

No. 26-46

In the
Supreme Court of the United States

NUNZIO CALCE, et al.,

Petitioners,

v.

CITY OF NEW YORK, et al.,

Respondents.

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

**BRIEF OF BYRNA TECHNOLOGIES, INC. AND
ROB CHADWICK AS AMICI CURIAE IN
SUPPORT OF PETITIONERS**

MICHAEL FRANCISCO
JAMES COMPTON
First & Fourteenth PLLC
800 Connecticut Ave., Ste. 300
Washington, DC 20006
(202) 754-0522
michael@first-fourteenth.com

BRADLEY A. BENBROOK
Counsel of Record
STEPHEN M. DUVERNAY
JAMIE G. MCWILLIAM
Benbrook Law Group, PC
701 University Ave., Ste. 106
Sacramento, California 95825
(916) 447-4900
brad@benbrooklawgroup.com

Counsel for Amici Curiae

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INTEREST OF *AMICI CURIAE*¹

Byrna Technologies, Inc. is a publicly traded (Nasdaq: BYRN) less-lethal self-defense technology company that designs, manufactures, and sells handheld and shoulder-fired launchers as safe alternatives to firearms for civilian self-defense and for use by law enforcement, corrections, and private security professionals. Byrna's core mission is to provide civilians and security professionals with safe, reliable, and effective less-lethal alternatives to traditional firearms that empower Byrna owners to protect and defend themselves, their families, and their communities without the need for lethal force. Byrna's launchers are powered by compressed CO₂ and fire .61 and .68 caliber kinetic and chemical-irritant projectiles capable of disabling a threat from a standoff distance of up to approximately 60 feet, providing an effective, less-lethal tool to disable, disarm and deter would-be assailants and to escape harm's way. Byrna's launchers represent a fast-growing segment of the less-lethal arms market.

Amicus Byrna has a strong interest in this case because it faces similar bans on the possession and sale of its chemical-irritant projectile launchers in two of the Nation's most populous States (California and New York). It has sued to enjoin California's ban. *Schiller v. Bonta*, S.D.

¹ All parties were timely informed of amici's intent to file this brief. No counsel for any party authored this brief in whole or in part, and no entity or person, aside from amici curiae and their counsel, made any monetary contribution toward its preparation or submission. *See* Sup. Ct. R. 37.6.

Cal. No. 3:25-cv-3411 (filed Dec. 3, 2025). These bans violate the Second Amendment and must not be allowed to proliferate.

Rob Chadwick is the Principal Training Advisor for the United States Concealed Carry Association (USCCA), where he oversees the implementation of the organization’s civilian self-defense training courses for over 8,000 certified instructors around the country. A 30-year law enforcement veteran and former head of the Tactical Training Unit at the FBI Academy in Quantico, he received the FBI Director’s Medal of Excellence for Training. Chadwick has provided security for six U.S. Attorneys General.

Amicus Chadwick has an interest in this case because of his first-hand knowledge of the public’s growing demand for less-lethal arms—and chemical irritant projectile launchers in particular—and their important role in the self-defense landscape. He designed USCCA’s course on the use of less-lethal arms for self-defense. Since their introduction in May 2026, these have been the fastest-growing self-defense training courses offered by USCCA. He has also written a self-defense book, *The Practical Guide to Personal Security* (2025), that includes a chapter discussing less-lethal arms.

SUMMARY OF ARGUMENT

This petition is important. *Amici* offer this brief to emphasize the compelling reasons to grant the petition beyond the important reason of reversing a court that has wholly failed to respect this Court’s decision in *Caetano v. Massachusetts*, 577 U.S. 411 (2016) (per curiam), in favor of a local jurisdiction that has likewise ignored the Court’s

instruction that less-lethal arms are protected by the Second Amendment.

This case deals with a ban on “electronic weapons,” but the universe of less-lethal weapons expands beyond stun guns and tasers. One new and fast-growing segment of less-lethal weapons includes handheld projectile launchers that, like paintball guns, use compressed CO₂ to expel (or “launch”) kinetic or chemical irritant rounds. The chemical irritant rounds, like paintballs, rupture on impact and release chemical compounds that temporarily disable an attacker, thus offering the user an opportunity to escape and potentially allow for law enforcement to detain the attacker.

Section I outlines why less-lethal weapons like pepper projectile launchers are growing in popularity. Americans turn to less-lethal arms for many reasons: fear of misusing firearms; moral objections to using deadly force; physical inability to safely handle firearms; and being trapped in a recalcitrant jurisdiction that allows less-lethal weapons but imposes onerous regulations on owning and carrying firearms. As a result, many Americans choose less-lethal weapons for their self-defense needs.

Section II describes *amicus* Byrna’s pepper projectile launchers, more than 800,000 of which have been sold since Byrna began offering them for sale in 2019. There can be no doubt that these safe and popular self-defense weapons are protected “arms” under the Second Amendment, yet they are banned in California and New York. Byrna has initiated litigation to challenge the California ban, and California has signaled it will be making many of the same arguments that led to the Second Circuit’s decision at issue here.

Section III emphasizes that there is no reason to deny this petition for lack of sufficient percolation in the circuits. Setting aside that percolation is not needed given how incompatible such bans are with *Caetano* and *District of Columbia v. Heller*, 554 U.S. 570 (2008), no significant percolation will occur on bans of less-lethal weapons because these outright bans are so rare. While few in number, however, the outlier bans on pepper projectile launchers in California and New York affect nearly 20 percent of the Nation’s population. It is thus urgent that the Court reiterate that it meant what it said in *Caetano*, lest more States hostile to Second Amendment rights enact similar bans.

The petition should be granted, and the Second Circuit’s decision should be summarily reversed. Alternatively, *amici* agree that the petition could properly be held pending the disposition of *Viramontes v. Cook County*, No. 25-238 (U.S. cert. granted June 30, 2026).

ARGUMENT

I. This Case Is Important Because Less-Lethal Weapons Are Rapidly Gaining In Popularity.

Millions of Americans choose to defend themselves with “less-lethal” arms. This category of arms is designed to temporarily disable or incapacitate rather than kill. Prominent examples of less-lethal weapons include stun guns, pepper spray, tasers, and CO₂-powered launchers that shoot chemical irritant projectiles and kinetic rounds. *See, e.g.*, Volokh, *Nonlethal Self-Defense, (Almost Entirely) Nonlethal Weapons, And The Rights To Keep And Bear Arms And Defend Life*, 62 Stan. L. Rev. 199, 204–

207 (2009); Lerner & Lund, *Heller and Nonlethal Weapons*, 60 *Hastings L.J.* 1387, 1394–97 (2009); Chadwick, *The Practical Guide to Personal Security*, 121–27 (2025).

Less-lethal weapons are not properly regarded as a pure substitute for firearms. Rather, they fall on the lower end of a use-of-force continuum. *See, e.g.*, Chadwick, *supra*, at 51–61; *accord The Use-of-Force Continuum*, Nat’l Inst. of Justice (Aug. 3, 2009), <https://perma.cc/T24G-ZGW9>. That is, they provide an opportunity to resolve a confrontation without lasting harm to the assailant: most commonly, while the assailant is temporarily incapacitated, the defender can escape the situation or arrange for law enforcement to detain the assailant. Chadwick, *supra*, at 121. As such, many firearms owners employ less-lethal arms as a first line of defense.

Others, however, choose less-lethal arms instead of firearms because they cannot use or acquire firearms, or they affirmatively object to firearms. Huge numbers of Americans are acquiring and carrying less-lethal arms for reasons spanning a wide gamut:

Fear of Misuse and Accidents. One study showed that the predominant reason people don’t own firearms is the concern that they might be misused, thus harming themselves or others—potentially fatally. Alsan, et al., *The Universal Pursuit of Safety and the Demand for (Lethal, Non-Lethal or No) Guns*²⁵ (NBER 2026 Working Paper) (top three reasons included “[c]oncerns about misuse of my gun,” “[l]ack of knowledge on proper use,” and “[c]oncerns about accidentally harming the wrong person”); Volokh, *Nonlethal Self-Defense*, 62 *Stan. L. Rev.* at 208 (“[s]ome worry about erroneously killing someone

who turns out not to be an attacker”). A paradigm example involves parents of young children who do not object to firearms but wish to avoid accidents. *Id.* (“[s]ome fear a gun they own might be misused, for instance by their children or by a suicidal adult housemate”).

In prior eras, these worries would have led families, by default, to simply fall back on the hope that police would respond in the event of an emergency. In the post-Covid world, however, particularly in large cities, that hope has evaporated. *See, e.g., Every Second Counts: Law Enforcement Staffing Shortages Are Slowing Police Response Times in California*, Peace Officers Research Ass’n of Cal. (Nov. 11, 2025), <https://perma.cc/5G68-NTZ3>; McCarthy & Bhole, *New Yorkers are waiting the longest in decades for cops to respond to 911 calls, crimes*, N.Y. Post (Sept. 16, 2024), <https://perma.cc/97PA-735K>.² Less-lethal weapons provide a safe alternative.

Moral, Religious, or Ethical Opposition to Killing in Self-Defense. An appreciable percentage of Americans hold the religious or moral view that killing is wrong in all circumstances, even in self-defense. *See* Volokh, *Nonlethal Self-Defense*, 62 Stan. L. Rev. at 207 & n.31 (describing various religious teachings that deadly force should not be used, and noting “[o]ther religious traditions take the view that defenders ought to use the least violence necessary”); Alsan, et al., *The Universal Pursuit of Safety*, at 25 (noting “[e]thical, religious, or moral reasons” for choosing not to own a firearm). Others simply want to be

² And as discussed further below, pepper projectile launchers in particular provide a valuable home defense weapon for families unwilling to risk accidents from firearms.

able to defend themselves while engaging in ordinary activities without worrying about potentially killing assailants. Martinez, *Pepperball guns rise in popularity in Hawaii as self-defense for kupuna amid uptick in crime*, Hawaii News Now (Nov. 8, 2023), <https://perma.cc/4LEP-93LF> (one resident noting more criminals are targeting seniors and “we’re not out to try and kill somebody, ... we just don’t want trouble”). Others fear that they will simply lose the nerve to pull the trigger in the event of a crisis. Volokh, *Nonlethal Self-Defense*, 62 Stan. L. Rev. at 207–08 & n.32 (citing sources).

Physical Limitations. Many individuals, particularly senior citizens and partially disabled persons, do not have the hand strength to handle firearms accurately. *Cf.* Volokh, *Nonlethal Self-Defense*, 62 Stan. L. Rev. at 208 n.34, 216. Pepper projectile launchers and stun guns have minimal recoil and offer a viable alternative for such persons. Pepper spray has long been popular for similar reasons.

Avoiding Onerous Regulation on Carrying Firearms. Many individuals would be happy to (and do) own firearms, but they are frustrated by the severe limitations States have imposed on their ability to carry. As this Court just described in *Wolford v. Lopez*, some States responded to *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022), by enacting laws that treat everyday locations as “sensitive places” where firearms are banned. *Wolford*, 146 S. Ct. 2032, 2040–41, 2046 (2026) (discussing Hawaii’s “sensitive place” restrictions “in significant categories of places” where people “go about their daily lives”). Similarly, many living in hostile jurisdictions do not have the time or patience to endure the onerous permitting regimes enacted to undermine the “general right

to publicly carry arms” recognized in *Bruen*, 597 U.S. at 31, 33. See, e.g., *Antonyuk v. James*, 120 F.4th 941, 994–98, 1002–04 (2d Cir. 2024), *cert. denied*, 145 S. Ct. 1900 (2025) (considering New York’s moral character requirement and social-media disclosure provisions); *United States v. Los Angeles Cnty. Sheriff’s Dep’t*, No. 2:25-cv-9323 (C.D. Cal. filed Sept. 30, 2025) (challenging permitting wait times averaging 281 days and stretching over several years); *Blank v. Santa Clara Cnty. Sheriff’s Dep’t*, No. 5:25-cv-8027 (N.D. Cal. filed Sept. 22, 2025) (challenging \$2,000 fee structure for concealed carry permit).

Summarizing the State and local restrictions on all forms of less-lethal weapons is beyond the scope of this brief, but suffice it to say, both possession and carrying of less-lethal weapons are generally subject to far less stringent regulation than firearms.

Avoiding Institutional Liability for Use of Defensive Force. Many institutions desire to provide security for their events but fear that the use of deadly force might subject them to years of costly litigation. For instance, religious organizations, landowners, and private businesses often prefer for this reason to rely on personnel or private security guards equipped with less-lethal arms to provide security.

* * *

For all of these reasons, less-lethal weapons are experiencing rapid growth as a category of arms. While most manufacturers of less-lethal weapons are privately held and do not report sales volumes, *amicus* Byrna is a public company that reports its financial results. Byrna’s net revenue has grown from just under \$1 million in 2019 (its

first year selling launchers) to \$118.1 million in 2025. The company has sold more than 800,000 launchers since inception, including over 250,000 units in 2025 alone.³

Amicus Chadwick has observed extremely strong interest across the Nation for training on the use of less-lethal arms. He designed USCCA’s less-lethal training course and confirms that it is USCCA’s fastest-growing course by far. Since first making these courses available in May 2026, USCCA has already certified more than 300 instructors, and more than 10,000 people have taken the courses on less-lethal arms.

II. *Amicus* Byrna Manufactures Less-Lethal Arms That Are Legal—And Very Popular—In 48 States, Yet California And New York Ban Them.

While the Petition here deals with “electronic weapons” like stun guns and tasers, an entirely different category of less-lethal arms has emerged over the past decade: handheld projectile launchers.

³ Moreover, nearly every level of law enforcement in the Nation uses pepper projectile launchers for crowd control and other purposes. Byrna supplies chemical irritant launchers to several law enforcement agencies, but it sells primarily to civilians; some of Byrna’s competitors (such as PepperBall and SABRE) sell primarily to law enforcement customers.

A. Pepper Projectile Launchers Are Handheld Arms That, Like Paintball Guns, Use Compressed CO₂ To Expel Kinetic Or Chemical Irritant Rounds.

Amicus Byrna is the Nation's leading manufacturer of CO₂-powered pepper projectile launchers. Pepper projectile launchers are durable, handheld arms that generally resemble a pistol or rifle. Unlike conventional firearms, pepper projectile launchers function exclusively using standard CO₂ cartridges or other compressed gases, containing no gunpowder or explosive mechanism whatsoever. Mechanically, these features position pepper projectile launchers alongside recreational paintball or airsoft markers—not firearms.

The pistol version is shown here:



These arms are often constructed from high-strength materials like aircraft-grade aluminum and polymer. They are equipped with CO₂ cartridges that expel (or “launch”) two types of rounds: non-chemical “kinetic” projectiles (basically, a hard, solid plastic sphere) and chemical irritant projectiles commonly referred to as “pepperballs” or pepper projectiles. Upon contact, these projectiles rupture and release an irritant powder that temporarily incapacitates an aggressor. The impact force is comparable to a recreational paintball, and the irritant effect typically wears off within 30 minutes—thus the common characterization of pepper projectile launchers as non-lethal or less-lethal weapons.

The company currently offers four models of handheld pistol launchers (with an effective range up to 60 feet) and two models of shoulder-fired rifle launchers (which can reach up to 100 feet). Byrna’s pistol launchers are chambered for .61 and .68 caliber projectiles, and are offered with five- and seven-round magazines. When a shooter pulls the trigger, the launcher releases compressed CO₂ to expel a round at a muzzle velocity of up to 400 feet per second. Each launcher expels a single round for each pull of the trigger.

Pepper projectile launchers are obviously “arms” under the Second Amendment’s plain text: “[T]he Second Amendment ‘extends ... to ... arms ... that were not in existence at the time of the founding.’” *Caetano*, 577 U.S. at 412 (per curiam) (quoting *Heller*, 554 U.S. at 582). This includes “modern instruments that facilitate armed self-defense,” *Bruen*, 597 U.S. at 28, that is, “any weapon customarily used for offensive or defensive purposes,” *Wolford*, 146 S. Ct. at 2043.

Pepper projectile launchers are particularly well-suited to both home defense and for self-defense outside of the home given their effective range. They can be used to disable an assailant from 60 feet (for Byrna’s pistol launchers) or even 100 feet (for rifle launchers). Compare this to the other familiar options for non-lethal self-defense: Taser’s civilian models max out around 15 feet; pepper spray and pepper gel have an optimal range of 10–12 feet; and a stun gun requires close physical contact with an attacker.

B. Pepper Projectile Launchers Are A Safe Alternative To Firearms.

A standard pepper projectile round consists of a thin, frangible polymer shell—typically made from polystyrene—designed to rupture on impact. Inside, manufacturers like Byrna load a measured charge of irritant powder together with an inert filler material. Upon impact, the shell breaks and disperses the powder, delivering a precisely metered irritant dose while the lightweight fragments pose a minimal penetrative or blunt-force hazard.

The active ingredient in pepper projectiles is typically oleoresin capsicum (OC), a pharmaceutical-grade chili extract, or its synthetic equivalent, pelargonic acid vanillylamide (PAVA)—the same active agents used in consumer pepper sprays. These agents are capsaicinoids that regulatory and medical literature classify as non-lethal.⁴ Each

⁴ Byrna also manufactures and sells the “Max” chemical irritant projectile, which contains a blend of OC and tear gas (specifically, CS, 2-chlorobenzalmalononitrile). *What are the Different Types of Projec-*

pepper projectile, weighing approximately three grams, strikes with 8–12 foot-pounds of force—one-tenth that of conventional less-lethal munitions such as 12-gauge bean-bag rounds, and comparable to a recreational paintball impact. The chemical rounds are specifically engineered to incapacitate through controlled irritation, and are not designed to inflict significant blunt trauma. Exposure to the chemicals causes temporary irritation to the eyes, mucous membranes, and respiratory system that disrupts sight and breathing. The effects wear off within about 30 minutes and cause only minor residual irritation (redness or light welting) with no lasting physiological damage.

Because pepper spray is so commonly used by law enforcement, training courses for officers routinely involve being dosed with capsaicinoids like OC and PAVA. *See, e.g., OC Exposure During Training: A Survival Must?*, Calibre Press (March 15, 2023), <https://perma.cc/M8XL-E7X4>; *TPD cadets get firsthand OC spray exposure during academy training*, Fox49 Tallahassee (July 29, 2026), <https://fox49.tv/news/local/tpd-cadets-get-firsthand-oc-spray-exposure-during-academy-training>. *Amicus* Chadwick in particular has overseen thousands of FBI trainees being exposed to far higher doses of pepper spray than the dose delivered in Byrna’s pepper rounds (which deploy the same active irritant as pepper spray) with no lasting damage. Indeed, he has been personally exposed to

tiles?, Byrna (June 12, 2026), <https://byrna.com/blogs/byrna-nation/what-are-the-different-types-of-projectiles>. While the irritants in the Max projectile are slightly more powerful than pepper projectiles, they have similarly non-lethal effects. *See Byrna .61 Cal Max Projectiles*, Byrna, <https://byrna.com/products/byrna-0-61-cal-max-projectiles> (listing “physical effects”).

this same chemical irritant more than two dozen times with no lasting effects.

Amici are aware of no fatalities resulting from the civilian use of pepper projectile launchers or pepper spray. Another manufacturer of pepper projectile launchers (PepperBall) notes that law enforcement have fired over 20 million of their rounds involving the same chemical irritants without a single fatality. *Can the PepperBall system kill or seriously injure someone?*, PepperBall: Frequently Asked Questions, <https://pepperball.com/faqs/>.⁵

Needless to say, compared to firearms, pepper projectile launchers are extremely safe arms.

C. California And New York Ban Pepper Projectile Launchers.

Despite their growing popularity and safety benefits, Byrna and other manufacturers face nonsensical bans on civilian use of pepper projectile launchers in California

⁵ Various studies have explored potential connections between the use of pepper spray by law enforcement and subsequent fatalities. See Volokh, *Nonlethal Self-Defense*, 62 Stan. L. Rev. at 206 n.25; Chan, et al., *Pepper Spray's Effects on a Suspect's Ability to Breathe*, Nat'l Inst. of Justice: Rsch. in Brief (Dec. 2001) at 7 n.1, <https://www.ojp.gov/pdffiles1/nij/188069.pdf>. The Justice Department reviewed 63 cases nationwide in which people were sprayed with pepper spray during arrest and later died in custody, and concluded that pepper spray was a *contributing* cause of death in only two—both involving preexisting asthma—while the remaining 61 deaths were attributable to drug use, disease, positional asphyxia, or a combination of these factors, independent of the pepper spray exposure. U.S. Dep't of Justice, Office of Justice Programs, Nat'l Inst. of Justice, *The Effectiveness and Safety of Pepper Spray* (Apr. 2003) <https://www.ojp.gov/pdffiles1/nij/195739.pdf>.

and New York. California bans pepper projectile launchers by classifying them as “tear gas weapons.” California Penal Code § 17240(a) defines “tear gas” broadly as “any liquid, gaseous or solid substance intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispersed in the air.” The law then defines a “tear gas weapon” to include any “shell, cartridge, or bomb” that releases tear gas upon discharge or explosion, or any “revolver, pistol, fountain pen gun ... or other form of device ... intended for the projection or release of tear gas.” Cal. Penal Code § 17250(a), (b). Although California authorizes the possession of tear gas or tear gas weapons “solely for self-defense purposes,” this authorization is limited to aerosol pepper spray canisters that are 2.5 ounces or smaller. *See* Cal. Penal Code § 22810(e)(1). That same statute expressly prohibits the purchase, possession, or use of “any tear gas weapon that *expels a projectile*, or that expels the tear gas by any method other than an aerosol spray[.]” *Id.* (emphasis added).

California law also generally criminalizes the possession, sale, or transport of any “tear gas weapon” that is not authorized for use in the state. Cal. Penal Code § 22900. Taken together, these laws ban the sale, purchase, possession, and use of pepper projectile launchers in California.

For its part, New York bans pepper projectile launchers through its prohibition on possessing “noxious materials,” which are defined to include “any ... substance capable of generating offensive, noxious or suffocating

fumes, gases or vapors, or capable of immobilizing a person.” N.Y. Penal Law § 270.05(1).⁶ Similar to California, New York exempts “pocket sized” aerosol pepper spray that expel OC from this prohibition as a personal “self-defense spray.” N.Y. Penal Law § 265.20(a)(14); *see* 10 CRR-NY 54.3(a)–(c).

So, while both States allow the use of pepper spray to ward off aggressors at close range, they do not allow their citizens to use the same chemicals in a pepper projectile launcher to deter aggressors before they get close enough for pepper spray to work. Alternatively, if the would-be defender is capable of using a firearm, they could shoot and kill the aggressor. This makes no sense.

III. Bans On Less-Lethal Weapons Are Rare Enough That The Issues Presented In The Petition Will Not Benefit From Percolation In The Circuits—But States And Local Governments Should Not Be Emboldened To Enact New Bans.

Summary reversal is appropriate in this case even without percolation through the circuits because bans of less-lethal weapons are confined to a small number of outlier states. The Court should decide cases from these states when they arise because the issue is unlikely to be informed by decisions from elsewhere. It has taken that approach in *Caetano*, and it should do it again here.

⁶ New York’s criminalization of “dangerous instrument[s],” N.Y. Penal Law § 265.01, has also been interpreted to reach chemical irritant sprays. *See People v. Wilkerson*, 711 N.Y.S.2d 308, 310 (N.Y. Crim. Ct. 2000); *People v. Sandel*, 84 N.Y.S.3d 340, 347–48 (N.Y. Sup. Ct. 2018).

As shown above, *amicus* Byrna knows well the challenges of a small minority of outlier jurisdictions that discriminate against non-lethal defensive arms. If the Court were to wait for cases regarding bans of pepper projectile launchers or stun guns to arise across the circuits, it would wait forever, because only California and New York ban them. Indeed, because the issues raised by the petition here overlap so closely with the issues in the pepper projectile launcher bans, granting this petition and addressing the merits will streamline, if not dispose of, Byrna's current challenge to California's ban. Byrna's lawsuit against California has confirmed that the State will be employing the same radical anti-Second Amendment arguments that led to the decision in this case.⁷

Importantly, even though the number of jurisdictions that ban less-lethal weapons is small, the number of people subject to the bans is not. The population of New York City exceeds that of many states. The two states that ban pepper projectile launchers, California and New York, make up nearly 20% of the United States' population. In other words, while only a handful of jurisdictions ban non-lethal arms, the real-world impact of those bans reaches a large number of people. Indeed, the handgun ban at issue in *Heller* reached only a fraction of the people affected by bans on less-lethal weapons.

⁷ California has indicated that it will argue pepper projectile launchers are not "arms" under the Second Amendment; that pepper projectile launchers are "dangerous and unusual"; and that Byrna bears the burden of demonstrating that its products are not "dangerous and unusual."

When considering such regulations before, this Court has summarily reversed. When this Court summarily reversed the Massachusetts Supreme Judicial Court's attempt to exclude stun guns from the Second Amendment, those weapons were legal in 45 states. *Caetano*, 577 U.S. at 420 (Alito, J., concurring). Now, New York City stands virtually alone. Pet. at 22.

If *Caetano* was proper for summary reversal, this case is even more so. The Second Circuit faced the same body of law as the Massachusetts Supreme Judicial Court but with the benefit of the *Caetano* disposition. And nothing in this Court's post-*Caetano* Second Amendment precedent supports the Second Circuit's bewildering refusal to understand that the Second Amendment protects keeping and bearing non-lethal defensive arms. If summary reversal was the appropriate medicine in *Caetano*, it should be administered here, too.

The favorable resolution of this petition would also help ward off additional recalcitrant jurisdictions from upholding universal bans of non-lethal weapons, including stun guns, electronic weapons, and pepper projectile launchers. As shown above, these defensive arms are critically important to many citizens who want viable defensive options that are less lethal than firearms. And because certain jurisdictions, and certain lower courts, did not receive the message the first time in *Caetano*, the Court should reiterate that less-lethal arms enjoy Second Amendment protection.

States banning less-lethal defensive arms should be corrected (again), following the straightforward law from

Heller to *Caetano*. Regrettably, absent this Court's intervention, many tens of millions of Americans will continue to live in Second Amendment Free Zones where even the most basic, definitionally less-dangerous, weapons will remain permanently off limits. Because of the limited number of jurisdictions that impose these bans, percolation is unlikely and the Court should not wait for further cases. With roughly a fifth of the Country falling under one of these uncommon and dangerous bans of less-lethal weapons, the Court should act swiftly. If the resistance to less-lethal weapons is allowed to fester, more jurisdictions may be emboldened to expand these harmful bans, taking away important non-lethal self-defense options from a large portion of the country.

CONCLUSION

For the reasons set forth above and by petitioner, the Court should grant the petition for a writ of certiorari and reverse.

Respectfully submitted,

MICHAEL FRANCISCO
JAMES COMPTON
First & Fourteenth PLLC
800 Connecticut Ave., Ste. 300
Washington, DC 20006
(202) 754-0522
michael@first-fourteenth.com

BRADLEY A. BENBROOK
Counsel of Record
STEPHEN M. DUVERNAY
JAMIE G. MCWILLIAM
Benbrook Law Group, PC
701 University Ave., Ste. 106
Sacramento, California 95825
(916) 447-4900
brad@benbrooklawgroup.com

Counsel for Amici Curiae

August 10, 2026