

**FILED/ENDORSED**  
AUG 31 2015  
*S. Lee*  
By S. Lee, Deputy Clerk

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO

**DAVID GENTRY, JAMES PARKER,  
MARK MIDLAM, JAMES BASS, and  
CALGUNS SHOOTING SPORTS  
ASSOCIATION,**

**Case No. 34-2013-80001667-CU-WM-GDS**

**Plaintiffs and Petitioners,**  
v.

**RULING AFTER ADDITIONAL BRIEFS:  
MOTION FOR JUDGMENT ON THE  
PLEADINGS, MOTION TO COMPEL  
ADDITIONAL RESPONSES TO FORM  
INTERROGATORIES, AND MOTION TO  
COMPEL FURTHER RESPONSES TO  
REQUEST FOR ADMISSIONS**

**KAMALA HARRIS, in Her Official  
Capacity as Attorney General for the  
State of California; STEPHEN  
LINDLEY, in His Official Capacity as  
Acting Chief for the California  
Department of Justice, BETTY T. YEE,  
in her official capacity as State  
Controller, and DOES 1-10,**

**Defendants and Respondents.**

This matter came on for hearing on June 5, 2015, for the above-referenced motions. The Court granted the motion for judgment on the pleadings in part, and ordered the parties to submit further briefing as to whether the Court should construe the motion for judgment on the pleadings as a motion to strike and strike the remaining portion of the second cause of action. The Court also ordered the parties to notify it as to whether the discovery motions were still at issue, or whether they had become moot as Respondents contended.

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1 In the Order after Hearing, the Court granted the motion for judgment on the pleadings as  
2 to the First Cause of Action, dismissing it without leave to amend. With respect to the Second  
3 Cause of Action, the Court granted the motion with regard to the first alternative claim that SB  
4 140 is an unlawful appropriation because SB 819 is an illegal tax under the California  
5 Constitution. With regard to the second alternative claim of the Second Cause of Action (that the  
6 DOJ Defendants had no authority to use DROS fee revenues to regulate the possession of  
7 firearms prior to January 1, 2012, the date that SB 819 went into effect), the Court ordered the  
8 parties to brief the issue as to whether the Court should construe the motion for judgment on the  
9 pleadings as a motion to strike, and strike that claim. This further briefing was to be filed by  
10 August 7, 2015.  
11

12 In the Order, the Court noted that the parties had met and conferred as to the motions to  
13 compel and were unable to reach a resolution as to whether some of the requests were now moot  
14 in light of the ruling on the motion for judgment on the pleadings. The Court received the parties'  
15 supplemental briefs on August 7, 2015, and has considered them in making the instant ruling.  
16

17 Motion for Judgment on the Pleadings

18 The Court agrees with Petitioners that in light of the dismissal of the Proposition 26  
19 claims, the Second Cause of Action is no longer uncertain. Pursuant to *Lilenthal & Fowler v.*  
20 *Super. Ct.*, (1993) 12 Cal.App.4th 1848, a demurrer is no longer proper based on the failure to  
21 separately state each cause of action. (*Id.* at 1855, FN 4.) As Respondents did not otherwise  
22 object to the remaining portion of the Second Cause of Action, the Court declines to strike those  
23 remaining portions.  
24

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1 Motion to Compel Further Responses to Requests for Admissions, Set One

2 Petitioner's motion to compel further responses to requests for admissions concerns  
3 requests 83, 84, 85, 86, 88, and 89.

4 Respondent argues these discovery requests are now moot in light of the Court's ruling on  
5 the motion for judgment on the pleadings. The Court agrees. Consequently, the motion to compel  
6 further responses to these requests is denied.  
7

8 Motion to Compel Further Responses to Form Interrogatory 17.1 regarding Request for  
9 Admissions.

10 Petitioner's motion to compel further responses to Form Interrogatory 17.1 concerns  
11 Petitioner's requests for admissions 18, 19, 21, 22, 38, 58, 68, 78, 83, 84, 85, 86, 88, 89, 92, 93,  
12 94, 95, 96, and 99. As the Court has already ruled that those requests concerning Petitioner's  
13 contention that SB 819 is an illegal tax are moot, the Court denies the motion to compel as to the  
14 following requests for admissions: 18, 19, 21, 22, 83, 84, 85, 86, 88, and 89.  
15

16 With regard to the remaining requests, the Court rules as follows:

17 No. 38 – Granted.

18 No. 58 – Granted.

19 No. 68 – Granted.

20 No. 78 – Denied.

21 No. 92 – Denied.

22 No. 93 – Denied.

23 No. 94 – Denied.

24 No. 95 – Denied.


25 No. 96 – Denied.

26 No. 99 – Denied.  
27  
28

1 Conclusion

2 Respondents shall provide further responses as indicated above to Petitioners within 15  
3 days of the date of this ruling.

4 DATED: August 31, 2015

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6   
7 Judge MICHAEL P. KENNY  
8 Superior Court of California,  
9 County of Sacramento

10 CERTIFICATE OF SERVICE BY MAILING  
11 (C.C.P. Sec. 1013a(4))

12 I, the undersigned deputy clerk of the Superior Court of California, County of  
13 Sacramento, do declare under penalty of perjury that I did this date place a copy of the above-  
14 entitled **RULING AFTER ADDITIONAL BRIEFS** in envelopes addressed to each of the  
15 parties, or their counsel of record as stated below, with sufficient postage affixed thereto and  
16 deposited the same in the United States Post Office at 720 9<sup>th</sup> Street, Sacramento, California.

17 SCOTT M. FRANKLIN, ESQ.  
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21 ANTHONY R. HAKL  
22 Deputy Attorney General  
23 P.O. Box 944255  
24 Sacramento, CA 94244-2550

25 Superior Court of California,  
26 County of Sacramento

27 Dated: August 31, 2015

28 By: S. LEE   
Deputy Clerk