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*Attorneys for Respondents Stephen J. Lindley, as  
Bureau Chief of the State of California Department  
of Justice; Kamala D. Harris, as Attorney General  
of the State of California and the State of California  
Department of Justice*

**FILED**  
SEP 11 2013  
FRESNO SUPERIOR COURT  
By \_\_\_\_\_  
S.W. DEPUTY

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF FRESNO  
12  
13  
14

15 **DANIEL SCHOEPF, an individual;**  
16 **JEFFERY HUFFMAN, an individual;**  
17 **YURIY TUZOV, an individual; KENNETH**  
18 **HUTCHINSON III, an individual;**  
19 **ROBERT BANNON, an individual;**  
20 **ELDON MANUEL, an individual; RALPH**  
21 **JOHNSON JR, an individual; THE**  
22 **CALGUNS FOUNDATION, INC., a**  
23 **California nonprofit public benefit**  
24 **corporation,**

Petitioners,

v.

25 **STEPHEN J. LINDLEY, in his capacity as**  
26 **Bureau Chief of the Bureau of Firearms for**  
27 **the State of California Department of**  
28 **Justice; KAMALA D. HARRIS, in her**  
**capacity as Attorney General of the State of**  
**California; THE STATE OF CALIFORNIA**  
**DEPARTMENT OF JUSTICE,**

Respondents.

Case No. 13CECG01132

**RESPONDENTS' REQUEST FOR  
JUDICIAL NOTICE IN SUPPORT OF  
OPPOSITION TO PETITION FOR  
ALTERNATIVE WRIT OF MANDATE  
AND COMPLAINT FOR  
DECLARATORY RELIEF**

Date: September 24, 2013  
Time: 8:30 a.m.  
Dept: 51  
Judge: The Honorable Debra J.  
Kazanjian

Trial Date:  
Action Filed: April 11, 2013

1 Pursuant to sections 452 and 453 of the California Evidence Code, respondents submit this  
2 request for judicial notice in support of their Memorandum of Points and Authorities in  
3 Opposition to Petition for Alternative Writ of Mandate and Complaint for Declaratory Relief.  
4 Respondents request an order taking judicial notice of Exhibit A, the most recent version of  
5 Assembly Bill 500, and its history and status as of the date this request was signed.

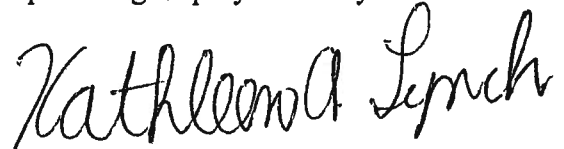
6 This motion is made on the grounds that the above document is relevant to this case. AB  
7 500, if enacted, would amend Penal Code section 28820, the subject matter of this litigation, and  
8 would render petitioners' main claim moot. This motion is also based on the grounds that the  
9 court may take judicial notice of official acts of the Legislature.

10 This motion is further based upon this notice, the memorandum of points and authorities  
11 filed concurrently with this motion, all pleadings and papers on file herein, and upon such other  
12 matters as may be presented in connection with the hearing.

13 Dated: September 10, 2013

Respectfully Submitted,

14 KAMALA D. HARRIS  
15 Attorney General of California  
16 MARK R. BECKINGTON  
17 Supervising Deputy Attorney General



18 KATHLEEN A. LYNCH  
19 Deputy Attorney General  
20 *Attorneys for Respondents Stephen J.*  
21 *Lindley, as Bureau Chief of the State of*  
22 *California Department of Justice; Kamala*  
23 *D. Harris, as Attorney General of the State*  
24 *of California and the State of California*  
25 *Department of Justice*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Respondents respectfully ask this court to take judicial notice of the above document in  
3 support of their Memorandum of Points and Authorities in Opposition to Petition for Alternative  
4 Writ of Mandate and Complaint for Declaratory Relief.

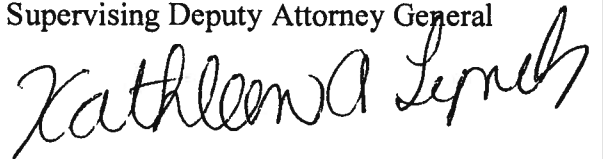
5 The court may take judicial notice of “[o]fficial acts of the legislative, executive, and  
6 judicial departments of the United States or of any state of the United States.” (Evid. Code,  
7 § 452, subd. (c); *Rodas v. Spiegel* (2001) 87 Cal.App.4th 513, 518, [records, reports, and orders of  
8 administrative agencies are “official acts” of which court may take judicial notice]; *Cruz v.*  
9 *County of Los Angeles* (1985) 173 Cal.App.3d 1131, 1134 [action taken pursuant to a customary  
10 practice of county agency constitutes an “official act” of which judicial notice may be taken].)  
11 The above document includes the most recent version of AB 500, and its status and history and is  
12 relevant to the case as it amends Penal Code section 28820, the basis of this litigation.

13 Based on the above, respondents request that the court issue an order taking judicial notice  
14 of Exhibit A.

15 Dated: September 10, 2013

Respectfully Submitted,

16 KAMALA D. HARRIS  
17 Attorney General of California  
18 MARK R. BECKINGTON  
19 Supervising Deputy Attorney General



20 KATHLEEN A. LYNCH  
21 Deputy Attorney General  
22 *Attorneys for Respondents Stephen J.*  
23 *Lindley, as Bureau Chief of the State of*  
24 *California Department of Justice; Kamala*  
*D. Harris, as Attorney General of the State*  
*of California and the State of California*  
*Department of Justice*

25 SA2013110878  
26 11168975.doc

**EXHIBIT A**

CURRENT BILL STATUS

MEASURE : A.B. No. 500  
AUTHOR(S) : Ammiano.  
TOPIC : Firearms.  
HOUSE LOCATION : ASM  
+LAST AMENDED DATE : 09/03/2013

TYPE OF BILL :  
Active  
Non-Urgency  
Non-Appropriations  
Majority Vote Required  
State-Mandated Local Program  
Fiscal  
Non-Tax Levy

LAST HIST. ACT. DATE: 09/09/2013  
LAST HIST. ACTION : In Assembly. Concurrence in Senate amendments pending.  
May be considered on or after September 11 pursuant to  
Assembly Rule 77.

FILE : ASM CONCURRENCE  
FILE DATE : 09/10/2013  
ITEM : 42

COMM. LOCATION : SEN APPROPRIATIONS  
COMM. ACTION DATE : 08/12/2013  
COMM. ACTION : Do pass.  
COMM. VOTE SUMMARY : Ayes: 04 Noes: 01PASS

TITLE : An act to amend Sections 11106, 16520, 16540, 16850,  
23510, and 28220 of, and to add Sections 17060, 25135,  
and 28255 to, the Penal Code, relating to firearms.

## COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 500  
AUTHOR : Ammiano  
TOPIC : Firearms.

## TYPE OF BILL :

Active  
Non-Urgency  
Non-Appropriations  
Majority Vote Required  
State-Mandated Local Program  
Fiscal  
Non-Tax Levy

## BILL HISTORY

2013

Sept. 9 In Assembly. Concurrence in Senate amendments pending. May be considered on or after September 11 pursuant to Assembly Rule 77.  
Sept. 9 Read third time. Passed. Ordered to the Assembly.  
Sept. 4 Read second time. Ordered to third reading.  
Sept. 3 Read third time and amended. Ordered to second reading.  
Aug. 14 Read second time. Ordered to third reading.  
Aug. 13 From committee: Do pass. (Ayes 4. Noes 1.) (August 12).  
July 2 From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 2.) (July 2). Re-referred to Com. on APPR.  
June 13 Referred to Com. on PUB. S.  
May 29 In Senate. Read first time. To Com. on RLS. for assignment.  
May 29 Read third time. Passed. Ordered to the Senate. (Ayes 47. Noes 28. Page 1725.)  
May 28 Read second time. Ordered to third reading.  
May 24 From committee: Do pass as amended. (Ayes 12. Noes 5.) (May 24). Read second time and amended. Ordered to second reading.  
May 1 In committee: Set, first hearing. Referred to APPR. suspense file.  
Apr. 3 From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 2.) (April 2). Re-referred to Com. on APPR.  
Mar. 4 Referred to Com. on PUB. S.  
Feb. 21 From printer. May be heard in committee March 23.  
Feb. 20 Read first time. To print.

AMENDED IN SENATE SEPTEMBER 3, 2013

AMENDED IN ASSEMBLY MAY 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 500**

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**Introduced by Assembly Member Ammiano**

February 20, 2013

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An act to amend Sections 11106, 16520, 16540, 16850, 23510, and 28220 of, and to add Sections 17060, 25135, and 28255 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 500, as amended, Ammiano. Firearms.

(1) Existing law requires the Department of Justice, upon submission of firearm purchaser information, to examine its records to determine if the purchaser is prohibited from possessing, receiving, owning, or purchasing a firearm. Existing law prohibits the delivery of a firearm within 10 days of the application to purchase, or, after notice by the department, within 10 days of the submission to the department of any corrections to the application to purchase, or within 10 days of the submission to the department of a specified fee. Existing law generally requires firearms transactions to be completed through a licensed firearms-dealers *dealer*. If a dealer cannot legally deliver a firearm, existing law requires the dealer to return the firearm to the transferor, seller, or person loaning the firearm.

This bill would require the department *to* immediately notify the dealer to delay the transfer of a firearm to a purchaser if the records of the department, or if specified records available to the department, indicate that the purchaser has been taken into custody and placed in a

facility for mental health treatment or evaluation, ~~as specified, or that he or she has been arrested for, or charged with, a crime, as specified, or that the purchaser is attempting to purchase more than one firearm within a 30-day period,~~ and the department is unable to ascertain whether the purchaser is ineligible to possess, receive, own, or purchase the firearm as a result of the determination of the purchaser's mental ~~health or health,~~ the final disposition of the arrest or criminal charge, ~~or whether the purchaser is ineligible to purchase the firearm because he or she is attempting to purchase more than one firearm within a 30-day period,~~ prior to the conclusion of the 10-day waiting period. If the department is unable to ascertain the final disposition of the arrest or criminal charge, ~~or the outcome of the mental health treatment or evaluation, or whether the purchaser is ineligible to purchase the firearm because he or she is attempting to purchase more than one firearm within a 30-day period,~~ within 30 days of the dealer's submission of purchaser information, the bill would require the department to notify the firearms dealer, and would authorize the dealer to then immediately transfer the firearm to the purchaser. *The bill would also enact similar provisions additionally requiring, among other things, the dealer and the purchaser to sign the register or record of electronic transfer, to take effect if AB 538 is enacted and amends Section 28160 of the Penal Code.*

(2) Existing law requires a firearm purchaser to present the dealer with clear evidence of the person's identity and age, and requires the dealer to make a permanent record of the transaction. Existing law requires the dealer to transmit the record of applicant information to the Department of Justice by electronic or telephonic transfer.

Commencing January 1, 2015, this bill would also require a dealer to notify the department that the person in an application to purchase actually took possession of the firearm, as specified.

(3) Under existing law certain persons are prohibited from owning or possessing a firearm, including persons convicted of certain violent offenses, and persons who have been adjudicated as having a mental disorder, among others.

This bill would prohibit a person who is residing with someone who is prohibited by state or federal law from possessing a firearm from keeping a firearm at that residence unless the firearm is either kept within a locked container, locked gun safe, locked trunk, locked with a locking device, disabled by a firearm safety device, or carried on the person. The bill would make a violation of this provision a misdemeanor.



By creating a new crime, this bill would impose a state-mandated local program.

*(4) The bill would incorporate additional changes to Section 11106 of the Penal Code, made by this bill, AB 539, and SB 53, and additional changes to Section 16520 of the Penal Code made by this bill and SB 299, to take effect if one or more of those bills are chaptered and this bill is chaptered last.*

~~(4)~~

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11106 of the Penal Code, as added by  
2 Section 2.5 of Chapter 745 of the Statutes of 2011, is amended to  
3 read:

4 11106. (a) In order to assist in the investigation of crime, the  
5 prosecution of civil actions by city attorneys pursuant to paragraph  
6 (3) of subdivision ~~(e)~~; (b), the arrest and prosecution of criminals,  
7 and the recovery of lost, stolen, or found property, the Attorney  
8 General shall keep and properly file a complete record of all copies  
9 of fingerprints, copies of licenses to carry firearms issued pursuant  
10 to Section 26150, 26155, 26170, or 26215, information reported  
11 to the Department of Justice pursuant to Section 26225, dealers'  
12 records of sales of firearms, reports provided pursuant to Article  
13 1 (commencing with Section 27500) of Chapter 4 of Division 6  
14 of Title 4 of Part 6, or pursuant to any provision listed in  
15 subdivision (a) of Section 16585, forms provided pursuant to  
16 Section 12084, as that section read prior to being repealed, reports  
17 provided pursuant to Article 1 (commencing with Section 26700)  
18 and Article 2 (commencing with Section 26800) of Chapter 2 of  
19 Division 6 of Title 4 of Part 6, that are not dealers' records of sales  
20 of firearms, information provided pursuant to Section 28255, and  
21 reports of stolen, lost, found, pledged, or pawned property in any  
22 city or county of this state, and shall, upon proper application

1 therefor, furnish this information to the officers referred to in  
2 Section 11105.

3 (b) (1) The Attorney General shall permanently keep and  
4 properly file and maintain all information reported to the  
5 Department of Justice pursuant to the following provisions as to  
6 firearms and maintain a registry thereof:

7 (A) Article 1 (commencing with Section 26700) and Article 2  
8 (commencing with Section 26800) of Chapter 2 of Division 6 of  
9 Title 4 of Part 6.

10 (B) Article 1 (commencing with Section 27500) of Chapter 4  
11 of Division 6 of Title 4 of Part 6.

12 (C) Chapter 5 (commencing with Section 28050) of Division 6  
13 of Title 4 of Part 6.

14 (D) Any provision listed in subdivision (a) of Section 16585.

15 (E) Former Section 12084.

16 (F) Section 28255.

17 (G) Any other law.

18 (2) The registry shall consist of all of the following:

19 (A) The name, address, identification of, place of birth (state  
20 or country), complete telephone number, occupation, sex,  
21 description, and all legal names and aliases ever used by the owner  
22 or person being loaned the particular firearm as listed on the  
23 information provided to the department on the Dealers' Record of  
24 Sale, the Law Enforcement Firearms Transfer (LEFT), as defined  
25 in former Section 12084, or reports made to the department  
26 pursuant to any provision listed in subdivision (a) of Section 16585,  
27 Section 28255, or any other law.

28 (B) The name and address of, and other information about, any  
29 person (whether a dealer or a private party) from whom the owner  
30 acquired or the person being loaned the particular firearm and  
31 when the firearm was acquired or loaned as listed on the  
32 information provided to the department on the Dealers' Record of  
33 Sale, the LEFT, or reports made to the department pursuant to any  
34 provision listed in subdivision (a) of Section 16585 or any other  
35 law.

36 (C) Any waiting period exemption applicable to the transaction  
37 which resulted in the owner of or the person being loaned the  
38 particular firearm acquiring or being loaned that firearm.

39 (D) The manufacturer's name if stamped on the firearm, model  
40 name or number if stamped on the firearm, and, if applicable, the

1 serial number, other number (if more than one serial number is  
2 stamped on the firearm), caliber, type of firearm, if the firearm is  
3 new or used, barrel length, and color of the firearm, or, if the  
4 firearm is not a handgun and does not have a serial number or any  
5 identification number or mark assigned to it, that shall be noted.

6 (3) Information in the registry referred to in this subdivision  
7 shall, upon proper application therefor, be furnished to the officers  
8 referred to in Section 11105, to a city attorney prosecuting a civil  
9 action, solely for use in prosecuting that civil action and not for  
10 any other purpose, or to the person listed in the registry as the  
11 owner or person who is listed as being loaned the particular firearm.

12 (4) If any person is listed in the registry as the owner of a firearm  
13 through a Dealers' Record of Sale prior to 1979, and the person  
14 listed in the registry requests by letter that the Attorney General  
15 store and keep the record electronically, as well as in the record's  
16 existing photographic, photostatic, or nonerasable optically stored  
17 form, the Attorney General shall do so within three working days  
18 of receipt of the request. The Attorney General shall, in writing,  
19 and as soon as practicable, notify the person requesting electronic  
20 storage of the record that the request has been honored as required  
21 by this paragraph.

22 (c) (1) Any officer referred to in paragraphs (1) to (6), inclusive,  
23 of subdivision (b) of Section 11105 may disseminate the name of  
24 the subject of the record, the number of the firearms listed in the  
25 record, and the description of any firearm, including the make,  
26 model, and caliber, from the record relating to any firearm's sale,  
27 transfer, registration, or license record, or any information reported  
28 to the Department of Justice pursuant to Section 26225, Article 1  
29 (commencing with Section 26700) and Article 2 (commencing  
30 with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part  
31 6, Article 1 (commencing with Section 27500) of Chapter 4 of  
32 Division 6 of Title 4 of Part 6, Chapter 5 (commencing with  
33 Section 28050) of Division 6 of Title 4 of Part 6, Article 2  
34 (commencing with Section 28150) of Chapter 6 of Division 6 of  
35 Title 4 of Part 6, Article 5 (commencing with Section 30900) of  
36 Chapter 2 of Division 10 of Title 4 of Part 6, Chapter 2  
37 (commencing with Section 33850) of Division 11 of Title 4 of Part  
38 6, or any provision listed in subdivision (a) of Section 16585, if  
39 the following conditions are met:

1 (A) The subject of the record has been arraigned for a crime in  
2 which the victim is a person described in subdivisions (a) to (f),  
3 inclusive, of Section 6211 of the Family Code and is being  
4 prosecuted or is serving a sentence for the crime, or the subject of  
5 the record is the subject of an emergency protective order, a  
6 temporary restraining order, or an order after hearing, which is in  
7 effect and has been issued by a family court under the Domestic  
8 Violence Protection Act set forth in Division 10 (commencing  
9 with Section 6200) of the Family Code.

10 (B) The information is disseminated only to the victim of the  
11 crime or to the person who has obtained the emergency protective  
12 order, the temporary restraining order, or the order after hearing  
13 issued by the family court.

14 (C) Whenever a law enforcement officer disseminates the  
15 information authorized by this subdivision, that officer or another  
16 officer assigned to the case shall immediately provide the victim  
17 of the crime with a "Victims of Domestic Violence" card, as  
18 specified in subparagraph (H) of paragraph (9) of subdivision (c)  
19 of Section 13701.

20 (2) The victim or person to whom information is disseminated  
21 pursuant to this subdivision may disclose it as he or she deems  
22 necessary to protect himself or herself or another person from  
23 bodily harm by the person who is the subject of the record.

24 *SEC. 1.1. Section 11106 of the Penal Code, as added by Section*  
25 *2.5 of Chapter 745 of the Statutes of 2011, is amended to read:*

26 11106. (a) In order to assist in the investigation of crime, the  
27 prosecution of civil actions by city attorneys pursuant to paragraph  
28 (3) of subdivision ~~(e)~~; (b), the arrest and prosecution of criminals,  
29 and the recovery of lost, stolen, or found property, the Attorney  
30 General shall keep and properly file a complete record of all copies  
31 of fingerprints, copies of licenses to carry firearms issued pursuant  
32 to Section 26150, 26155, 26170, or 26215, information reported  
33 to the Department of Justice pursuant to Section 26225 or 29830,  
34 dealers' records of sales of firearms, reports provided pursuant to  
35 Article 1 (commencing with Section 27500) of Chapter 4 of  
36 Division 6 of Title 4 of Part 6, or pursuant to any provision listed  
37 in subdivision (a) of Section 16585, forms provided pursuant to  
38 Section 12084, as that section read prior to being repealed, reports  
39 provided pursuant to Article 1 (commencing with Section 26700)  
40 and Article 2 (commencing with Section 26800) of Chapter 2 of

1 Division 6 of Title 4 of Part 6, that are not dealers' records of sales  
2 of firearms, *information provided pursuant to Section 28255*, and  
3 reports of stolen, lost, found, pledged, or pawned property in any  
4 city or county of this state, and shall, upon proper application  
5 therefor, furnish this information to the officers referred to in  
6 Section 11105.

7 (b) (1) The Attorney General shall permanently keep and  
8 properly file and maintain all information reported to the  
9 Department of Justice pursuant to the following provisions as to  
10 firearms and maintain a registry thereof:

11 (A) Article 1 (commencing with Section 26700) and Article 2  
12 (commencing with Section 26800) of Chapter 2 of Division 6 of  
13 Title 4 of Part 6.

14 (B) Article 1 (commencing with Section 27500) of Chapter 4  
15 of Division 6 of Title 4 of Part 6.

16 (C) Chapter 5 (commencing with Section 28050) of Division 6  
17 of Title 4 of Part 6.

18 (D) Any provision listed in subdivision (a) of Section 16585.

19 (E) Former Section 12084.

20 (F) *Section 28255*.

21 ~~(F)~~

22 (G) Any other law.

23 (2) The registry shall consist of all of the following:

24 (A) The name, address, identification of, place of birth (state  
25 or country), complete telephone number, occupation, sex,  
26 description, and all legal names and aliases ever used by the owner  
27 or person being loaned the particular firearm as listed on the  
28 information provided to the department on the Dealers' Record of  
29 Sale, the Law Enforcement Firearms Transfer (LEFT), as defined  
30 in former Section 12084, or reports made to the department  
31 pursuant to any provision listed in subdivision (a) of Section ~~16585~~  
32 *16585, Section 28255*, or any other law.

33 (B) The name and address of, and other information about, any  
34 person (whether a dealer or a private party) from whom the owner  
35 acquired or the person being loaned the particular firearm and  
36 when the firearm was acquired or loaned as listed on the  
37 information provided to the department on the Dealers' Record of  
38 Sale, the LEFT, or reports made to the department pursuant to any  
39 provision listed in subdivision (a) of Section 16585 or any other  
40 law.

- 1 (2) Section 16730.
- 2 (3) Section 16960.
- 3 (4) Section 16990.
- 4 (5) Section 17070.
- 5 (6) Section 17310.
- 6 (7) *Sections 25250 to 25275, inclusive.*
- 7 ~~(7)~~
- 8 (8) Sections 26500 to 26588, inclusive.
- 9 ~~(8)~~
- 10 (9) Sections 26600 to 27140, inclusive.
- 11 ~~(9)~~
- 12 (10) Sections 27400 to 28000, inclusive.
- 13 ~~(10)~~
- 14 (11) Section 28100.
- 15 ~~(11)~~
- 16 (12) Sections 28400 to 28415, inclusive.
- 17 ~~(12)~~
- 18 (13) Sections 29010 to 29150, inclusive.
- 19 ~~(13)~~
- 20 (14) Sections 29610 to 29750, inclusive.
- 21 ~~(14)~~
- 22 (15) Sections 29800 to 29905, inclusive.
- 23 ~~(15)~~
- 24 (16) Sections 30150 to 30165, inclusive.
- 25 ~~(16)~~
- 26 (17) Section 31615.
- 27 ~~(17)~~
- 28 (18) Sections 31705 to 31830, inclusive.
- 29 ~~(18)~~
- 30 (19) Sections 34355 to 34370, inclusive.
- 31 ~~(19)~~
- 32 (20) Sections 8100, 8101, and 8103 of the Welfare and
- 33 Institutions Code.
- 34 (c) As used in the following provisions, "firearm" also includes
- 35 *a* any rocket, rocket propelled projectile launcher, or similar device
- 36 containing ~~an~~ *any* explosive or incendiary material, whether or not
- 37 the device is designed for emergency or distress signaling purposes:
- 38 (1) Section 16750.
- 39 (2) Subdivision (b) of Section 16840.
- 40 (3) Section 25400.

- 1 (4) Sections 25850 to 26025, inclusive.
- 2 (5) Subdivisions (a), (b), and (c) of Section 26030.
- 3 (6) Sections 26035 to 26055, inclusive.
- 4 (d) As used in the following provisions, "firearm" does not
- 5 include an unloaded antique firearm:
  - 6 (1) Subdivisions (a) and (c) of Section 16730.
  - 7 (2) Section 16550.
  - 8 (3) Section 16960.
  - 9 (4) Section 17310.
  - 10 (5) *Division 4.5 (commencing with Section 25250) of Title 4.*
  - 11 ~~(5)~~
  - 12 (6) Chapter 6 (commencing with Section 26350) of Division 5
  - 13 of Title 4.
  - 14 ~~(6)~~
  - 15 (7) Chapter 7 (commencing with Section 26400) of Division 5
  - 16 of Title 4.
  - 17 ~~(7)~~
  - 18 (8) Sections 26500 to 26588, inclusive.
  - 19 ~~(8)~~
  - 20 (9) Sections 26700 to 26915, inclusive.
  - 21 ~~(9)~~
  - 22 (10) Section 27510.
  - 23 ~~(10)~~
  - 24 (11) Section 27530.
  - 25 ~~(11)~~
  - 26 (12) Section 27540.
  - 27 ~~(12)~~
  - 28 (13) Section 27545.
  - 29 ~~(13)~~
  - 30 (14) Sections 27555 to 27570, inclusive.
  - 31 ~~(14)~~
  - 32 (15) Sections 29010 to 29150, inclusive.
  - 33 (16) *Section 25135.*
  - 34 (e) As used in Sections 34005 and 34010, "firearm" does not
  - 35 include a destructive device.
  - 36 (f) As used in Sections 17280 and 24680, "firearm" has the
  - 37 same meaning as in Section 922 of Title 18 of the United States
  - 38 Code.
  - 39 (g) As used in Sections 29010 to 29150, inclusive, "firearm"
  - 40 includes the unfinished frame or receiver of a weapon that can be

1 readily converted to the functional condition of a finished frame  
2 or receiver.

3 SEC. 3. Section 16540 of the Penal Code is amended to read:

4 16540. As used in Section 25135 and Division 2 (commencing  
5 with Section 23620) of Title 4, "firearm safety device" means a  
6 device other than a gun safe that locks and is designed to prevent  
7 children and unauthorized users from firing a firearm. The device  
8 may be installed on a firearm, be incorporated into the design of  
9 the firearm, or prevent access to the firearm.

10 SEC. 4. Section 16850 of the Penal Code is amended to read:

11 16850. As used in Sections 17740, 23925, 25105, 25205,  
12 ~~23435~~, 25135, and 25610, in Article 3 (commencing with Section  
13 25505) of Chapter 2 of Division 5 of Title 4, in Chapter 6  
14 (commencing with Section 26350) of Division 5 of Title 4, and in  
15 Chapter 7 (commencing with Section 26400) of Division 5 of Title  
16 4, "locked container" means a secure container that is fully  
17 enclosed and locked by a padlock, keylock, combination lock, or  
18 similar locking device. The term "locked container" does not  
19 include the utility or glove compartment of a motor vehicle.

20 SEC. 5. Section 17060 is added to the Penal Code, to read:

21 17060. As used in Section 25135, "residence" means any  
22 structure intended or used for human habitation, including, but not  
23 limited to, houses, condominiums, rooms, motels, hotels,  
24 time-shares, and recreational or other vehicles where human  
25 habitation occurs.

26 SEC. 6. Section 23510 of the Penal Code is amended to read:

27 23510. (a) For purposes of Sections 25400 and 26500, Sections  
28 27500 to 27590, inclusive, Section 28100, Sections 29610 to  
29 29750, inclusive, Sections 29800 to 29905, inclusive, and Section  
30 31615 of this code, and any provision listed in subdivision (a) of  
31 Section 16585 of this code, and Sections 8100, 8101, and 8103 of  
32 the Welfare and Institutions Code, notwithstanding the fact that  
33 the term "any firearm" may be used in those sections, each firearm  
34 or the frame or receiver of each firearm constitutes a distinct and  
35 separate offense under those sections.

36 (b) For purposes of Section 25135, notwithstanding the fact that  
37 the term "any firearm" may be used in that section, each firearm  
38 constitutes a distinct and separate offense under that section.

39 SEC. 7. Section 25135 is added to the Penal Code, to read:



1 25135. (a) A person who is 18 years of age or older, and who  
2 is the owner, lessee, renter, or other legal occupant of a residence,  
3 who owns a firearm and who knows or has reason to know that  
4 another person also residing therein is prohibited by state or federal  
5 law from possessing, receiving, owning, or purchasing a firearm  
6 shall not keep in that residence any firearm that he or she owns  
7 unless one of the following applies:

- 8 (1) The firearm is maintained within a locked container.
- 9 (2) The firearm is disabled by a firearm safety device.
- 10 (3) The firearm is maintained within a locked gun safe.
- 11 (4) The firearm is maintained within a locked trunk.
- 12 (5) The firearm is locked with a locking device as described in  
13 Section 16860, which has rendered the firearm inoperable.
- 14 (6) The firearm is carried on the person or within close enough  
15 proximity thereto that the individual can readily retrieve and use  
16 the firearm as if carried on the person.

17 (b) A violation of this section is a misdemeanor.

18 (c) ~~The prohibition provisions~~ *provisions* of this section ~~is~~ *are* cumulative,  
19 and ~~does~~ *do* not restrict the application of any other law. However,  
20 an act or omission punishable in different ways by different  
21 provisions of law shall not be punished under more than one  
22 provision.

23 SEC. 8. Section 28220 of the Penal Code is amended to read:

24 28220. (a) Upon submission of firearm purchaser information,  
25 the Department of Justice shall examine its records, as well as  
26 those records that it is authorized to request from the State  
27 Department of State Hospitals pursuant to Section 8104 of the  
28 Welfare and Institutions Code, in order to determine if the  
29 purchaser is a person described in subdivision (a) of Section 27535,  
30 or is prohibited by state or federal law from possessing, receiving,  
31 owning, or purchasing a firearm.

32 (b) To the extent that funding is available, the Department of  
33 Justice may participate in the National Instant Criminal Background  
34 Check System (NICS), as described in subsection (t) of Section  
35 922 of Title 18 of the United States Code, and, if that participation  
36 is implemented, shall notify the dealer and the chief of the police  
37 department of the city or city and county in which the sale was  
38 made, or if the sale was made in a district in which there is no  
39 municipal police department, the sheriff of the county in which

1 the sale was made, that the purchaser is a person prohibited from  
2 acquiring a firearm under federal law.

3 (c) If the department determines that the purchaser is prohibited  
4 by state or federal law from possessing, receiving, owning, or  
5 purchasing a firearm or is a person described in subdivision (a) of  
6 Section 27535, it shall immediately notify the dealer and the chief  
7 of the police department of the city or city and county in which  
8 the sale was made, or if the sale was made in a district in which  
9 there is no municipal police department, the sheriff of the county  
10 in which the sale was made, of that fact.

11 (d) If the department determines that the copies of the register  
12 submitted to it pursuant to subdivision (d) of Section 28210 contain  
13 any blank spaces or inaccurate, illegible, or incomplete information,  
14 preventing identification of the purchaser or the handgun or other  
15 firearm to be purchased, or if any fee required pursuant to Section  
16 28225 is not submitted by the dealer in conjunction with  
17 submission of copies of the register, the department may notify  
18 the dealer of that fact. Upon notification by the department, the  
19 dealer shall submit corrected copies of the register to the  
20 department, or shall submit any fee required pursuant to Section  
21 28225, or both, as appropriate and, if notification by the department  
22 is received by the dealer at any time prior to delivery of the firearm  
23 to be purchased, the dealer shall withhold delivery until the  
24 conclusion of the waiting period described in Sections 26815 and  
25 27540.

26 (e) If the department determines that the information transmitted  
27 to it pursuant to Section 28215 contains inaccurate or incomplete  
28 information preventing identification of the purchaser or the  
29 handgun or other firearm to be purchased, or if the fee required  
30 pursuant to Section 28225 is not transmitted by the dealer in  
31 conjunction with transmission of the electronic or telephonic  
32 record, the department may notify the dealer of that fact. Upon  
33 notification by the department, the dealer shall transmit corrections  
34 to the record of electronic or telephonic transfer to the department,  
35 or shall transmit any fee required pursuant to Section 28225, or  
36 both, as appropriate, and if notification by the department is  
37 received by the dealer at any time prior to delivery of the firearm  
38 to be purchased, the dealer shall withhold delivery until the  
39 conclusion of the waiting period described in Sections 26815 and  
40 27540.

1 (f) (1) (A) The department shall immediately notify the dealer  
2 to delay the transfer of the firearm to the purchaser if the records  
3 of the department, or the records available to the department in  
4 the National Instant Criminal Background Check System, indicate  
5 either *one* of the following:

6 (i) The purchaser has been taken into custody and placed in a  
7 facility for mental health treatment or evaluation and may be a  
8 person described in Section 8100 or 8103 of the Welfare and  
9 Institutions Code and the department is unable to ascertain whether  
10 the purchaser is a person who is prohibited from possessing,  
11 receiving, owning, or purchasing a firearm, pursuant to Section  
12 8100 or 8103 of the Welfare and Institutions Code, prior to the  
13 conclusion of the waiting period described in Sections 26815 and  
14 27540.

15 (ii) The purchaser has been arrested for, or charged with, a crime  
16 that would make him or her, if convicted, a person ~~described in~~  
17 ~~subdivision (a) of Section 27535~~ or *who is* prohibited by state or  
18 federal law from possessing, receiving, owning, or purchasing a  
19 firearm, and the department is unable to ascertain whether the  
20 purchaser was convicted of that offense prior to the conclusion of  
21 the waiting period described in Sections 26815 and 27540.

22 (iii) *The purchaser may be a person described in subdivision*  
23 *(a) of Section 27535, and the department is unable to ascertain*  
24 *whether the purchaser, in fact, is a person described in subdivision*  
25 *(a) of Section 27535, prior to the conclusion of the waiting period*  
26 *described in Sections 26815 and 27540.*

27 (B) The dealer shall provide the purchaser with information  
28 about the manner in which he or she may contact the department  
29 regarding the delay described in subparagraph (A).

30 (2) The department shall notify the purchaser by mail regarding  
31 the delay and explain the process by which the purchaser may  
32 obtain a copy of the criminal or mental health record the  
33 department has on file for the purchaser. Upon receipt of that  
34 criminal or mental health record, the purchaser shall report any  
35 inaccuracies or incompleteness to the department on an approved  
36 form.

37 (3) If the department ascertains the final disposition of the arrest  
38 or criminal charge, or the outcome of the mental health treatment  
39 or evaluation, *or the purchaser's eligibility to purchase a firearm,*  
40 as described in paragraph (1), after the waiting period described

1 in Sections 26815 and 27540, but within 30 days of the dealer's  
2 original submission of the purchaser information to the department  
3 pursuant to this section, the department shall do the following:

4 (A) If the purchaser is not a person described in subdivision (a)  
5 of Section 27535, and is not prohibited by state or federal law,  
6 including, but not limited to, Section 8100 or 8103 of the Welfare  
7 and Institutions Code, from possessing, receiving, owning, or  
8 purchasing a firearm, the department shall immediately notify the  
9 dealer of that fact and the dealer may *then immediately* transfer  
10 the firearm to the purchaser, upon the dealer's recording on the  
11 register or record of electronic transfer the date that the firearm is  
12 transferred.

13 (B) If the purchaser is a person described in subdivision (a) of  
14 Section 27535, or is prohibited by state or federal law, including,  
15 but not limited to, Section 8100 or 8103 of the Welfare and  
16 Institutions Code, from possessing, receiving, owning, or  
17 purchasing a firearm, the department shall immediately notify the  
18 dealer and the chief of the police department in the city or city and  
19 county in which the sale was made, or if the sale was made in a  
20 district in which there is no municipal police department, the sheriff  
21 of the county in which the sale was made, of that fact in compliance  
22 with subdivision (c) of Section 28220.

23 (4) If the department is unable to ascertain the final disposition  
24 of the arrest or criminal charge, or the outcome of the mental health  
25 treatment or evaluation, *or the purchaser's eligibility to purchase*  
26 *a firearm*, as described in paragraph (1), within 30 days of the  
27 dealer's original submission of purchaser information to the  
28 department pursuant to this section, the department shall  
29 immediately notify the dealer and the dealer may *then immediately*  
30 transfer the firearm to the purchaser, upon the dealer's recording  
31 on the register or record of electronic transfer the date that the  
32 firearm is transferred.

33 *SEC. 8.1. Section 28220 of the Penal Code is amended to read:*

34 28220. (a) Upon submission of firearm purchaser information,  
35 the Department of Justice shall examine its records, as well as  
36 those records that it is authorized to request from the State  
37 Department of State Hospitals pursuant to Section 8104 of the  
38 Welfare and Institutions Code, in order to determine if the  
39 purchaser is a person described in subdivision (a) of Section 27535,

1 or is prohibited by state or federal law from possessing, receiving,  
2 owning, or purchasing a firearm.

3 (b) To the extent that funding is available, the Department of  
4 Justice may participate in the National Instant Criminal Background  
5 Check System (NICS), as described in subsection (t) of Section  
6 922 of Title 18 of the United States Code, and, if that participation  
7 is implemented, shall notify the dealer and the chief of the police  
8 department of the city or city and county in which the sale was  
9 made, or if the sale was made in a district in which there is no  
10 municipal police department, the sheriff of the county in which  
11 the sale was made, that the purchaser is a person prohibited from  
12 acquiring a firearm under federal law.

13 (c) If the department determines that the purchaser is prohibited  
14 by state or federal law from possessing, receiving, owning, or  
15 purchasing a firearm or is a person described in subdivision (a) of  
16 Section 27535, it shall immediately notify the dealer and the chief  
17 of the police department of the city or city and county in which  
18 the sale was made, or if the sale was made in a district in which  
19 there is no municipal police department, the sheriff of the county  
20 in which the sale was made, of that fact.

21 (d) If the department determines that the copies of the register  
22 submitted to it pursuant to subdivision (d) of Section 28210 contain  
23 any blank spaces or inaccurate, illegible, or incomplete information,  
24 preventing identification of the purchaser or the handgun or other  
25 firearm to be purchased, or if any fee required pursuant to Section  
26 28225 is not submitted by the dealer in conjunction with  
27 submission of copies of the register, the department may notify  
28 the dealer of that fact. Upon notification by the department, the  
29 dealer shall submit corrected copies of the register to the  
30 department, or shall submit any fee required pursuant to Section  
31 28225, or both, as appropriate and, if notification by the department  
32 is received by the dealer at any time prior to delivery of the firearm  
33 to be purchased, the dealer shall withhold delivery until the  
34 conclusion of the waiting period described in Sections 26815 and  
35 27540.

36 (e) If the department determines that the information transmitted  
37 to it pursuant to Section 28215 contains inaccurate or incomplete  
38 information preventing identification of the purchaser or the  
39 handgun or other firearm to be purchased, or if the fee required  
40 pursuant to Section 28225 is not transmitted by the dealer in

1 conjunction with transmission of the electronic or telephonic  
2 record, the department may notify the dealer of that fact. Upon  
3 notification by the department, the dealer shall transmit corrections  
4 to the record of electronic or telephonic transfer to the department,  
5 or shall transmit any fee required pursuant to Section 28225, or  
6 both, as appropriate, and if notification by the department is  
7 received by the dealer at any time prior to delivery of the firearm  
8 to be purchased, the dealer shall withhold delivery until the  
9 conclusion of the waiting period described in Sections 26815 and  
10 27540.

11 *(f) (1) (A) The department shall immediately notify the dealer*  
12 *to delay the transfer of the firearm to the purchaser if the records*  
13 *of the department, or the records available to the department in*  
14 *the National Instant Criminal Background Check System, indicate*  
15 *one of the following:*

16 *(i) The purchaser has been taken into custody and placed in a*  
17 *facility for mental health treatment or evaluation and may be a*  
18 *person described in Section 8100 or 8103 of the Welfare and*  
19 *Institutions Code and the department is unable to ascertain whether*  
20 *the purchaser is a person who is prohibited from possessing,*  
21 *receiving, owning, or purchasing a firearm, pursuant to Section*  
22 *8100 or 8103 of the Welfare and Institutions Code, prior to the*  
23 *conclusion of the waiting period described in Sections 26815 and*  
24 *27540.*

25 *(ii) The purchaser has been arrested for, or charged with, a*  
26 *crime that would make him or her, if convicted, a person who is*  
27 *prohibited by state or federal law from possessing, receiving,*  
28 *owning, or purchasing a firearm, and the department is unable to*  
29 *ascertain whether the purchaser was convicted of that offense*  
30 *prior to the conclusion of the waiting period described in Sections*  
31 *26815 and 27540.*

32 *(iii) The purchaser may be a person described in subdivision*  
33 *(a) of Section 27535, and the department is unable to ascertain*  
34 *whether the purchaser, in fact, is a person described in subdivision*  
35 *(a) of Section 27535, prior to the conclusion of the waiting period*  
36 *described in Sections 26815 and 27540.*

37 *(B) The dealer shall provide the purchaser with information*  
38 *about the manner in which he or she may contact the department*  
39 *regarding the delay described in subparagraph (A).*

1 (2) *The department shall notify the purchaser by mail regarding*  
2 *the delay and explain the process by which the purchaser may*  
3 *obtain a copy of the criminal or mental health record the*  
4 *department has on file for the purchaser. Upon receipt of that*  
5 *criminal or mental health record, the purchaser shall report any*  
6 *inaccuracies or incompleteness to the department on an approved*  
7 *form.*

8 (3) *If the department ascertains the final disposition of the arrest*  
9 *or criminal charge, or the outcome of the mental health treatment*  
10 *or evaluation, or the purchaser's eligibility to purchase a firearm,*  
11 *as described in paragraph (1), after the waiting period described*  
12 *in Sections 26815 and 27540, but within 30 days of the dealer's*  
13 *original submission of the purchaser information to the department*  
14 *pursuant to this section, the department shall do the following:*

15 (A) *If the purchaser is not a person described in subdivision (a)*  
16 *of Section 27535, and is not prohibited by state or federal law,*  
17 *including, but not limited to, Section 8100 or 8103 of the Welfare*  
18 *and Institutions Code, from possessing, receiving, owning, or*  
19 *purchasing a firearm, the department shall immediately notify the*  
20 *dealer of that fact and the dealer may then immediately transfer*  
21 *the firearm to the purchaser, upon the dealer's recording on the*  
22 *register or record of electronic transfer the date that the firearm*  
23 *is transferred, the dealer signing the register or record of*  
24 *electronic transfer indicating delivery of the firearm to that*  
25 *purchaser, and the purchaser signing the register or record of*  
26 *electronic transfer acknowledging the receipt of the firearm on*  
27 *the date that the firearm is delivered to him or her.*

28 (B) *If the purchaser is a person described in subdivision (a) of*  
29 *Section 27535, or is prohibited by state or federal law, including,*  
30 *but not limited to, Section 8100 or 8103 of the Welfare and*  
31 *Institutions Code, from possessing, receiving, owning, or*  
32 *purchasing a firearm, the department shall immediately notify the*  
33 *dealer and the chief of the police department in the city or city and*  
34 *county in which the sale was made, or if the sale was made in a*  
35 *district in which there is no municipal police department, the sheriff*  
36 *of the county in which the sale was made, of that fact in compliance*  
37 *with subdivision (c) of Section 28220.*

38 (4) *If the department is unable to ascertain the final disposition*  
39 *of the arrest or criminal charge, or the outcome of the mental*  
40 *health treatment or evaluation, or the purchaser's eligibility to*

1 purchase a firearm, as described in paragraph (1), within 30 days  
2 of the dealer's original submission of purchaser information to  
3 the department pursuant to this section, the department shall  
4 immediately notify the dealer and the dealer may then immediately  
5 transfer the firearm to the purchaser, upon the dealer's recording  
6 on the register or record of electronic transfer the date that the  
7 firearm is transferred, the dealer signing the register or record of  
8 electronic transfer indicating delivery of the firearm to that  
9 purchaser, and the purchaser signing the register or record of  
10 electronic transfer acknowledging the receipt of the firearm on  
11 the date that the firearm is delivered to him or her.

12 SEC. 9. Section 28255 is added to the Penal Code, to read:

13 28255. Commencing January 1, ~~2015~~, 2014, if after the  
14 conclusion of the waiting period described in Sections 26815 and  
15 27540, the individual named in the application as the purchaser of  
16 the firearm takes possession of the firearm set forth in the  
17 application to purchase, the dealer shall notify the Department of  
18 Justice of that fact in a manner and within a time period specified  
19 by the department, and with sufficient information to identify the  
20 purchaser and the firearm that the purchaser took possession of.

21 SEC. 10. (a) Section 1.1 of this bill incorporates amendments  
22 to Section 11106 of the Penal Code proposed by both this bill and  
23 Assembly Bill 539. It shall only become operative if (1) both bills  
24 are enacted and become effective on or before January 1, 2014,  
25 (2) each bill amends Section 11106 of the Penal Code, and (3) SB  
26 53 is not enacted or as enacted does not amend that section, and  
27 (4) this bill is enacted after Assembly Bill 539, in which case  
28 Sections 1, 1.2, and 1.3 of this bill shall not become operative.

29 (b) Section 1.2 of this bill incorporates amendments to Section  
30 11106 of the Penal Code proposed by both this bill and Senate  
31 Bill 53. It shall only become operative if (1) both bills are enacted  
32 and become effective on or before January 1, 2014, (2) each bill  
33 amends Section 11106 of the Penal Code, (3) Assembly Bill 539  
34 is not enacted or as enacted does not amend that section, and (4)  
35 this bill is enacted after Senate Bill 53 in which case Sections 1,  
36 1.1, and 1.3 of this bill shall not become operative.

37 (c) Section 1.3 of this bill incorporates amendments to Section  
38 11106 of the Penal Code proposed by this bill, Assembly Bill 539,  
39 and Senate Bill 53. It shall only become operative if (1) all three  
40 bills are enacted and become effective on or before January 1,



1 2014, (2) all three bills amend Section 11106 of the Penal Code,  
2 and (3) this bill is enacted after Assembly Bill 539 and Senate Bill  
3 53, in which case Sections 1, 1.1, and 1.2 of this bill shall not  
4 become operative.

5 *SEC. 11.* Section 2.5 of this bill incorporates amendments to  
6 Section 16520 of the Penal Code proposed by both this bill and  
7 Senate Bill 299. It shall only become operative if (1) both bills are  
8 enacted and become effective on or before January 1, 2014, (2)  
9 each bill amends Section 16520 of the Penal Code, and (3) this  
10 bill is enacted after Senate Bill 299, in which case Section 2 of this  
11 bill shall not become operative.

12 *SEC. 12.* Section 8.1 of this bill shall only become operative  
13 if Assembly Bill 538 of the 2013–2014 Regular Session is enacted  
14 and becomes effective on or before January 1, 2014, and Assembly  
15 Bill 538, as enacted, amends Section 28160 of the Penal Code, in  
16 which case Section 8 of this bill shall not become operative.

17 ~~SEC. 10.~~

18 *SEC. 13.* No reimbursement is required by this act pursuant to  
19 Section 6 of Article XIII B of the California Constitution because  
20 the only costs that may be incurred by a local agency or school  
21 district will be incurred because this act creates a new crime or  
22 infraction, eliminates a crime or infraction, or changes the penalty  
23 for a crime or infraction, within the meaning of Section 17556 of  
24 the Government Code, or changes the definition of a crime within  
25 the meaning of Section 6 of Article XIII B of the California  
26 Constitution.

**DECLARATION OF SERVICE BY OVERNIGHT COURIER**

Case Name: **Schoepf, et al. v. Lindley, et al.**

No.: **13CECG01132**

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; my business address is: 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

On September 10, 2013, I served the attached **Respondents' Request for Judicial Notice in Support of Opposition to Petition for Alternative Writ of Mandate and Complaint for Declaratory Relief** by placing a true copy thereof enclosed in a sealed envelope with the **Golden State Overnight courier service**, addressed as follows:

Victor J. Otten  
Michael Ruttle  
Otten & Joyce, LLP  
3620 Pacific Coast Hwy Suite 100  
Torrance, CA 90505

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 September 10, 2013, at Sacramento, California.

\_\_\_\_\_  
Scott De Medeiros  
Declarant

\_\_\_\_\_  
  
Signature



51512-002267-V10

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Attorney: CHRISTINA SANCHE

Secretary:

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Case Name: SCHOEPF V. LINDLEY

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