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9

10 **IN THE UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12 **WESTERN DIVISION**

13 **MICHELLE FLANAGAN, et al.,**

14 **Plaintiffs,**

15 **v.**

16 **CALIFORNIA ATTORNEY**
17 **GENERAL XAVIER BECERRA, in**
his official capacity as Attorney
18 **General of the State of California, et**
al.,

19 **Defendants.**
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Case No.: 2:16-cv-06164-JAK-AS

**REQUEST FOR JUDICIAL NOTICE
IN SUPPORT OF DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT**

Judge: Hon. John A. Kronstadt
Trial Date: February 6, 2018
Action Filed: August 17, 2016

1 Under Federal Rule of Evidence 201, Defendant Xavier Becerra, in his official
2 capacity as Attorney General of California (“Defendant”) respectfully requests that
3 the Court take judicial notice of the following documents in support of Defendant’s
4 motion for summary judgment:

5 1. The final, chaptered version of California Assembly Bill No. 144 (2011-
6 2012), and the legislative history of that bill. A true and correct copy of this
7 document is attached hereto as Exhibit 1. Exhibit 1 is a public record of the
8 California Legislature that was accessed on September 6, 2017, from the official
9 California Legislative Information website (<http://leginfo.legislature.ca.gov>).

10 2. The final, chaptered version of California Assembly Bill No. 1527 (2011-
11 2012), and the legislative history of that bill. A true and correct copy of this
12 document is attached hereto as Exhibit 2. Exhibit 2 is a public record of the
13 California Legislature that was accessed on September 6, 2017, from the official
14 California Legislative Information website (<http://leginfo.legislature.ca.gov>).

15 3. The worksheet for “County and State Population Estimates, January 1,
16 2016 and 2017,” from “Report E-1, Population Estimates for Cities, Counties, and
17 the State, January 1, 2016 and 2017,” which is a spreadsheet published by the
18 California Department of Finance, Demographic Research Unit, described at
19 <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-1/>. A true and
20 correct copy of this worksheet is attached hereto as Exhibit 3. Exhibit 3 is a public
21 record of the California Department of Finance that was accessed on September 6,
22 2017, from the California Department of Finance website
23 ([http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-1/documents/E-](http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-1/documents/E-1_2017_InternetVersion.xls)
24 [1_2017_InternetVersion.xls](http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-1/documents/E-1_2017_InternetVersion.xls)).

25 4. The text of statutes from various U.S. states regulating the carrying of
26 firearms in public. A true and correct copy of these statutes (listed below by state
27 of origin) is attached hereto as Exhibit 4.

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STATE	YEAR	PAGES WITHIN EX. 4
New Jersey	1686	002 - 005
Virginia	1786	006 - 009
Massachusetts	1795	010 - 011
North Carolina	1792	012 - 013
Maine	1821, 1841	014 - 024
Tennessee	1801	025 - 027
Michigan	1846	028 - 031
Delaware	1852	032 - 040
Oregon	1853	041 - 044
District of Columbia	1857	045 - 056
Wisconsin	1858	057 - 060
Pennsylvania	1861	061 - 065
Wyoming	1875	066 - 067
New Mexico	1869	068 - 069
Kansas	1901	070 - 071

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The Court may take judicial notice of any fact that is “not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b). A court *shall* take judicial notice of such a fact if requested by a party and supplied with the necessary information. Fed. R. Evid. 201(d).

“A trial court may presume that public records are authentic and trustworthy.” *Gilbrook v. City of Westminster*, 177 F.3d 839, 858 (9th Cir. 1999) (taking judicial notice of agency report). And, specifically:

[1] “Legislative history is properly a subject of judicial notice.” *Anderson v. Holder*, 673 F.3d 1089, 1094 n.1 (9th Cir. 2012); *Chaker v. Crogan*, 428 F.3d 1215, 1223 n.8 (9th Cir. 2005) (discussing legislative history of California statute). Therefore, the Court should take judicial notice of the *first* and *second* documents submitted here, as those documents are legislative history.

[2] The Court may take judicial notice of government reports. *Pueblo of Sandia v. United States*, 50 F.3d 856, 861 n.6 (10th Cir. 1995). Therefore, the Court may take judicial notice of the *third* document here, the demographics spreadsheet of the California Department of Finance.

[3] “[A] federal court must take judicial notice of state statutes ‘without plea or proof.’” *Getty Petroleum Mktg., Inc. v. Capital Terminal Co.*, 391 F.3d 312, 323 (1st Cir. 2004) (citing *Lamar v. Micou*, 114 U.S. 218, 223 (1885)). Therefore, the Court should take judicial notice of the *fourth* group of documents submitted here, consisting of U.S. state statutes.

In sum, the accuracy of all these public records, consisting of enacted legislation, legislative history, and an agency report, cannot reasonably be questioned, and judicial notice of all these records is therefore appropriate

Dated: September 11, 2017

Respectfully submitted,

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