is lawful under sections 53-202b to 53-202k, inclusive, (ii) constructive possession pursuant to a lawful purchase transacted prior to June 6, 2023, regardless of whether such assault weapon was delivered to the purchaser prior to June 6, 2023, which lawful purchase is evidenced by a writing sufficient to indicate that (I) a contract for sale was made between the parties prior to June 6, 2023, for the purchase of such assault weapon, or (II) full or partial payment for such assault weapon was made by the purchaser to the seller of such assault weapon prior to June 6, 2023, or (iii) actual possession under subparagraph (B)(i) of this subdivision, or constructive possession under subparagraph (B)(ii) of this subdivision, as evidenced by a written statement made under penalty of false statement on such form as the Commissioner of Emergency Services and Public Protection prescribes;

(8) “Pistol grip” means a grip or similar feature that can function as a grip for the trigger hand;

(9) “Second hand grip” means a grip or similar feature that can function as a grip that is additional to the trigger hand grip; and

(10) “2023 assault weapon” means an assault weapon described in any provision of subparagraphs (G) to (I), inclusive, of subdivision (1) of this section.

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CONN. GEN. STAT. § 53-202b

(a) (1) Any person who, within this state, distributes, transports or imports into the state, keeps for sale, or offers or exposes for sale, or who gives any assault weapon, except as provided by sections 53-202a to 53-202k, inclusive, shall be guilty of a class C felony and shall be sentenced to a term of imprisonment of which two years may not be suspended or reduced by the court.

(2) Any person who transfers, sells or gives any assault weapon to a person under eighteen years of age in violation of subdivision (1) of this subsection shall be sentenced to a term of imprisonment of six years, which shall not be suspended or reduced by the court and shall be in addition and consecutive to the term of imprisonment imposed under subdivision (1) of this subsection.

(b) The provisions of subsection (a) of this section shall not apply to:

(1) The sale of assault weapons to:

(A) The Department of Emergency Services and Public Protection, police departments, the Department of Correction, the Division of Criminal Justice, the Department of Motor Vehicles, the Department of Energy and Environmental Protection or the military or naval forces of this state or of the United States;

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(B) a sworn and duly certified member of an organized police department, the Division of State Police within the Department of Emergency Services and Public Protection or the Department of Correction, a chief inspector or inspector in the Division of Criminal Justice, a salaried inspector of motor vehicles designated by the Commissioner of Motor Vehicles, a conservation officer or special conservation officer appointed by the Commissioner of Energy and Environmental Protection pursuant to section 26-5, or a constable who is certified by the Police Officer Standards and Training Council and appointed by the chief executive authority of a town, city or borough to perform criminal law enforcement duties, pursuant to a letter on the letterhead of such department, division, commissioner or authority authorizing the purchase and stating that the sworn member, inspector, officer or constable will use the assault weapon in the discharge of official duties, and that a records check indicates that the sworn member, inspector, officer or constable has not been convicted of a crime of family violence, for use by such sworn member, inspector, officer or constable in the discharge of such sworn member's, inspector's, officer's or constable's official duties or when off duty, (C) a member of the military or naval forces of this state or of the United States, or (D) a nuclear facility licensed by the United States Nuclear Regulatory Commission for the purpose of providing security services at such facility, or any contractor or subcontractor of such facility

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for the purpose of providing security services at such facility;

(2) A person who is the executor or administrator of an estate that includes an assault weapon for which a certificate of possession has been issued under section 53-202d which is disposed of as authorized by the Probate Court, if the disposition is otherwise permitted by sections 53-202a to 53-202k, inclusive;

(3) The transfer of an assault weapon for which a certificate of possession has been issued under section 53-202d, by bequest or intestate succession, or, upon the death of a testator or settlor: (A) To a trust, or (B) from a trust to a beneficiary who is eligible to possess the assault weapon;

(4) The sale of a semiautomatic pistol that is defined as an assault weapon in any provision of subparagraphs (B) to (F), inclusive, of subdivision (1) of section 53-202a that the Commissioner of Emergency Services and Public Protection designates as being designed expressly for use in target shooting events at the Olympic games sponsored by the International Olympic Committee pursuant to regulations adopted under this subdivision, and for which the purchaser signs a form prescribed by the commissioner and provided by the seller that indicates that the pistol will be used by the purchaser primarily for target shooting practice and events. The Commissioner of Emergency Services and Public Protection shall adopt regulations, in accordance with chapter 54,¹ to

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designate semiautomatic pistols that are defined as assault weapons in any provision of subparagraphs (B) to (F), inclusive, of subdivision (1) of section 53-202a that may be sold pursuant to this subdivision, provided the use of such pistols is sanctioned by the International Olympic Committee and USA Shooting, or any subsequent corresponding governing board for international shooting competition in the United States.

*Appendix D***CONN. GEN. STAT. § 53-202c**

(a) Except as provided in section 53-202e, any person who, within this state, possesses an assault weapon, except as provided in sections 53-202a to 53-202k, inclusive, and 53-202o, shall be guilty of a class D felony and shall be sentenced to a term of imprisonment of which one year may not be suspended or reduced by the court, except that a first-time violation of this subsection shall be a class A misdemeanor if (1) the person presents proof that such person lawfully possessed the assault weapon (A) prior to October 1, 1993, with respect to an assault weapon described in subparagraph (A) of subdivision (1) of section 53-202a, (B) on April 4, 2013, under the provisions of sections 53-202a to 53-202k, inclusive, in effect on January 1, 2013, with respect to an assault weapon described in any provision of subparagraphs (B) to (F), inclusive, of subdivision (1) of section 53-202a, or (C) on June 5, 2023, under the provisions of sections 53-202a to 53-202k, inclusive, revision of 1958, revised to January 1, 2023, with respect to an assault weapon defined as a 2023 assault weapon in section 53-202a, and (2) the person has otherwise possessed the assault weapon in compliance with subsection (f) of section 53-202d.

(b) The provisions of subsection (a) of this section shall not apply to the possession of assault weapons by:

(1) The Department of Emergency Services and Public Protection, police departments, the Department of Correction, the Division of Criminal Justice, the Department of Motor Vehicles, the Department of

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Energy and Environmental Protection or the military or naval forces of this state or of the United States, (2) a sworn and duly certified member of an organized police department, the Division of State Police within the Department of Emergency Services and Public Protection or the Department of Correction, a chief inspector or inspector in the Division of Criminal Justice, a salaried inspector of motor vehicles designated by the Commissioner of Motor Vehicles, a conservation officer or special conservation officer appointed by the Commissioner of Energy and Environmental Protection pursuant to section 26-5, or a constable who is certified by the Police Officer Standards and Training Council and appointed by the chief executive authority of a town, city or borough to perform criminal law enforcement duties, for use by such sworn member, inspector, officer or constable in the discharge of such sworn member's, inspector's, officer's or constable's official duties or when off duty, (3) a member of the military or naval forces of this state or of the United States, or (4) a nuclear facility licensed by the United States Nuclear Regulatory Commission for the purpose of providing security services at such facility, or any contractor or subcontractor of such facility for the purpose of providing security services at such facility.

(c) The provisions of subsection (a) of this section shall not apply to the possession of an assault weapon described in subparagraph (A) of subdivision (1) of section 53-202a by any person prior to July 1, 1994, if all of the following are applicable:

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(1) The person is eligible under sections 53-202a to 53-202k, inclusive, to apply for a certificate of possession for the assault weapon by July 1, 1994;

(2) The person lawfully possessed the assault weapon prior to October 1, 1993; and

(3) The person is otherwise in compliance with sections 53-202a to 53-202k, inclusive.

(d) The provisions of subsection (a) of this section shall not apply to the possession of an assault weapon described in any provision of subparagraphs (B) to (F), inclusive, of subdivision (1) of section 53-202a by any person prior to April 5, 2013, if all of the following are applicable:

(1) The person is eligible under sections 53-202a to 53-202k, inclusive, to apply for a certificate of possession for the assault weapon by January 1, 2014;

(2) The person lawfully possessed the assault weapon on April 4, 2013, under the provisions of sections 53-202a to 53-202k, inclusive, in effect on January 1, 2013; and

(3) The person is otherwise in compliance with sections 53-202a to 53-202k, inclusive.

(e) The provisions of subsection (a) of this section shall not apply to the possession of a 2023 assault weapon by any person prior to May 1, 2024, if all of the following are applicable:

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(1) The person is eligible under sections 53-202a to 53-202k, inclusive, to apply for a certificate of possession for such assault weapon by May 1, 2024;

(2) The person lawfully possessed such assault weapon on June 5, 2023, under the provisions of sections 53-202a to 53-202k, inclusive, and section 53-202m of the general statutes, revision of 1958, revised to January 1, 2023; and

(3) The person is otherwise in compliance with sections 53-202a to 53-202k, inclusive.

(f) The provisions of subsection (a) of this section shall not apply to the possession of a 2023 assault weapon by any person if all of the following are applicable:

(1) Such assault weapon was reclassified for federal purposes as a rifle pursuant to the amendments to 27 CFR Parts 478 and 479 published at 88 Federal Register 6478 (January 31, 2023).

(2) The person applied to register such assault weapon under the National Firearms Act, P. L. 73-474, as amended from time to time, using the form known as Form 1 published by the Bureau of Alcohol, Tobacco, Firearms and Explosives, and submitted a copy of such form to the Department of Emergency Services and Public Protection not later than August 1, 2023, and the Bureau of Alcohol, Tobacco, Firearms and Explosives has approved such application, has denied such application within the past thirty days, or has not yet processed such application.

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(3) The person lawfully possessed such assault weapon on June 5, 2023, under the provisions of sections 53-202a to 53-202k, inclusive, and section 53-202m of the general statutes, revision of 1958, revised to January 1, 2023; and

(4) The person is otherwise in compliance with sections 53-202a to 53-202k, inclusive.

(g) The provisions of subsection (a) of this section shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon, or the trustee of a trust that includes an assault weapon, for which a certificate of possession has been issued under section 53-202d if the assault weapon is possessed at a place set forth in subdivision (1) of subsection (f) of section 53-202d or as authorized by the Probate Court.

(h) The provisions of subsection (a) of this section shall not apply to the possession of a semiautomatic pistol that is defined as an assault weapon in any provision of subparagraphs (B) to (F), inclusive, of subdivision (1) of section 53-202a that the Commissioner of Emergency Services and Public Protection designates as being designed expressly for use in target shooting events at the Olympic games sponsored by the International Olympic Committee pursuant to regulations adopted under subdivision (4) of subsection (b) of section 53-202b that is (1) possessed and transported in accordance with subsection (f) of section 53-202d, or (2) possessed at or transported to or from a collegiate, Olympic or target pistol shooting competition in this state which is sponsored

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by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms, provided such pistol is transported in the manner prescribed in subsection (a) of section 53-202f.

*Appendix D***CONN. GEN. STAT. § 53-202d**

...

(2) (A) Except as provided in subparagraph (B) of this subdivision, any person who lawfully possesses an assault weapon, as defined in any provision of subparagraphs (B) to (F), inclusive, of subdivision (1) of section 53-202a, on April 4, 2013, under the provisions of sections 53-202a to 53-202k, inclusive, in effect on January 1, 2013, or any person who regains possession of an assault weapon as defined in any provision of said subparagraphs pursuant to subsection (e) of section 53-202f, or any person who lawfully purchases a firearm on or after April 4, 2013, but prior to June 18, 2013, that meets the criteria set forth in subdivision (3) or (4) of subsection (a) of section 53-202a of the general statutes, revision of 1958, revised to January 1, 2013, shall apply by January 1, 2014, or, if such person is a member of the military or naval forces of this state or of the United States and is unable to apply by January 1, 2014, because such member is or was on official duty outside of this state, shall apply within ninety days of returning to the state to the Department of Emergency Services and Public Protection for a certificate of possession with respect to such assault weapon. Any person who lawfully purchases a semiautomatic pistol that is defined as an assault weapon in any provision of subparagraphs (B) to (F), inclusive, of subdivision (1) of section 53-202a that the Commissioner of Emergency Services and Public Protection designates as being designed expressly for use in target shooting events

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at the Olympic games sponsored by the International Olympic Committee pursuant to regulations adopted under subdivision (4) of subsection (b) of section 53-202b shall apply within ninety days of such purchase to the Department of Emergency Services and Public Protection for a certificate of possession with respect to such assault weapon.

...

(4) (A) Except as provided in subparagraphs (B) and (C) of this subdivision, any person who lawfully possesses a 2023 assault weapon on June 5, 2023, under the provisions of sections 53-202a to 53-202k, inclusive, in effect on January 1, 2023, or any person who regains possession of a 2023 assault weapon pursuant to subdivision (2) of subsection (e) of section 53-202f, shall apply by May 1, 2024, or, if such person is a member of the military or naval forces of this state or of the United States and is unable to apply by May 1, 2024, because such member is or was on official duty outside of this state, shall apply within ninety days of returning to the state to the Department of Emergency Services and Public Protection for a certificate of possession with respect to such assault weapon. The Department of Emergency Services and Public Protection shall accept applications both in paper and electronic form, to the extent practicable, and shall not require such applications be notarized.

...

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(b) (1) No assault weapon, as defined in subparagraph (A) of subdivision (1) of section 53-202a, possessed pursuant to a certificate of possession issued under this section may be sold or transferred on or after January 1, 1994, to any person within this state other than to a licensed gun dealer, as defined in subsection (f) of section 53-202f, or as provided in section 53-202e, or by bequest or intestate succession, or, upon the death of a testator or settlor: (A) To a trust, or (B) from a trust to a beneficiary who is eligible to possess the assault weapon.

(2) No assault weapon, as defined in any provision of subparagraphs (B) to (F), inclusive, of subdivision (1) of section 53-202a, possessed pursuant to a certificate of possession issued under this section may be sold or transferred on or after April 5, 2013, to any person within this state other than to a licensed gun dealer, as defined in subsection (f) of section 53-202f, or as provided in section 53-202e, or by bequest or intestate succession, or, upon the death of a testator or settlor: (A) To a trust, or (B) from a trust to a beneficiary who is eligible to possess the assault weapon.

(3) No 2023 assault weapon possessed pursuant to a certificate of possession issued under this section may be sold or transferred on or after June 6, 2023, to any person within this state other than to a licensed gun dealer, or as provided in section 53-202e, or by bequest or intestate succession, or, upon the death of a testator or settlor: (A) To a trust, or (B) from a

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trust to a beneficiary who is eligible to possess the assault weapon.

(c) Any person who obtains title to an assault weapon for which a certificate of possession has been issued under this section by bequest or intestate succession shall, within ninety days of obtaining title, apply to the Department of Emergency Services and Public Protection for a certificate of possession as provided in subsection (a) of this section, render the assault weapon permanently inoperable, sell the assault weapon to a licensed gun dealer or remove the assault weapon from the state.

(d) Any person who moves into the state in lawful possession of an assault weapon, shall, within ninety days, either render the assault weapon permanently inoperable, sell the assault weapon to a licensed gun dealer or remove the assault weapon from this state, except that any person who is a member of the military or naval forces of this state or of the United States, is in lawful possession of an assault weapon and has been transferred into the state after October 1, 1994, may, within ninety days of arriving in the state, apply to the Department of Emergency Services and Public Protection for a certificate of possession with respect to such assault weapon.

...

(f) Any person who has been issued a certificate of possession for an assault weapon under this section

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may possess the assault weapon only under the following conditions:

- (1) At that person's residence, place of business or other property owned by that person, or on property owned by another person with the owner's express permission;
- (2) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets;
- (3) While on a target range which holds a regulatory or business license for the purpose of practicing shooting at that target range;
- (4) While on the premises of a licensed shooting club;
- (5) While attending any exhibition, display or educational project which is about firearms and which is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms;
- (6) While transporting the assault weapon between any of the places set forth in this subsection, or to any licensed gun dealer, as defined in subsection (f) of section 53-202f, for servicing or repair pursuant to subsection (c) of section 53-202f, provided the assault weapon is transported as required by section 53-202f;

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(7) With respect to a nonresident of this state, while transporting a semiautomatic pistol that is defined as an assault weapon in any provision of subparagraphs (B) to (F), inclusive, of subdivision (1) of section 53-202a that the Commissioner of Emergency Services and Public Protection designates as being designed expressly for use in target shooting events at the Olympic games sponsored by the International Olympic Committee pursuant to regulations adopted under subdivision (4) of subsection (b) of section 53-202b, into or through this state in order to attend any exhibition, display or educational project described in subdivision (5) of this subsection, or to participate in a collegiate, Olympic or target pistol shooting competition in this state which is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms, provided (A) such pistol is transported into or through this state not more than forty-eight hours prior to or after such exhibition, display, project or competition, (B) such pistol is unloaded and carried in a locked carrying case and the ammunition for such pistol is carried in a separate locked container, (C) such nonresident has not been convicted of a felony in this state or of an offense in another state that would constitute a felony if committed in this state, and (D) such nonresident has in his or her possession a pistol permit or firearms registration card if such permit or card is required for possession of such pistol under the laws of his or her state of residence.

**APPENDIX E — SECOND AMENDED
COMPLAINT IN THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF
CONNECTICUT, FILED JUNE 21, 2023**

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

Civ. No. 3:22-cv-01223 -JBA

EDDIE GRANT, JR., JENNIFER HAMILTON;
MICHAEL STIEFEL; CONNECTICUT CITIZENS
DEFENSE LEAGUE, INC.; AND SECOND
AMENDMENT FOUNDATION, INC.,

Plaintiffs,

v.

EDWARD M. LAMONT, JR., IN HIS OFFICIAL
CAPACITY; JAMES ROVELLA, IN HIS OFFICIAL
CAPACITY; PATRICK GRIFFIN, IN HIS OFFICIAL
CAPACITY; MARGARET E. KELLY, IN HER
OFFICIAL CAPACITY; DAVID R. APPEGATE,
IN HIS OFFICIAL CAPACITY; JOSEPH T.
CORRADINO, IN HIS OFFICIAL CAPACITY;
SHARMESE L. WALCOTT, IN HER OFFICIAL
CAPACITY; DAVID R. SHANNON, IN HIS
OFFICIAL CAPACITY; MICHAEL A. GAILOR, IN
HIS OFFICIAL CAPACITY; CHRISTIAN WATSON,
IN HIS OFFICIAL CAPACITY; JOHN P. DOYLE,
JR., IN HIS OFFICIAL CAPACITY; PAUL J.
NARDUCCI, IN HIS OFFICIAL CAPACITY; PAUL
J. FERENCEK, IN HIS OFFICIAL CAPACITY;
MATTHEW C. GEDANSKY, IN HIS OFFICIAL
CAPACITY; MAUREEN PLATT, IN HER OFFICIAL
CAPACITY; ANNE F. MAHONEY, IN HER
OFFICIAL CAPACITY,

Defendants.

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SECOND AMENDED COMPLAINT

June 21, 2023

1. This is an action under 42 U.S.C. § 1983 and 28 U.S.C. §§ 2201-2202 for declaratory and injunctive relief challenging the constitutionality of Connecticut’s statutory ban on so-called “assault weapons” which deprives law-abiding, responsible citizens of their Second Amendment and Fourteenth Amendment rights under the guise of providing a panacea for social problems that Connecticut remains unable to solve.

2. Previous challenges to Connecticut’s “assault weapon” ban have been unsuccessful, based primarily on the legal standard used in the Second Circuit in deciding Second Amendment cases, to wit: the “two-part test.”

a. Under the first step, courts examined whether the arms at issue are “in common use” and are “typically possessed by law-abiding citizens for lawful purposes.” *New York State Rifle and Pistol Ass’n, Inc. v. Cuomo*, 804 F.3d 242, 254-55 (2d. Cir. 2015).

b. Under the second step, courts selected “a standard of scrutiny based on how close the law comes to the core of the Second Amendment right” and “the severity of the law’s burden on the right.” *Id.* at 258.

3. In *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S.Ct. 2111 (Jun. 23, 2022), the U.S. Supreme

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Court clarified the proper legal standard under which courts must analyze Second Amendment cases:

a. “[W]hen the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct.” *Bruen*, 142 S.Ct. at 2126.

b. “[T]he government must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation.” *Id.*

4. When correctly viewed under the Supreme Court’s *Bruen* standard, it becomes apparent that Connecticut’s “assault weapon” ban, and the Defendants’ enforcement of same, cannot survive constitutional muster.

5. After this action was filed on September 29, 2022, Connecticut expanded its definition of “assault weapons” to include an additional category of firearms which are commonly owned and used for lawful purposes. These firearms have traditionally been legally characterized as “any other firearm” or simply “others” because they are firearms that are neither a pistol, revolver, rifle, nor shotgun. *See* Conn. Public Act No. 23-53, § 23, pp. 48-49.¹

6. Under Conn. Public Act No. 23-53, the purchase of “others” is now banned with few exceptions, none of which are relevant here.

1. For the Court’s convenience, the Plaintiffs attach Conn. Public Act No. § 23-53 as **Exhibit G**.

*Appendix E***JURISDICTION AND VENUE**

7. The Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1343, and 2201 as well as 42 U.S.C. § 1983. Venue is appropriate under 28 U.S.C. § 1391 because all of the parties are domiciled in Connecticut, and all of the factual events giving rise to the cause of action occurred in Connecticut.

PARTIES***Plaintiff Eddie W. Grant, Jr.***

8. Plaintiff Eddie W. Grant, Jr. (“Grant”) is a natural person, a resident of Meriden, Connecticut, an adult over the age of 21, and a citizen of the United States. He has been the holder of a Connecticut pistol permit for over thirty years, and is legally eligible under federal and state law to acquire and possess firearms, ammunition, and magazines. Grant is a member and supporter of Plaintiff Connecticut Citizens Defense League, Inc. (“CCDL”) and Plaintiff Second Amendment Foundation, Inc. (“SAF”).

9. Grant served twenty-one years as a uniformed Corrections Officer with the Connecticut Department of Corrections, at facilities such as Carl Robinson Prison, Webster Correctional Institution, Cheshire Correctional Institution, and Manson Youth Institution. Grant retired from the Department of Corrections in 2011.

10. During his service with the Department of Corrections, Grant conducted armed transports of

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high-risk inmates, and was an armed Perimeter Officer carrying an AR-15- platform firearm.

11. During his service with the Department of Corrections, Grant was trained and qualified by the State of Connecticut in the safe and effective use of AR 15-platform firearms.

12. AR 15-platform firearms are among the firearms listed or described in Conn. Gen. Stat. § 53-202a and effectively “banned” by Conn. Gen. Stat. § 53-202c.

13. Grant owns no firearms listed or described in Conn. Gen. Stat. § 53-202a prior to its amendment by Conn. Public Act No. 23-53 because he is prohibited by Conn. Gen. Stat. § 53-202c from buying or possessing any such firearms. Grant would like to be able to lawfully purchase and possess one or more of the firearms listed or described in Conn. Gen. Stat. § 53- 202a for defensive purposes.

14. Grant also owns firearms that were previously classified as “others” (firearms that legally were not considered pistols, revolvers, shotguns, or rifles). He intends to acquire more “others” in the future. Conn. Public Act No. 23-53, § 23 now prohibits him from lawfully purchasing any such firearms, and from lawfully possessing additional “others” other than those which that he already possesses.

15. Grant’s interest in acquiring such firearms for defensive purposes stems from his mother’s accounts of

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her fight for civil rights in the Deep South. As a Black woman growing up in 1950s-60s Georgia, Grant's mother has recalled to him the church burnings and racially-motivated killings experienced by her family and friends. Grant understands that such attacks were repelled in large part by private ownership of defensive firearms.

16. Grant feels that Conn. Gen. Stat. § 53-202a-c and the subsequent amendment by Conn. Public Act No. 23-53, § 23 gives criminals and attackers a strong tactical advantage over him. He feels that criminals don't follow gun restrictions so they can possess and carry any type of so-called "assault weapon" they like. As a law-abiding person, Grant wants to be able to lawfully possess and defensively carry such firearms as well.

17. Grant would like to purchase, sell, and possess one or more of the firearms listed or described in Conn. Gen. Stat. § 53-202a and the subsequent amendment by Conn. Public Act No. 23-53, § 23, but he is prohibited from doing so by Conn. Gen. Stat. § 53-202c and the risk that the Defendants will enforce Conn. Gen. Stat. § 53-202c against him.

Plaintiff Jennifer Hamilton

18. Plaintiff Jennifer Hamilton ("Hamilton") is a natural person, a resident of Enfield, Connecticut, an adult over the age of 21, and a citizen of the United States. Hamilton is the holder of a pistol permit in Connecticut and Massachusetts, and is legally eligible under federal and state law to acquire and possess firearms, ammunition,

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and magazines. Hamilton is a member and supporter of Plaintiff CCDL and Plaintiff SAF.

19. Hamilton is a petite 5'-2" tall woman, and relies on a defensive firearm instead of bodily strength to protect herself and her family from attack. Hamilton has been the victim of domestic violence, and carries a defensive firearm to protect herself and her family from further attack.

20. Hamilton is a firearms instructor, teaching students of all skill levels, from their initial pistol permit class to personal defense and tactical firearms use. She is also a Nuisance Wildlife Control Operator trained and licensed by the Connecticut Department of Energy and Environmental Protection.

21. Hamilton would like to be able to lawfully purchase one or more firearms listed or described in Conn. Gen. Stat. § 53-202a prior to its amendment by Conn. Public Act No. 23-53, § 23, likely an AR 15-platform firearm, because of its adaptability and effectiveness for defensive purposes. Hamilton would like to purchase and possess such a firearm with a telescopic stock in order to adjust the firearm's length of pull to fit her specific body type and size. However, since Conn. Gen. Stat. § 53-202a(1)(E) (i) defines any such firearm as an "assault weapon," she is prohibited from doing so by Conn. Gen. Stat. § 53-202c.

22. Hamilton would like to purchase, sell, and possess one or more of the firearms listed or described in Conn. Gen. Stat. § 53-202a prior to its amendment by Conn. Public Act No. 23-53, § 23, but she is prohibited from

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doing so by Conn. Gen. Stat. § 53-202c and the risk that the Defendants will enforce Conn. Gen. Stat. § 53-202c against her.

23. Hamilton also owns firearms that were previously classified as “others” (firearms that legally were not considered pistols, revolvers, shotguns, or rifles). She intends to acquire more “others” in the future. Conn. Public Act No. 23-53, § 23 now prohibits her from lawfully purchasing any such firearms, and from lawfully possessing additional “others” other than those which that she already possesses.

Plaintiff Michael Stiefel

24. Michael Stiefel (“Stiefel”) is a natural person, a resident of Montville, Connecticut, an adult over the age of 21, and a citizen of the United States. He has been the holder of a Connecticut pistol permit for over thirty years, and is legally eligible under federal and state law to acquire and possess firearms, ammunition, and magazines. Stiefel is a member and supporter of Plaintiff CCDL and Plaintiff SAF.

25. Stiefel served twenty years as a uniformed Corrections Officer with the Connecticut Department of Corrections, during which time he conducted armed transports of high-risk inmates, and was an armed Perimeter Officer carrying an AR-15-platform firearm.

26. During his service with the Department of Corrections, Stiefel was trained and qualified by the State of Connecticut in the safe and effective use of AR 15-platform firearms.

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27. AR 15-platform firearms are among the firearms listed or described in Conn. Gen. Stat. § 53-202a and effectively “banned” by Conn. Gen. Stat. § 53-202c.

28. Stiefel retired from the Department of Corrections in 2010.

29. Stiefel owns no firearms listed or described in Conn. Gen. Stat. § 53-202a prior to its amendment by Conn. Public Act No. 23-53 because he is prohibited by Conn. Gen. Stat. § 53-202c from buying or possessing any such firearms. Stiefel would like to be able to lawfully purchase and possess one or more of the firearms listed or described in Conn. Gen. Stat. § 53- 202a for defensive purposes.

30. Stiefel also owns firearms that were previously classified as “others” (firearms that legally were not considered pistols, revolvers, shotguns, or rifles). He intends to acquire more “others” in the future. Conn. Public Act No. 23-53, § 23 now prohibits him from lawfully purchasing any such firearms, and from lawfully possessing additional “others” other than those which that he already possesses.

31. Stiefel would like to purchase, sell, and possess one or more of the firearms listed or described in Conn. Gen. Stat. § 53-202a, but he is prohibited from doing so by Conn. Gen. Stat. § 53-202c and the risk that the Defendants will enforce Conn. Gen. Stat. § 53-202c against him.

*Appendix E****Plaintiff Connecticut Citizens Defense League, Inc.***

32. Plaintiff, Connecticut Citizens Defense League, Inc. (“CCDL”) is a non-profit educational foundation, incorporated under the laws of Connecticut, with its principal place of business in Seymour, Connecticut. Its mission is to preserve the effectiveness of the Second Amendment through legislative and grassroots advocacy, outreach, education, research, publication, legal action, and programs focused on the constitutional right to keep and bear arms. CCDL has over 41,000 members and supporters nationwide, with more than ninety-five percent of its members and supporters being residents of Connecticut. CCDL represents its members and supporters – which include individuals seeking to exercise their right to acquire, possess, and carry firearms for personal protection. CCDL brings this action on behalf of itself, its members, supporters who possess all the indicia of membership, and similarly situated members of the public.

33. CCDL has expended and diverted resources otherwise reserved for different institutional functions and purposes, and is adversely and directly harmed by the illegal and unconstitutional actions of the Defendants as alleged herein. CCDL has diverted, and continues to divert, significant time, money, effort, and resources to addressing the Defendants’ unconstitutional enforcement of the laws complained of herein that would otherwise be used for educational outreach, public relations, and/or programmatic purposes.

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34. Among other diversions and threatened diversions, the Defendants' unconstitutional enforcement of the laws complained of herein has forced, or likely will force, CCDL to divert previously allocated funds, energies, and resources to the cause of this legal action. Rather than working on other educational, outreach, public relations, and/or programmatic events and operations, CCDL's officers and Executive Board members have devoted, are continuing to devote, or are likely to devote, significant time, money, effort, and resources to addressing the Defendants' unconstitutional enforcement of the laws complained of herein. CCDL, its officers, and its Executive Board members will be forced to continue diverting such time, money, effort, and resources from CCDL's normal educational, outreach, public relations, and/or programmatic events and operations so long as the Defendants' unconstitutional enforcement of the laws complained of herein persists.

35. As to CCDL's representative capacity claims, there are common questions of law that substantially affect the rights, duties and liabilities of many of CCDL's members as well as potentially numerous similarly situated residents whose constitutional rights have been, and are continuing to be, infringed by the Defendants' unconstitutional enforcement of the laws complained of herein. The interests CCDL seeks to protect are germane to its purpose.

36. Each of the individual Plaintiffs to this action – as described in the preceding paragraphs, are all members and supporters of CCDL.

*Appendix E****Plaintiff Second Amendment Foundation, Inc.***

37. Plaintiff Second Amendment Foundation, Inc. (“SAF”) is a non-profit educational foundation incorporated under the laws of the State of Washington with its principal place of business in Bellevue, Washington. SAF seeks to preserve the effectiveness of the Second Amendment through educational and legal action programs. SAF has over 700,000 members and supporters nationwide, including many members in Connecticut.

38. The purpose of SAF includes education, research, publishing, and legal action focusing on the constitutional right to privately own and possess firearms under the Second Amendment, and the consequences of gun control. The Court’s interpretation of the Second Amendment directly impacts SAF’s organizational interests, as well as SAF’s members and supporters in Connecticut, who enjoy exercising their Second Amendment rights. SAF brings this action on behalf of itself, its members, supporters who possess all the indicia of membership, and similarly situated members of the public. Many of SAF’s individual Connecticut members have been adversely and directly harmed and injured by Defendants’ enforcement of the statutory prohibition on the sale, transfer and ownership of so-called “assault weapons.”

39. The interests SAF seeks to protect are germane to its purpose. Indeed, the Connecticut statutes challenged herein have denied, and will continue to deny responsible, law-abiding adults their fundamental, individual right to keep and bear arms enshrined under the Second

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and Fourteenth Amendments of the U.S. Constitution. Defendants' actions and failures alleged herein have caused SAF to dedicate resources that would otherwise be available for other purposes to protect the rights and property of its members, supporters, and the general public, including by and through this action. Each of the individual Plaintiffs to this action – as described in the preceding paragraphs – are members and supporters of SAF.

Defendant Edward M. Lamont, Jr.

40. The Defendant, Edward M. Lamont, Jr., (“Lamont”) is the governor of Connecticut, and he is sued in his official capacity. In his role as Connecticut governor, Lamont is constitutionally required to “take care that the laws be faithfully executed,” including the laws complained of herein. Conn. Const., Art. IV, § 12.

Defendant James Rovella

41. The Defendant, James Rovella (“Rovella”), is the Commissioner of Connecticut’s Department of Emergency Services and Public Protection (“DESPP”), and he is sued in his official capacity. In his role as the Commissioner, Rovella reports to Lamont and oversees the Connecticut State Police, which is responsible for investigating and initiating prosecutions under Connecticut law. *See* Conn. Gen. Stat. § 29-7. Additionally, DESPP possesses significant regulatory and administrative authority over Connecticut’s “assault weapons” prohibitions. *See, e.g.*, Conn. Gen. Stat. § 53-202d.

*Appendix E****Defendant Patrick J. Griffin***

42. The Defendant, Patrick J. Griffin (“Griffin”), is Connecticut’s Chief State’s Attorney and is sued in his official capacity. In his capacity as Chief State’s Attorney and head of the Division of Criminal Justice, Defendant Griffin oversees all Connecticut prosecutors. Additionally, he wields power to sign warrants, charging documents, applications for grand jury investigations, and supervises all appellate, post-trial, and post-conviction proceedings for criminal matters in Connecticut. This authority extends to prosecuting individuals who violate Connecticut’s “assault weapons” ban, including the provisions amended and expanded by Conn. Public Act No. 23-53.

Defendant Margaret E. Kelley

43. The Defendant, Margaret E. Kelley (“Kelly”), is Connecticut’s State’s Attorney for the Ansonia/Milford Judicial District and is sued in her official capacity. As a Connecticut State’s Attorney, she is required to “diligently inquire after and make appropriate presentment and complaint to the Superior Court of all crimes and other criminal matters within the jurisdiction of the court in which the court may proceed.” Conn. Gen. Stat. § 51-286(a). Her responsibilities and authority include prosecuting individuals who violate Connecticut’s “assault weapons” ban, including the provisions amended and expanded by Conn. Public Act No. 23-53.

*Appendix E****Defendant David R. Applegate***

44. The Defendant, David R. Applegate (“Applegate”), is Connecticut’s State’s Attorney for the Danbury Judicial District and is sued in his official capacity. As a Connecticut State’s Attorney, he is required to “diligently inquire after and make appropriate presentment and complaint to the Superior Court of all crimes and other criminal matters within the jurisdiction of the court in which the court may proceed.” Conn. Gen. Stat. § 51-286(a). His responsibilities and authority include prosecuting individuals who violate Connecticut’s “assault weapons” ban, including the provisions amended and expanded by Conn. Public Act No. 23-53.

Defendant Joseph T. Corradino

45. The Defendant, Joseph T. Corradino (“Corradino”), is Connecticut’s State’s Attorney for the Fairfield Judicial District and is sued in his official capacity. As a Connecticut State’s Attorney, he is required to “diligently inquire after and make appropriate presentment and complaint to the Superior Court of all crimes and other criminal matters within the jurisdiction of the court in which the court may proceed.” Conn. Gen. Stat. § 51-286(a). His responsibilities and authority include prosecuting individuals who violate Connecticut’s “assault weapons” ban, including the provisions amended and expanded by Conn. Public Act No. 23-53.

*Appendix E****Defendant Sharmese L. Walcott***

46. The Defendant, Sharmese L. Walcott (“Walcott”), is Connecticut’s State’s Attorney for the Hartford Judicial District and is sued in her official capacity. As a Connecticut State’s Attorney, she is required to “diligently inquire after and make appropriate presentment and complaint to the Superior Court of all crimes and other criminal matters within the jurisdiction of the court in which the court may proceed.” Conn. Gen. Stat. § 51-286(a). Her responsibilities and authority include prosecuting individuals who violate Connecticut’s “assault weapons” ban, including the provisions amended and expanded by Conn. Public Act No. 23-53.

Defendant David R. Shannon

47. The Defendant, David R. Shannon (“Shannon”), is Connecticut’s State’s Attorney for the Litchfield Judicial District and is sued in his official capacity. As a Connecticut State’s Attorney, he is required to “diligently inquire after and make appropriate presentment and complaint to the Superior Court of all crimes and other criminal matters within the jurisdiction of the court in which the court may proceed.” Conn. Gen. Stat. § 51-286(a). His responsibilities and authority include prosecuting individuals who violate Connecticut’s “assault weapons” ban, including the provisions amended and expanded by Conn. Public Act No. 23-53.

*Appendix E****Defendant Michael A. Gailor***

48. The Defendant, Michael A. Gailor (“Gailor”), is Connecticut’s State’s Attorney for the Middlesex Judicial District and is sued in his official capacity. As a Connecticut State’s Attorney, he is required to “diligently inquire after and make appropriate presentment and complaint to the Superior Court of all crimes and other criminal matters within the jurisdiction of the court in which the court may proceed.” Conn. Gen. Stat. § 51-286(a). His responsibilities and authority include prosecuting individuals who violate Connecticut’s “assault weapons” ban, including the provisions amended and expanded by Conn. Public Act No. 23-53.

Defendant Christian Watson

49. The Defendant, Christian Watson (“Watson”), is Connecticut’s State’s Attorney for the New Britain Judicial District and is sued in his official capacity. As a Connecticut State’s Attorney, he is required to “diligently inquire after and make appropriate presentment and complaint to the Superior Court of all crimes and other criminal matters within the jurisdiction of the court in which the court may proceed.” Conn. Gen. Stat. § 51-286(a). His responsibilities and authority include prosecuting individuals who violate Connecticut’s “assault weapons” ban, including the provisions amended and expanded by Conn. Public Act No. 23-53.

*Appendix E****Defendant John P. Doyle, Jr.***

50. The Defendant, John P. Doyle, Jr. (“Doyle”), is Connecticut’s State’s Attorney for the New Haven Judicial District and is sued in his official capacity. As a Connecticut State’s Attorney, he is required to “diligently inquire after and make appropriate presentment and complaint to the Superior Court of all crimes and other criminal matters within the jurisdiction of the court in which the court may proceed.” Conn. Gen. Stat. § 51-286(a). His responsibilities and authority include prosecuting individuals who violate Connecticut’s “assault weapons” ban, including the provisions amended and expanded by Conn. Public Act No. 23-53.

Defendant Paul J. Narducci

51. The Defendant, Paul J. Narducci (“Narducci”), is Connecticut’s State’s Attorney for the New London Judicial District and is sued in his official capacity. As a Connecticut State’s Attorney, he is required to “diligently inquire after and make appropriate presentment and complaint to the Superior Court of all crimes and other criminal matters within the jurisdiction of the court in which the court may proceed.” Conn. Gen. Stat. § 51-286(a). His responsibilities and authority include prosecuting individuals who violate Connecticut’s “assault weapons” ban, including the provisions amended and expanded by Conn. Public Act No. 23-53.

*Appendix E****Defendant Paul J. Ferencek***

52. The Defendant, Paul J. Ferencek (“Ferencek”), is Connecticut’s State’s Attorney for the Stamford Judicial District and is sued in his official capacity. As a Connecticut State’s Attorney, he is required to “diligently inquire after and make appropriate presentment and complaint to the Superior Court of all crimes and other criminal matters within the jurisdiction of the court in which the court may proceed.” Conn. Gen. Stat. § 51-286(a). His responsibilities and authority include prosecuting individuals who violate Connecticut’s “assault weapons” ban, including the provisions amended and expanded by Conn. Public Act No. 23-53.

Defendant Matthew C. Gedansky

53. The Defendant, Matthew C. Gedansky (“Gedansky”), is Connecticut’s State’s Attorney for the Tolland Judicial District and is sued in his official capacity. As a Connecticut State’s Attorney, he is required to “diligently inquire after and make appropriate presentment and complaint to the Superior Court of all crimes and other criminal matters within the jurisdiction of the court in which the court may proceed.” Conn. Gen. Stat. § 51-286(a). His responsibilities and authority include prosecuting individuals who violate Connecticut’s “assault weapons” ban, including the provisions amended and expanded by Conn. Public Act No. 23-53.

*Appendix E****Defendant Maureen Platt***

54. The Defendant, Maureen Platt (“Platt”), is Connecticut’s State’s Attorney for the Waterbury Judicial District and is sued in her official capacity. As a Connecticut State’s Attorney, she is required to “diligently inquire after and make appropriate presentment and complaint to the Superior Court of all crimes and other criminal matters within the jurisdiction of the court in which the court may proceed.” Conn. Gen. Stat. § 51-286(a). Her responsibilities and authority include prosecuting individuals who violate Connecticut’s “assault weapons” ban, including the provisions amended and expanded by Conn. Public Act No. 23-53.

Defendant Anne F. Mahoney

55. The Defendant, Anne F. Mahoney (“Mahoney”), is Connecticut’s State’s Attorney for the Windham Judicial District and is sued in her official capacity. As a Connecticut State’s Attorney, she is required to “diligently inquire after and make appropriate presentment and complaint to the Superior Court of all crimes and other criminal matters within the jurisdiction of the court in which the court may proceed.” Conn. Gen. Stat. § 51- 286(a). Her responsibilities and authority include prosecuting individuals who violate Connecticut’s “assault weapons” ban, including the provisions amended and expanded by Conn. Public Act No. 23-53.

*Appendix E***FACTUAL ALLEGATIONS*****Connecticut's History Of "Assault Weapons" Regulation***

56. Prior to 1993, Connecticut law did not prohibit the purchase, sale or possession of the firearms it now defines as "assault weapons."

57. Firearms meeting the Connecticut law definition of "assault weapon" are referred to in the firearms industry as "modern sporting arms" or "modern sporting rifles" ("MSAs" or "MSRs"). For the purposes of this Complaint, the terms "MSA," "MSR," and "assault weapon" are used interchangeably.

58. In 1993, Connecticut enacted legislation that banned "assault weapons" and criminalized their possession, defining "assault weapons" as firearms "capable of fully automatic, semiautomatic or burst fire at the option of the user." 1993 Conn. Pub. Acts 93- 306, § 1(a). The 1993 law also banned 67 specifically named semiautomatic firearm models.

59. In 1994, the United States Congress enacted the Violent Crime Control and Law Enforcement Act of 1994 (the "Act"), which restricted the manufacture, transfer, and possession of certain "semiautomatic assault weapons." Like the Connecticut law, the Act designated particular firearm models – 18 models in all – as specifically banned, including the Colt AR-15 and other AR-15-platform firearms. The Act also created a two-

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feature test, which prohibited any semiautomatic firearm that bore at least two of the five so-called “military-style” physical features identified in the Act – e.g. a telescopic stock, a conspicuously protruding pistol grip, a bayonet mount, a flash suppressor, and a grenade launcher.

60. The Act expired in 2004 per its sunset provision.

61. In 2001, Connecticut amended its “assault weapon” ban to mirror the Act. 2001 Pub. Acts 01-103.

62. In 2013, Connecticut responded to the Sandy Hook Elementary School tragedy by specifically criminalizing the possession of the Bushmaster Model XM15-E2S rifle used in that school shooting, and numerous other firearms it considered “assault weapons.” Conn. Gen. Stat. § 53-202a.

Connecticut’s Current Criminalization Of “Assault Weapons”

63. Conn. Gen. Stat. § 53-202c(a) makes it a Class D felony for any person within Connecticut’s borders to possess an “assault weapon” as defined in Conn. Gen. Stat. § 53-202a. A violation of § 53-202c carries a mandatory one-year sentence of incarceration and a maximum of five years’ incarceration. *See* Conn. Gen. Stat. § 53a-35a(8).

64. Conn. Gen. Stat. § 53-202b(a)(1) makes it a Class C felony to distribute, transport, import, keep for sale, offer for sale, or gift an “assault weapon” within the state of Connecticut, save for very limited exceptions not

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relevant here. It imposes a mandatory two-year sentence of incarceration. *See* Conn. Gen. Stat. § 53-202b(a)(1). A Class C felony carries a maximum term of imprisonment of ten years' incarceration. Conn. Gen. Stat. § 53a-35a(7).

65. Connecticut law permits individuals who lawfully possessed “assault weapons” on or prior to April 3, 2013 to continue to possess such “assault weapons” if they proved previous lawful ownership to the State Police, applied to the State Police for a certificate of possession of the “assault weapons” by January 1, 2014, and actually received that certificate. Conn. Gen. Stat. § 53-202d(a)(2). Their possession of the “assault weapon” is limited to narrowly defined places and for narrowly defined purposes which do not include self-defense outside of the home. Conn. Gen. Stat. § 53-202d(f).

66. Connecticut takes a two-track approach to defining what an “assault weapon” is for purposes of criminalizing its possession, sale, and transfer. First, Connecticut criminalizes the possession, sale, or transfer of approximately 160 specifically named firearm models in four statutory subsections on the grounds that they are considered “assault weapons.” *See generally* Conn. Gen. Stat. § 53-202a.

67. Highlighting the randomness of the firearms named, the list of banned semiautomatic firearms in Conn. Gen. Stat. § 53-202a bizarrely includes the Remington Tactical Rifle Model 7615, which is not a semiautomatic firearm at all, but is a pump-action rifle. Conn. Gen. Stat. § 53-202a(1)(B).

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68. Second, Conn. Gen. Stat. § 53-202a provides general descriptive guidelines as to what also constitutes an “assault weapon:”

a. “Any selective-fire firearm capable of fully automatic, semiautomatic or burst fire at the option of the user....” Conn. Gen. Stat. § 53- 202a(1) (A) (i).

b. “A part or combination of parts designed or intended to convert a firearm into an assault weapon” as defined further in the statutory definition of the statute. Conn. Gen. Stat. § 53-202a(1)(A)(ii).

c. “A semiautomatic, centerfire rifle that has an ability to accept a detachable magazine and has at least one of the following: (I) A folding or telescoping stock; (II) Any grip of the weapon, including a pistol grip, a thumbhole stock, or any other stock, the use of which would allow an individual to grip the weapon, resulting in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing; (III) A forward pistol grip; (IV) A flash suppressor; or (V) A grenade launcher or flare launcher....” Conn. Gen. Stat. § 53-202a(1) (E) (i).

d. “A semiautomatic, centerfire rifle that has a fixed magazine with the ability to accept more than ten rounds;” Conn. Gen. Stat. § 53- 202a(1) (E) (ii).

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e. “A semiautomatic, centerfire rifle that has an overall length of less than thirty inches.” Conn. Gen. Stat. § 53-202a(1) (E) (iii).

f. “A semiautomatic pistol that has an ability to accept a detachable magazine and has at least one of the following: (I) An ability to accept a detachable ammunition magazine that attaches at some location outside of the pistol grip; (II) A threaded barrel capable of accepting a flash suppressor, forward pistol grip or silencer; (III) A shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to fire the firearm without being burned, except a slide that encloses the barrel; or (IV) A second hand grip.... Conn. Gen. Stat. § 53- 202a(1) (E) (iv).

g. “A semiautomatic pistol with a fixed magazine that has the ability to accept more than ten rounds;” Conn. Gen. Stat. § 53-202a(1) (E) (v).

h. “A semiautomatic shotgun that has both of the following: (I) A folding or telescoping stock; and (II) Any grip of the weapon, including a pistol grip, a thumbhole stock, or any other stock, the use of which would allow an individual to grip the weapon, resulting in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing...” Conn. Gen. Stat. § 53- 202a(1) (E) (vi).

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i. “A semiautomatic shotgun that has the ability to accept a detachable magazine.” Conn. Gen. Stat. § 53-202a(1) (E) (vii).

j. “A shotgun with a revolving cylinder.” Conn. Gen. Stat. § 53- 202a(1) (E) (viii).

k. “A part or combination of parts designed or intended to convert a firearm into an assault weapon... any combination of parts from which an assault weapon may be assembled if those parts are in the possession or under the control of the same person.” Conn. Gen. Stat. § 53-202a(1)(F).

69. The result of this statutory scheme is to criminalize the possession of not only many fully automatic, selective fire, and burst fire firearms, but it also criminalizes the possession of many ubiquitous semiautomatic firearms that are widely popular and commonly used for lawful purposes throughout the United States.

70. An additional consequence of Connecticut’s statutory scheme is that a conviction for the possession of an “assault weapon” is a felony conviction, rendering a person ineligible to ever again lawfully possess any firearm. *See e.g.*, 18 U.S.C. § 922(g)(1).

Connecticut’s Criminalization Of “Others”

71. Until the enactment of Conn. Public Act No. 23-53, Connecticut recognized the legality of firearms that did not meet the legal definitions for pistols, revolvers, rifles,

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or shotguns. These firearms colloquially became known as “others.”

72. Data from Connecticut’s firearms registry shows that, as of January 2023, “others” constitute approximately 7% of firearms lawfully owned by Connecticut citizens.

73. Conn. Public Act No. 23-53 – signed by Defendant Lamont and effective immediately on June 6, 2023 – added “others” to the legal definition of “assault weapons” and criminalized their possession for the first time in Connecticut history based on a “single feature” test.

74. An “other” is now an illegal assault weapon under Connecticut law if it has at least one of the following features:

a. “Any grip of the weapon, including a pistol grip, a thumbhole stock or any other stock, the use of which would allow an individual to grip the weapon, resulting in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing,” Conn. Public Act No. 23-53, § 23(G)(i), p. 48;

b. “An ability to accept a detachable ammunition magazine that attaches at some location outside of the pistol grip,” Conn. Public Act No. 23-53, § 23(G) (ii), p. 48;

c. “A fixed magazine with the ability to accept more than ten rounds,” Conn. Public Act No. 23-53, § 23(G)(iii), p. 48;

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d. “A flash suppressor or silencer, or a threaded barrel capable of accepting a flash suppressor or silencer,” Conn. Public Act No. 23-53, § 23(G)(iv), p. 48;

e. “A shroud that is attached to, or partially or completely encircles the barrel and that permits the shooter to fire the firearm without being burned, except a slide that encloses the barrel,” Conn. Public Act No. 23-53, § 23(G)(v), p. 48;

f. “A second hand grip; or,” Conn. Public Act No. 23-53, § 23(G)(vi), p. 48;

g. “An arm brace or other stabilizing brace that could allow such firearm to be fired from the shoulder, with or without a strap designed to attach to an individual’s arm.” Conn. Public Act No. 23-53, § 23(g)(vii), p. 48.

75. These statutory provisions criminalize the possession of many ubiquitous firearms that Connecticut residents chose as alternatives to Connecticut’s early bans on the possession of “assault weapons.”

76. An additional consequence of Conn. Public Act No. 23-53’s broadening of Connecticut’s “assault weapons” ban to include “others” is that a conviction for the possession of an “other” is now a felony, rendering a person ineligible to ever possess a firearm again. *See, e.g.*, 18 U.S.C. § 922(g) (1).

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***“Assault Weapons” are “Modern Sporting Arms,” and
Are in Common Use for Lawful Purposes Throughout
the United States.***

77. MSAs (Connecticut’s “assault weapons”) are widely popular and in common use throughout the United States for lawful purposes.

78. The National Shooting Sports Foundation (“NSSF”) – a firearms trade association based in Newtown, Connecticut – estimated in 2020 that 19,797,000 MSRs have been manufactured or imported into the United States based on the most available statistics compiled by federal authorities. *See Exhibit A – NSSF Report on Firearm Production In The U.S., p. 7*; *see also Miller v. Bonta*, 542 F.Supp.3d 1009, 1022 (S.D. Cal. 2021) (discussing evidence after a bench trial). The number of manufactured or imported MSRs has steadily increased in the United States over the years. *See Exhibit A, p. 7*.

79. The NSSF further reports that approximately 48% of rifles produced in the United States were MSRs *Id.* at p. 7.

80. The NSSF also conducted a survey that reported that 34% of buyers purchased an MSR a/k/a “assault rifle” for personal protection, 36% for target practice or informal shooting, and 29% for hunting. *Miller*, 542 F.Supp.3d at 1022 (referring to MSRs as “modern rifles”).

81. Further solidifying the statistical data, the NSSF reported that, in 2018, approximately 18,327,314 people

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participated nationally in target and sport shooting with MSRs. *Id.*

82. In 2018, Americans bought twice as many MSRs as they did Ford-150s – the most popular pickup truck in America. *Id.* at 1022-1023.

83. Courts have already recognized that firearms considered “assault weapons” under Connecticut law are in common use throughout the United States:

h. In 2015, the Second Circuit held that “[e]ven accepting the most conservative estimates cited by the parties and by amici, the assault weapons and large-capacity magazines at issue are ‘in common use’ as the term was used in *Heller*.” *New York State Rifle and Pistol Ass’n, Inc. v. Cuomo*, 804 F.3d 242, 255 (2d. Cir. 2015).

i. In 2011, the D.C. Circuit held “that semi-automatic rifles and magazines holding more than ten rounds are indeed in ‘common use,’ as the plaintiffs contend.” *Heller v. District of Columbia*, 670 F.3d 1244, 1261 (D.C. Cir. 2011).

“Assault Weapons” are Typically Used for Lawful Purposes.

84. In 2019, a pregnant Florida woman used a single shot from a lawfully-owned AR-15-platform firearm to mortally wound one of the two home invaders who had already fired a shot and were pistol whipping her husband.
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85. In March 2017, an Oklahoma man used a lawfully-owned AR-15-platform firearm to shoot three masked home invaders during a confrontation inside his father's home. **Exhibit C.**

86. In April 2018, two men – one armed with a handgun and the other with an AR15-platform firearm – were forced into a gunfight with three masked home invaders who attempted to use a police entrance tactic. **Exhibit D.** They were forced to fire approximately 30 shots in the confrontation and successfully repelled the intruders without harm to themselves. *Id.*

87. In February 2018, a firearms instructor intervened with an AR-15-platform firearm in an argument outside his apartment when one of the participants threatened to use a knife and actually stabbed a person, successfully deterring the assailant from any further misconduct. **Exhibit E.**

88. In November 2017, Stephen Willeford – a former firearms instructor – intervened with an AR-15-platform firearm in the deadliest mass shooting event in Texas history when Devin Kelley attacked a Baptist Church in Sutherland Springs, Texas. **Exhibit F.** After Kelley killed 26 people and wounded 26 others, Willeford realized what was happening and left the safety of his home to engage Kelley with his AR-15. *Id.* Willeford wounded Kelley twice in the shootout, forcing him to stop his massacre, and flee the scene. *Id.* Willeford subsequently pursued him with a motorist's aid until Kelley committed suicide. *Id.*

*Appendix E****Connecticut Bans Common Features of Firearms Under Its Definition of “Assault Weapons” That Actually Render the Firearms Safer.***

89. Pistol grips are a longstanding historical feature of rifles that date back for centuries. Conn. Gen. Stat. § 53-202a(1) (E) (i) bans their use on semiautomatic, centerfire rifles with detachable magazines. Conn. Gen. Stat. § 53-202a(1) (E) (vi) bans their use on shotguns.

90. The primary purpose of a pistol grip is to improve ergonomics, which, in turn, improves a firearm’s accuracy by shaping the user’s grip into a more natural and comfortable position. A pistol grip does not increase the danger of a firearm in any meaningful way, and it has been historically used for centuries and remains in common use today.

91. Thumbhole stocks have a historical basis with custom stocks from the 1600s through the modern era employing similar concepts. Conn. Gen. Stat. § 53-202a(1) (E) (i) bans their use on semiautomatic centerfire rifles with detachable magazines. Conn. Gen. Stat. § 53-202a(1) (E)(vi) bans their use on shotguns.

92. Like a pistol grip, the primary purpose of a thumbhole stock is to improve ergonomics and accuracy by shaping the user’s grip in a natural and comfortable position. A thumbhole stock does not increase the danger of a firearm in any meaningful way, and it has been historically used for centuries and remains in common use today.

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93. Folding or telescopic stocks date back to at least the 1650-1700 period, and they reached more mainstream popularity in the 1700s and continue to be a common feature of firearms today. Conn. Gen. Stat. § 53-202a(1)(E) (i) bans their use on semiautomatic centerfire rifles with detachable magazines. Conn. Gen. Stat. § 53-202a(1) (E) (vi) bans their use on shotguns.

94. The primary purpose of a telescopic or folding stock is to adjust the length of a firearm to give the user more control over it based on their height and body type. More control over a firearm renders it safer to use and more accurate. Thus, a telescopic or folding stock does not increase the danger of a firearm in any meaningful way, and it has been historically used for centuries and remains in common use today.

95. Forward pistol grips appeared on firearms as early as the 1860s and gradually became more popular for some firearms. Conn. Gen. Stat. § 53-202a(1) (E) (i) bans their use on semiautomatic centerfire rifles with detachable magazines.

96. Like the other features previously discussed, a forward pistol grip or a vertical forend gives a user greater control of a firearm, which increases accuracy. Forward pistol grips also increase the accuracy of firearms when used in a prone position. They do not increase the danger of a firearm in any meaningful way, and they have been used for centuries and remain in common use today.

97. Flash suppressors first appeared in the early 1900s as a combination of sound and flash suppressor. Conn. Gen.

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Stat. § 53-202a(1)(E)(i) bans their use on semiautomatic centerfire rifles with detachable magazines.

98. The purpose of a flash suppressor is to divert the muzzle flash in ways that mitigate its profile – a feature that is nigh indispensable in low light shooting situations such as a home at night. A muzzle flash in a dark environment temporarily affects a user’s vision, placing them at a momentary disadvantage to possible intruders. A flash suppressor enables a user to retain full use of their visual faculties in dark environments, making their use of a firearm safer. It does not increase the danger of a firearm in any meaningful way, and it has been used for almost a century and remains in common use today.

99. Rifles or other long guns under 30 inches in length date back to the 16th century and have remained popular ever since. Conn. Gen. Stat. § 53-202a(1)(E)(iii) criminalizes their possession.

100. Rifles or long guns under 30 inches are particularly well-suited for home defense because they permit a user to more easily navigate doorways and corners. They additionally are more suited for smaller individuals or disabled users who require a rifle or other long gun that is lighter and easier to handle. A shorter long gun or rifle is no more deadly than any other firearm, and they have been used for centuries and remain in common use today.

101. Shotguns with revolving cylinders date back to the early 1800s and have remained in common use since. In fact, virtually every early American revolver

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manufacturer offered a revolving shotgun model for purchase as well. Conn. Gen. Stat. § 53-202a(1) (E) (viii) and § 53-202c criminalizes the possession of shotguns with revolving cylinders.

102. Most modern shotguns have the capacity to accept between 3 to 6 rounds in a tubular magazine. A revolving cylinder does not meaningfully increase the danger of a shotgun, and shotguns with revolving cylinders have existed in common usage since the advent of the revolver, and remain in common use today.

**COUNT ONE – 42 U.S.C. § 1983 CLAIM FOR
VIOLATION OF SECOND AMENDMENT AND
FOURTEENTH AMENDMENT RIGHTS**

103. Paragraphs 1 through 102 are incorporated herein.

104. The Second Amendment guarantees “the right of the people to keep and bear Arms.” U.S. Const. Amend. II.

105. The Fourteenth Amendment applies the Second Amendment to the states, including the Defendants. *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S.Ct. 2111, 2137 (Jun. 23, 2022) (“Strictly speaking, New York is bound to respect the right to keep and bear arms because of the Fourteenth Amendment, not the Second”).

106. On October 19, 2015, the Second Circuit affirmed this Court’s decision upholding the constitutionality of Connecticut’s laws prohibiting the possession of

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“semiautomatic assault weapons....” *See New York State Rifle and Pistol Ass’n, Inc. v. Cuomo*, 804 F.3d 343 (2d Cir. 2015). The U.S. Supreme Court denied the plaintiffs’ petition for a writ of certiorari. *See Shew v. Malloy*, 136 S.Ct. 2486 (Mem) (Jun 20, 2016).

107. The U.S. Supreme Court’s decision in *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S.Ct. 2111 (Jun. 23, 2022), however, strips *Cuomo* of its binding effect because it completely reshaped Second Amendment analysis in the United States. Courts have recognized the sea change as follows:

a. The U.S. Supreme Court summarily reversed and remanded a Fourth Circuit decision upholding Maryland’s “assault weapons” ban for reconsideration in light of *Bruen*. *See Bianchi v. Frosh*, 142 S.Ct. 2898 (Mem) (Jun. 30, 2022).

b. The Ninth Circuit vacated, and remanded for reconsideration, a decision by a U.S. District Court for the Southern District of California striking down California’s “assault weapons” ban in light of *Bruen* because *Bruen* employed a different method of analysis. *See Miller v. Bonta*, 2022 WL 3095986 (Aug. 1, 2022).

108. The *Cuomo* analysis employed a two-step interest-balancing test akin to a burden-shifting analysis:

a. Under first step, courts examined whether the arms at issue are “in common use” and are

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“typically possessed by law-abiding citizens for lawful purposes.” *Cuomo*, 804 F.3d at 254-55.

b. The second step required courts to select a standard of scrutiny based on how close the law comes to the core of the Second Amendment right” and “the severity of the law’s burden on the right.” *Id.* at 258.

109. *Cuomo*’s second step was remarkably malleable to being a public policy inquiry. As applied in *Cuomo*, the Second Circuit used two factors to inform the inquiry: home defense and the popularity of weapons compared to handguns. Based on the two competing factors, it applied intermediate scrutiny instead of strict scrutiny to the regulations at issue and held that they did not impose sufficiently severe burdens on fundamental constitutional rights because there were readily available alternatives such as handguns for home defense. *Id.* at 258-261.

110. *Bruen* completely abolishes the quasi-public policy and scrutiny analyses. Its reshaping of the analysis starts and ends with two basic principles:

a. “[W]hen the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct.” *Bruen*, 142 S.Ct. at 2126.

b. “[T]he government must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation.” *Id.*

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111. The Second Amendment’s plain text covers the conduct that the Plaintiffs seek to engage in and that the Defendants criminalize: the keeping and bearing of commonly used firearms for personal defense and other lawful purposes.

112. The firearms that the Plaintiffs seek to purchase, possess, and carry, but which are effectively banned by the statutory scheme challenged herein, do not fall within the “dangerous and unusual” category mentioned in *District of Columbia v. Heller*, 554 U.S. at 627.

113. Instead, as the Plaintiffs show, analogous firearms have been developed and used for lawful purposes centuries. Such firearms came to the fore both prior to and after the adoption of the Second Amendment, and they were an integral part of personal use in America, especially in the American West, at the time that the Fourteenth Amendment was adopted to apply the Bill of Rights to the states.

114. Neither the 1791 historical tradition at the time the Second Amendment was ratified, nor the 1868 historical tradition at the time that the Fourteenth Amendment applied the Bill of Rights against the states, contained any well-established prohibition on “assault weapons” or their historical equivalents. *See Bruen*, 142 S.Ct. at 2138 (acknowledging a scholarly debate over whether the 1791 historical tradition or the 1868 historical tradition controls the analysis).

115. Conn. Gen. Stat. § 53-202c and its accompanying statutory provisions in Conn. Gen. Stat. §§ 53-202a-f and

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Conn. Gen. Stat. §§ 53-202h-j, and Conn. Public Act 23-53, § 23, violate the Plaintiffs rights under the Second and Fourteenth Amendments by criminalizing the possession and bearing of:

- a. Common firearms – at least one of which has been for many years the single most popular rifle platform in the United States; and
- b. Common firearm features that make them safer for all users, and more accessible to people with disabilities, including telescopic stocks, pistol grips, forward grips, etc.

116. The Defendants' actions to enforce Conn. Gen. Stat. § 53-202c, its accompanying statutory provisions, and Conn. Public Act 23-53, § 23 violate, and threaten to imminently violate, the legally protected interests, rights, privileges, or immunities secured to the Plaintiffs by the Second and Fourteenth Amendments of the United States Constitution.

117. The relief sought herein would fairly redress the injuries the Plaintiffs claim.

118. Without the declaratory and injunctive relief requested herein, the Plaintiffs will continue to suffer the violation of their legally protected interests, rights, privileges, or immunities secured to the Plaintiffs by the Second and Fourteenth Amendments of the United States Constitution.

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**COUNT TWO – DECLARATORY JUDGMENT ACT,
28 U.S.C. §§ 2201-2202 CLAIM FOR VIOLATION
OF SECOND AMENDMENT AND FOURTEENTH
AMENDMENT RIGHTS**

119. Paragraphs 1 through 118 are incorporated herein.

120. An actual, substantial, and concrete case and controversy exists between the parties on the constitutionality and enforceability of Conn. Gen. Stat. §§ 53-202a-f, Conn. Gen. Stat. §§ 53-202h-j, and Conn. Public Act 23-53, § 23;

121. Without the declaratory and injunctive relief requested herein, the Plaintiffs will continue to suffer the violation of their legally protected interests, rights, privileges, or immunities secured to the Plaintiffs by the Second and Fourteenth Amendments of the United States Constitution.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs seek the following relief:

A. Pursuant to Counts One and Two, a declaratory judgment that Conn. Gen. Stat. §§ 53-202a-f, Conn. Gen. Stat. §§ 53-202h-j, and Conn. Public Act 23-53, § 23 violate the Second Amendment to the United States Constitution;

B. Pursuant to Counts One and Two, a permanent injunction barring the Defendants from enforcing Conn.

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Gen. Stat. §§ 53-202a-f, Conn. Gen. Stat. §§ 53-202h-j, and
Conn. Public Act 23-53, § 23;

C. Pursuant to Counts One and Two, costs and
attorneys' fees;

D. Any such other and further relief that the Court
deems just and reasonable.

Dated: June 21, 2023

Respectfully submitted,

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