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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

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

Plaintiffs and Petitioners,

v.

XAVIER BECERRA, in His 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 YEE, in Her Official Capacity as State Controller, and DOES 1 - 10,

Defendants and Respondents.

Case No. 34-2013-80001667

REPLY IN SUPPORT OF PLAINTIFFS' MOTION FOR ADJUDICATION OF FIFTH AND NINTH CAUSES OF ACTION

Date: August 4, 2017
Time: 9:00 a.m.
Dept.: 31
Judge: Hon. Michael P. Kenny
Action filed: 10/16/13

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STATUTES AND RELATED AUTHORITY

I. PLAINTIFFS HAVE MET ALL REQUIREMENTS FOR A WRIT OF MANDATE

A. The Department Claims No Ministerial Duty Exists—Ignoring the Mandatory Nature of the Extensive Limitations Specified in Section 28225—Rather than Admit Its Conduct Violated the Duty and Was Also an Abuse of Discretion.

The Opposition relies on a single case to support Defendants' claim that section 28225[1] does not create ministerial duty: *Cal. Pub. Records Research, Inc. v. Cnty. of Yolo*, 4 Cal. App. 5th 150, 174 (2016). (Defs. Opp. at 5:14-8:4.) Plaintiffs discussed that case, and the similar case *Cal. Pub. Records Research, Inc. v. Cnty. of Stanislaus*, 246 Cal. App. 4th 1432 (2016), in their recently filed Opposition to Defendants' Motion for Summary Adjudication. (Plfs. Opp. at 12:18-26 & n.5.) Plaintiffs' Opposition explained the parallels, *and differences*, between the *Cal. Pub.* cases and the matter before the Court. Defendants, however, fail to address the patently relevant distinction that makes the *Cal. Pub.* cases insufficient to support Defendants' claims.

Defendants claim that section 28225 and Government Code section 27366 (the statute primarily at issue in the *Cal. Pub.* cases) include "very similar fee setting framework[s,]" i.e., Defendants claim "section 28225 is akin to the statute in *California Public Records Research*." (Defs.' Opp. at 6:12-17, 7:9.) This claim is without merit. The grant of authority in Government Code section 27366, which concerns setting and charging fees for copying public records, is broad and simple, expressed in a single sentence.[2] Section 28225, in stark contrast, has multiple subsections, includes eleven specifically described cost categories, and even provides an additional subsection to specify that, inter alia, the statutorily mandated cost estimates to be made by the California Department of Justice ("Department") must be "reasonable." Penal Code § 28225. The level of detail provided by the legislature in section 28225 indicates the legislature was very concerned about setting forth the method used to set the Dealers' Record of Sale ("DROS") fee ("Fee"). (*See also* Plfs.' Opp. § II.B.1.iii.) Even a cursory review shows that section 28225 and Government Code section 27366 are not "very similar fee setting framework[s,]" and that the parallel Defendants attempt to draw is illusory.

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[1] All statutory references herein are to the Penal Code except where otherwise stated.

[2] "The fee for any copy of any other record or paper on file in the office of the recorder, when the copy is made by the recorder, shall be set by the board of supervisors in an amount necessary to recover the direct and indirect costs of providing the product or service or the cost of enforcing any regulation for which the fee or charge is levied." Gov't Code § 27366.

Further, Defendants fail to appreciate how their citation to *Cal. Pub. (Cnty. of Yolo)* actually supports Plaintiffs' interpretation of that case and how it applies here. That is, as Defendants note, *Cal. Pub. (Cnty. of Yolo)* recognizes that the relevant statutes "*require* the Board to charge and set copy fees[.]" (Defs.' Opp. at 6:17-7:5 [italics added].) Therefore, even though the *Cal. Pub. (Cnty. of Yolo)* court found that the actual setting of copy fees was a discretionary activity (*Cal. Pub. (Cnty. of Yolo)*, 4 Cal. App. 5th at 179), it still recognized that the overarching duty to set and charge copy fees was statutorily required, i.e., ministerial. *Cnty. of Los Angeles v. City of Los Angeles*, 214 Cal. App. 4th 643, 653 (2013) ("A ministerial duty is one which is required by statute."). The *Cal. Pub. (Cnty. of Stanislaus)* court reached the same conclusion, holding that the relevant law: "grants a board of supervisors some discretionary authority when setting copying fees . . . limited by the phrase 'direct and indirect costs' [found in Government Code section 27366.]" *Cal. Pub. v. Cnty. of Stanislaus*, 246 Cal. App. 4th at 1454 (2016),

That a ministerial duty can include discretionary aspects is not a revolutionary legal concept. In 1871 the California Supreme Court recognized the "large class of cases in which an inferior tribunal acts in a twofold capacity[;]" i.e., acts where both ministerial and discretionary elements are present. *Tilden v. Bd. of Sup'rs of Sacramento Cnty.*, 41 Cal. 68, 76 (1871). And since then, the courts have consistently recognized that "[t]o the extent that [a duty's] performance is unqualifiedly *required*, it is not discretionary, even though the manner of its performance may be discretionary."[3] Because the Court would have to disregard multiple provisions in section 28225 to hold that section 28225 does not include a ministerial duty, the Court should ignore Defendants' strained interpretation. *Tuolumne Jobs & Small Bus. All. v. Super. Ct.*, 59 Cal. 4th 1029, 1038 (2014) ("courts should give meaning to every word of a statute and should avoid constructions that would render any word or provision surplusage").

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[3] *See, e.g., Ham v. Los Angeles Cnty.*, 46 Cal. App. 148, 162 (1920) (italics added); *Johnson v. State*, 69 Cal. 2d 782, 788 (1968) (citing *Ham*); *Redwood Coast Watersheds All. v. State Bd. of Forestry & Fire Prot.*, 70 Cal. App. 4th 962, 970 (1999) (citing *Ham*); *Cotta v. Cty. of Kings*, No. 1:13-CV-00359-LJO, 2013 WL 3213075, at *17 (E.D. Cal. June 24, 2013) (citing *Ham*).

1. Defendants provide no substantive response in support of the Macro Review Process, the use of which exceeds any discretion the Department has under section 28225.

Defendants claim that "[t]he requirements for writ of mandate are well known[, including that] the petitioner *must demonstrate* the public official or entity had a *ministerial duty* to perform[.]" (Defs.' Opp. at 5:15-20.) This claim is wrong; *Cal. Pub. (Cnty. of Yolo)* plainly states that mandamus is *also* available "to correct the exercise of discretionary legislative power . . . where the action amounts to an abuse of discretion[.]" *Cal. Pub. (Cnty. of Yolo)*, 4 Cal. App. 5th at 177. The Department's decision to set the DROS Fee based on a calculation that does not include *any* of the individual statutorily required cost estimations (section 28225(c)) is an abuse of discretion that is subject to mandamus relief even if section 28225 does not create a mandatory duty per se. *Id.*; (*cf.* Plfs.' Mot. § B at n.7 and accompanying text.).

In Section III.B.2.a.i-ii. of Plaintiffs' Motion, Plaintiffs detail the process the Department uses to set the DROS Fee, i.e., the Macro Review Process, and how it is not only prone to obfuscating overspending in legitimate areas of spending, but that it also expressly considers costs that are not authorized under section 28225. In short, Plaintiffs allege the Department is exceeding the scope of authority granted in section 28225 by using the Macro Review Process. Defendants provide no substantive argument in response; they only dispute facts that, pursuant to Defendants' discovery responses, should have been undisputed.[4] Regardless, this omission is telling, and confirms that Defendants cannot provide a rational explanation as to how the Macro Review Process comports with the requirements of section 28225. In light of the foregoing, the Court should grant a writ ordering the Department to perform a review—based on the specific requirements stated in section 28225—of the amount currently being charged for the DROS Fee.

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[4] Within one business day of having received Defendants' Opposition to Plaintiffs' Separate Statement of Undisputed Facts, Plaintiffs served discovery—requests for admissions and contention interrogatories—on Defendants. The discovery is limited to instances where Defendants disputed a fact herein notwithstanding the issue having been (at least in Plaintiffs' view) resolved, often by a request for admission response. To the extent the Court's tentative ruling depends on Defendants disputing a fact that Plaintiffs contend is being disputed without justification, Plaintiffs plan to request the Court allow Plaintiff to file Defendants' responses to the relevant discovery prior to the Court issuing is final ruling on the parties' cross-motions.

2. The Department should not be allowed to rely on ambiguities, latent or otherwise, that it knowingly helped create.

As described in Section II.C. of Plaintiffs' Opposition to Defendants' Motion for Summary Adjudication, Senate Bill ("SB") 819 (Leno, 2011) was revised, with the Department's involvement, specifically to make it clear that SB 819's addition of the word "possession" to section 28225 was a narrow amendment—a fact Defendants now unflinchingly ignore. In Section I.A. of Defendants' Opposition, Defendants again try to convince the Court that vague codified language—language that the Department surely helped draft—should be given a broad interpretation notwithstanding a clear intent that the relevant provision be interpreted narrowly.

Specifically, in an attempt to support Defendants' claim that discretion "to consider a wide range of costs in setting the DROS fee" negates the mandatory aspects of how that fee shall be set, Defendants make the following statement: "[S]ubdivision (b)(11) perhaps illustrates this point the best, considering its broad language encompassing 'costs associated *with* funding Department of Justice firearms-*related* regulatory and enforcement activities *related to* the sale, purchase, possession, loan, or transfer of firearms." (Defs.' Opp. at 7:14-19.) To understand why the quoted provision is not as broad as Defendants claim, one must look at two previous bills, Assembly Bill ("AB") 2080 (2002, Steinberg) and AB 161 (Steinberg, 2003).

a. AB 2080 allows certain licensing-related costs to be funded out of the DROS Fund, though not from Fee money.

AB 2080, the Firearms Trafficking Prevention Act of 2002 (2002 Cal. Stat. ch. 909, § 1, provided, inter alia, that money in the DROS Special Account of the General Fund ("DROS Fund") could be appropriated for a new purpose: "to offset the costs incurred for the verification of [certain] licensure provisions[.]" Legis. Counsel's Dig., Assem. Bill No. 2080 (2001-2002 Reg. Sess.) 2002 Cal.Stat. 909 (concerning change in former section 12076(g) identified at 2002 Cal. Stat. 909 § 2). Though AB 2080 resulted in the revision of former section 12076(g) (now section 28235), AB 2080 did not modify former section 12076(e) (now located at section 28225(a)-(c)), which provided how the Fee was to be set. This distinction was seized upon by then-Senator Bill Morrow, who asked the Legislative Counsel of California ("Legislative Counsel") if AB 2080

actually authorized Fee money—as opposed to money in the DROS Fund from other sources—to be spent on the relevant licensure provisions. (Supplemental Declaration of Scott M. Franklin in Support of Plaintiffs' Motion ["Sup. Franklin Decl."] at Ex. 1.)

Legislative Counsel found that AB 2080's amendment of former section 12076(g) did allow the Department to use the DROS Fund money for the relevant licensing costs, but that AB 2080 did not amend former 12076(e) (now 28225(b)). (*Id.* at 4.) Accordingly, Legislative Counsel determined that AB 2080 did not modify the way the Fee was set or spent, so AB 2080's new authority only applied to money in the DROS Fund that was not obtained via the Fee. (*Id.* at 5.)

b. The Department tried to get unprecedented DROS Fund spending "flexibility" via AB 161, but it eventually conceded AB 161's limits.

In response to the Legislative Counsel's determinations discussed above, the Department sponsored AB 161 (Steinberg, 2003), seeking to have the following additional cost category added to the list that is now located at section 28225(b): "the costs associated with funding Department of Justice firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to this chapter." In support of the bill, the Department expressed its position thusly:

> Unfortunately, because of a recent legislative counsel opinion, the Department of Justice feels strongly that clarification of enforcement activity and the use of the DROS account to fund it is of extreme importance. At issue is whether or not the DROS fee (which makes up more than 80% of the DROS Fund) can be used to fund DOJ enforcement of the gun laws.

(Sup. Franklin Decl. at p. 7 of Ex. 2.) The Senate Public Safety Commission ("Public Safety"), however, saw through the proposed "clarification[.]" Public Safety noted that AB 161 was an attempt to use the ambiguity in AB 2080 to drastically increase what the Department could use Fee money for. (*Id.* at 9-10.)

In response, the Department claimed that AB 161 would not expand the use of Fee money, but clarify how it could be used, asserting that AB 161 would "not authorize DOJ to spend DROS fees for purposes other than what the Legislature has already approved through Budget Act appropriations" and two other bills in the 2003-04 Budget Bill that the legislature planned to fund from the DROS Fund. *Id.* at 10. Further, the Department's post-AB 161, *pre-litigation*

interpretation of the subsection added via AB 161 removes any doubt as to the narrow scope of that subsection. In 2010, when the Department published a (never adopted) proposed regulation that would have reduced the Fee from $19 to $15, the Department made the following pertinent statement in response to a formal comment on that rulemaking: "The Department is not authorized to use DROS funds . . . to notify new gun buyers of their duties and responsibilities" in the formal comment. (Declaration of Scott M. Franklin in Support of Plaintiffs' Motion ["Franklin Decl."], at AGRFP00178 in Ex. 28.) That the Department recognized there was no authority to fund this activity out of the DROS fund even though the activity seems to be a "firearms-related regulatory . . . activit[y] related to the sale . . . of firearms" is strong evidence that AB 161 was not intended to address "a wide range of costs[.]"

At least in the case of AB 161 and SB 819, it is clear that the Department initially sought to drastically increase its access to the DROS Fund (and Fee money specifically), but ultimately conceded that the relevant bills, if enacted, would provide a funding source for much narrower purposes. It is disconcerting to think that the Department has a practice interpreting Department-sponsored legislation in one manner prior to adoption, and a completely contrary manner after the legislation becomes law. As the California Supreme Court stated *in Yamaha Corp. of Am. v. State Bd. of Equalization*, 19 Cal. 4th 1, 7 (1998), "[t]he degree of respect accorded the agency's interpretation is not susceptible of precise formulation, . . . but is situational[, e.g.,] *a vacillating position . . . is entitled to no deference.*" (Quotation marks and brackets omitted, italics added). Nonetheless, if the Court grants any deference to the Department's interpretations of SB 819 or AB 161, it should be granted as to the interpretations the Department publicly offered at the time those bills were being debated, and not the Department's current claims, which lack "the appearance of impartiality necessary to justify any reliance by the [C]ourt." *Carmona v. Div. of Indus. Safety*, 13 Cal. 3d 303, 312 (1975).

B. Plaintiffs' Beneficial Right Is Obvious Here, but to (Again) Sidestep an Admission Detrimental to their case, Defendants Pretend Otherwise.

Defendants first appear to be making a hyper-technical claim that "plaintiffs have not even attempted to articulate what their beneficial right must be[,]" and thus, Plaintiffs have supposedly

failed to meet the "beneficial right" element required for writ relief. (Defs.' Opp. 8:5-9:2). If this argument is based on the fact that the First Amended Complaint does not literally state "Plaintiffs have a beneficial right to not be charged the DROS Fee in an unauthorized amount" or something similar, such omission is surely immaterial and without legal effect,[5] as the Department clearly understands the gravamen of Plaintiffs' claims and the rights implicated thereby, and the Department has never attempted to dispute that the individual plaintiffs have paid the DROS Fee and that they expect to pay it in the future.

Defendants' substantive argument fairs no better. They argue, somewhat obliquely, that Plaintiffs' claim is based on "a general interest in having the laws of the State upheld[,]" an interest "shared by the public at large" and therefore, that "broad interest does not amount to a beneficial right." (Defs.' Opp. at 8:22-24). This is a false premise, one that cannot be reasonably made where the relevant complaint specifically identifies the individual plaintiffs as Fee payers who, inter alia, pray "[f]or a peremptory writ of mandate ordering . . . Defendants . . . to review the DROS Fee as currently imposed to determine whether the amount is "no more than is necessary[.]" (First Am. Compl. at p. 25:7-10.) Nonetheless, by wrongly characterizing Plaintiffs' right, the Department can then attack that straw man with what is actually inapplicable case law.

For example, Defendants cite *Holbrook v. City of Santa Monica,* 144 Cal. App. 4th 1242, 1254 (2006), for the proposition that "interests 'pertain[ing] to the effective operation of government and the rights of the public, not to specific interests or rights of [the petitioners] individually,' are not beneficial interests[.]" (Defs.' Opp. at 8:24-26.) In that case, the Court expressly found that the plaintiffs' allegations therein primarily concerned how late-night city council meetings were "a subversion of the public's right to be heard[,]" a right that was not specific to the plaintiffs, who were city councilmembers. *Id.* at 1254. Importantly, *Holbrook* specially notes that if the plaintiffs there "[w]ere subject to particular liabilities by virtue of their membership on the City Council, the beneficial interest analysis might well be different." *Id.* at n.5. Thus, *Holbrook* is legally distinguishable from the instant case because the *Holbrook*

[5] *Genger v. Albers*, 90 Cal. App. 2d 52, 55 (1949) ("Where the variance is not misleading, the court may find the facts according to the evidence or may order an immediate amendment.")

plaintiffs failed to allege an interest that was not held by the rest of the public, whereas the individual plaintiffs herein all allege payment of a fee that distinguishes them from the rest of the public, who do not pay such fee.

Similarly, Defendants cite *Braude v. City of Los Angeles*, 226 Cal. App. 3d 83, 89 (1990), for the proposition that a "taxpayer's interest in minimizing traffic congestion, though legitimate, was not a beneficial interest 'over and above the public at large' because 'hundreds of thousands of people' shared the interest[.]" (Defs.' Opp. at 8:26-9:2.) In *Braude*, a city councilmember who was outvoted 14 to 1 regarding the approval of an ordinance related to a construction project thereafter sought a "writ of mandate to, inter alia, command respondents to set aside their adoption of the ordinance and to comply with [CEQA] concerning proper building density and traffic flow." *Id.* at 86. *Braude* specifically notes that "cases applying the 'beneficial interest' standard tend toward a common sense rather than a merely technical approach. The standing determination appears to rest on the particular facts of the case." *Id.* at 88. Here, Plaintiffs are DROS Fee payers, and Defendants offer no logical allegation or actual evidence that the "public at large" is burdened by an unnecessarily high DROS Fee. This type of distinction was absent in *Braude*, which makes Defendants' reliance thereon unjustified.

Further, Defendants do not discuss the California Supreme Court's more recent opinions dealing with the "over and above" standard, e.g., *Save the Plastic Bag Coal. v. City of Manhattan Beach*, 52 Cal. 4th 155, 165 (2011). *Save the Plastic Bag* provides how the "over and above" standard works in practice: "One who is in fact adversely affected by governmental action should have standing to challenge that action if it is judicially reviewable." *Id.* Plaintiffs are "in fact adversely affected by" the Department's overcharging of the DROS Fee; thus, they "have standing to challenge" the Department's decision to charge an amount without the proper statutorily required analysis having been performed.

II. THE NINTH CAUSE OF ACTION IS BASED ON THE TEXT OF SB 819, WHICH INCLUDES A PELLUCID STATEMENT OF LEGISLATIVE INTENT

Defendants claim that "none of the versions of SB 819 offered by plaintiffs can change the plain meaning of the word 'possession,' which itself appeared in earlier versions of the bill."

(Defs.' Opp. at 9:27-10:2.) That statement is somewhat of a ruse: the question here is not whether the "plain meaning" of a word used in draft and final legislation has changed, but what the legislative intent was behind the final use of the word. But because a "plain meaning" interpretation inures to the Department's interests, Defendants argue their interpretation of SB 819 be adopted even though it is patently in conflict with SB 819's express legislative intent.

Defendants raise two arguments to support their position. First, Defendants ask the Court to disregard the relevant and specific uncodified intent language in favor of either general language or a "common sense" and non-contextual interpretation of the word "possession." (Defs.' Opp. at 9:5-13; 10:2-9.) As discussed thoroughly *supra* and in Plaintiffs' Motion for Adjudication, section (1)(g) of SB 819 expressly states a legislative intent that DROS Fund money be used for the "limited purpose" of funding APPS-based law enforcement activities. S.B. 819, 2011-2012 Reg. Sess. (Cal. 2011) (enacted). Senator Leno specifically amended SB 819 to make this fact clear. (Franklin Decl. at GENT127 in Ex. 15.) Defendants attempt to downplay the legislature's statement of intent as an "isolated phrase" that should not trump Defendants' "common sense interpretation" (Defs.'s Opp. at 9:9-11), but that canard is exposed when the entirety of SB 819 is considered.

"The Codes of this state are simply a part of the statutory law of this state[; t]hey have no higher standing or sanctity than any other statute regularly passed by the Legislature." *Los Angeles Cnty. v. Payne*, 8 Cal. 2d 563, 574 (1937). "An uncodified section is part of the statutory law[;]" thus, "[i]n considering the purpose of legislation, statements of the intent of the enacting body contained in a preamble, while not conclusive, are entitled to consideration." *Carter v. Cal. Dep't of Veterans Affairs*, 38 Cal. 4th 914, 925-6 (2006). Because section 1(g) of SB 819 is a direct and unequivocal expression of legislative intent, it, and not the Department's so-called "common sense interpretation[,]" nor the more general subsections of SB 819, section (1) (Defs.' Opp. at 10:2-9),[6] sets the scope of what the legislature intended when it added the word "possession" to section 28225 via SB 819.

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[6] Cal. Civ. Proc. Code § 1859 ("In the construction of a statute the intention of the Legislature, . . . when a general and particular provision are inconsistent, the latter is paramount

Defendants claim Plaintiffs focus on section 1(g) of SB 819 "to the exclusion of everything else" (Defs.' Opp. at 9:9-14), which is apparently a backhanded way of arguing that the Court should ignore the legislature's express, but uncodified, statement of intent in favor of the Department's "common sense interpretation" of a single codified word taken out of context. Under *Payne* and *Carter*, it is clear that section 1(g) of SB 819 will be part of the Court's analysis of how section 28225's use of the word "possession" should be interpreted. Because Defendants' "common sense interpretation" plainly contradicts with a specific provision providing a statement of intent language for SB 819—the provision Plaintiffs' interpretation is literally based on—Plaintiffs' interpretation should be adopted by this Court. *Cal. Mfrs. Ass'n v. Pub. Utilities Comm'n.*, 24 Cal. 3d 836, 844 (1979) ("Where a statute is theoretically capable of more than one construction we choose that which most comports with the intent of the Legislature.").

And to be clear, the Department's attempt to paint its interpretation as reasonable and one of "common sense" does not matter, as courts do not adopt "common sense," "plain language," or "plain meaning" interpretations when the legislature has spoken on how a relevant provision is to be interpreted. *See Collection Bureau of San Jose v. Rumsey*, 24 Cal. 4th 301, 310 (2000) ("***Absent a compelling reason to do otherwise,*** we strive to construe each statute in accordance with its plain language.") (Emphasis added.) Even if it is true that Defendants' "common sense interpretation" is reasonable, that is irrelevant to the extent that Plaintiffs' interpretation is the one that "most comports with the intent of the legislature." *Cal. Mfrs. Ass'n v. Pub. Utilities Comm'n.*, 24 Cal. 3d at 844.

III. CONCLUSION

Plaintiffs' Motion should be granted for the reasons stated herein and in the Motion.

Dated: July 21, 2017

MICHEL & ASSOCIATES, P.C.

Scott M. Franklin
Attorneys for Plaintiffs/Petitioners

PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF FRESNO

I, Laura Palmerin, am employed in the City of Long Beach, Los Angeles County, California. I am over the age eighteen (18) years and am not a party to the within action. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

On July 21, 2017, I served the foregoing document(s) described as

REPLY IN SUPPORT OF PLAINTIFFS' MOTION FOR ADJUDICATION OF FIFTH AND NINTH CAUSES OF ACTION

on the interested parties in this action by placing
[ ] the original
[X] a true and correct copy

thereof by the following means, addressed as follows:

Office of the Attorney General
Anthony Hakl, Deputy Attorney General
1300 I Street, Suite 1101
Sacramento, CA 95814
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X (BY OVERNIGHT MAIL) As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for overnight delivery by UPS/FED-EX. Under the practice it would be deposited with a facility regularly maintained by UPS/FED-EX for receipt on the same day in the ordinary course of business. Such envelope was sealed and placed for collection and delivery by UPS/FED-EX with delivery fees paid or provided for in accordance with ordinary business practices.
Executed on July 21, 2017, at Long Beach, California.

X (BY ELECTRONIC MAIL) As follows: I served a true and correct copy by electronic transmission. Said transmission was reported and completed without error.
Executed on July 21, 2017, at Long Beach, California.

X (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

LAURA PALMERIN