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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 10 COUNTY OF SACRAMENTO

13 **DAVID GENTRY, JAMES PARKER,**
 14 **MARK MID LAM, JAMES BASS, and**
 15 **CALGUNS SHOOTING SPORTS**
ASSOCIATION,
 16 Plaintiffs and Petitioners,
 17 v.
 18 **KAMALA HARRIS, in her official capacity**
 19 **as Attorney General for the State of**
 20 **California; STEPHEN LINDLEY, in his**
 21 **official capacity as Chief of the California**
 22 **Department of Justice Bureau of Firearms,**
BETTY T. YEE, in her official capacity as
State Controller, and DOES 1-10.,
 23 Defendants and
 24 Respondents.

Case No. 34-2013-80001667

**DECLARATION OF DAVID HARPER IN
 SUPPORT OF DEFENDANTS'
 OPPOSITION TO PLAINTIFFS'
 MOTIONS TO COMPEL**

Date: October 28, 2016
 Time: 9:00 a.m.
 Dept: 31
 Judge: The Honorable Michael P.
 Kenny
 Trial Date: None
 Action Filed: October 16, 2013

1 identified in the document; reflects the budgetary needs and requests of those programs; discusses
2 possible amendments or modifications to a January budget proposal; and generally concerns
3 DOJ's budget development process.

4 5. The item numbered 16 on the privilege log is another version of the document listed as
5 item 15. Item 16 is six pages in length and the chief difference between the two documents is that
6 item 16 reflects a series of recommendations by the Administrative Services Division to the
7 Executive Office regarding what proposals DOJ should pursue as Finance Letters. In other
8 words, item 16 reflects budget advice to the Executive Office regarding the development,
9 priorities, and decisions to be made regarding the DOJ budget.

10 6. Like all of the documents addressed in this declaration, I am informed and believe that
11 items 15 and 16 were located on an internal, secured departmental hard-drive housing a variety of
12 documents. I am also informed and believe that documents 15 and 16, like all of the documents
13 addresses herein, were created in confidence by government employees within the scope of their
14 employment for a variety of reasons that include briefing superiors, discussing issues, making
15 recommendations, and providing advice; that all were communicated in confidence, to the extent
16 they were communicated at all; that all were intended to be maintained as confidential; and that
17 none of documents has been disclosed publicly.

18 **Privilege Log Item 17**

19 7. The item numbered 17 on defendants' privilege log is a document titled "Division of
20 Law Enforcement, Bureau of Firearms." It is dated September 2007. The subtitle of the
21 document is "Automated Firearms System Redesign BCP - Responses to Questions from the
22 Department of Finance." The author of the document is not known, but its contents suggest it
23 was jointly authored by DOF staff and DOJ Budget Office staff. The nature of the document also
24 suggests that the document, or at least some of its contents, was exchanged between DOF staff
25 and DOJ Budget Office staff.

26 8. Item 17 concerns the Budget Change Proposal ("BCP") process. Generally speaking,
27 the BCP process occurs at the beginning of DOJ's development of a new budget for the next
28 fiscal year. Once DOF receives any BCP from DOJ, DOF reviews the proposal and often

1 contacts DOJ with questions and issues for clarification. This is a deliberative process that
2 involves considerable back and forth discussion between DOJ and DOF, precedes the proposal of
3 any January budget by the Governor, and reflects a conversation in the form of questions and
4 responses between two state departments regarding the budget developmental process.

5 **Privilege Log Item 18 & 19**

6 9. The items numbered 18 and 19 on defendants' privilege log are each two pages in length
7 and titled "BCP Concept Paper - APPS, Response to Anson's Questions. The author of the
8 documents is likely a DOJ Budget Analyst who is no longer employed by the Budget Office.
9 Bureau of Firearms staff also may have contributed to the documents, which reflect a series of
10 notes in the form of questions (likely from the Budget Office) and answers (likely from the
11 Bureau) regarding a concept paper being developed in support of a possible BCP. In other words,
12 items 18 and 19 are internal documents that reflect DOJ's deliberations prior to the BCP process
13 and regarding the development of its budget.

14 10. Item 18 is dated May 17, 2011, not May 8, 2011, as indicated on the privilege log.
15 Similarly, item 19 is dated May 18, 2011, not May 8, 2011, as indicated on the privilege log. I
16 am informed and believe that the May 8 date on the log is a typographical error.

17 **Privilege Log Item 21 & 23**

18 11. The item numbered 21 on defendants' privilege log is four pages of notes in the form
19 of questions and answers titled "DLE Restoration." The acronym DLE is a reference to the
20 Division of Law Enforcement. The notes were likely created in 2010 or 2011. The author of the
21 document is unknown, but it most likely reflects the comments and thinking of the Legislative
22 Analyst's Office (LAO) or a legislative staffer, and DOJ Budget Office staff. Item 21 concerns a
23 BCP that DOJ submitted to DOF and documents a series of questions (likely by DOF or
24 legislative staff) and answers (likely by DOJ Budget Office staff) regarding that BCP. Item 21 is
25 a document that reflects DOJ's deliberations regarding the development of its budget. The
26 document was likely created internally at DOJ

27 12. Item 23 on the privilege log is similar to item 21. It is four pages of notes in the form
28 of questions and answers concerning the DOJ budget in general, as opposed to a BCP. The notes

1 were likely created in 2011. The author of the document is unknown, but it most likely reflects
2 the comments and thinking of a legislative staffer and DOJ Budget Office staff. Item 23
3 documents a series of budget questions (likely by legislative staff) and answers (likely by DOJ
4 Budget Office staff) regarding the departmental budget. Thus, item 23 is a document that reflects
5 DOJ's deliberations regarding the development of its budget. Item 23 also was likely created
6 internally at DOJ.

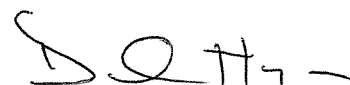
7 **Privilege Log Item 22**

8 13. Item 22 on the privilege log is a four-page document titled "Analysis of Problem" and
9 it concerns a BCP. It reflects DOJ's deliberations regarding a BCP. The author of the document
10 is unknown, but it was likely prepared by Budget Office staff. It is unknown if there were any
11 recipients of this particular document. The document may be a draft portion of a BCP. It may be
12 a copy of a portion of a BCP sent to DOF, but I am unable to confirm as much from the contents
13 of the document. In any event, I am informed and believe that in the context of this litigation
14 DOJ has already produced to plaintiffs all relevant approved BCPs.

15 **"Baseline Budget"**

16 14. I understand that plaintiffs have served a document request for "[e]ach and every
17 baseline budget submitted by the CAL DOJ to the California Department of Finance since
18 January 1, 2003." DOJ does not submit a "baseline budget" to the Department of Finance.
19 Rather, as I understand the term as it is used in departmental budget parlance, DOJ's "baseline
20 budget" for a given fiscal year is DOJ's portion of the state budget passed by the Legislature and
21 signed by the Governor. The annual state budget is a public document. Enacted budgets for
22 fiscal years 2007-2008 through 2016-2017 are available online at <http://www.ebudget.ca.gov>.

23 I declare under penalty of perjury under the laws of the State of California that the
24 foregoing is true and correct, on October 17, 2016, in Sacramento, California.

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27 _____
David Harper

28 SA2013113332

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DECLARATION OF SERVICE BY E-MAIL and U.S. Mail

Case Name: **Gentry, David, et al. v. Kamala Harris, et al.**

No.: **34-2013-80001667**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On October 17, 2016, I served the attached **DECLARATION OF DAVID HARPER IN SUPPORT OF DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTIONS TO COMPEL** by transmitting a true copy via electronic mail. In addition, I placed a true copy thereof enclosed in a sealed envelope, in the internal mail system of the Office of the Attorney General, addressed as follows:

Scott Franklin
Michel & Associates, P.C.
180 E. Ocean Boulevard, Suite 200
Long Beach, CA 90802
SFranklin@michellawyers.com

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on October 17, 2016, at Sacramento, California.

Tracie L. Campbell

Declarant



Signature