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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 T. YEE, in Her Official Capacity as State Controller, and DOES 1 - 10,

Defendants and Respondents.

Case No. 34-2013-80001667

PLAINTIFFS' REPLY IN SUPPORT OF MOTIONS TO COMPEL ADDITIONAL RESPONSES TO: [1] REQUESTS FOR ADMISSIONS (SET THREE) AND [2] SPECIAL INTERROGATORIES (SET FOUR)[1]

Hearing Date: November 3, 2017
Hearing Time: 9:00 a.m.
Judge: Honorable Michael P. Kenny
Dept.: 31

Trial Date: March 16, 2018
Action Filed: October 16, 2013

[1] Plaintiffs file a single reply regarding the two motions at issue in response to Defendants' filing of a single opposition to Plaintiffs' motions.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES

OTHER AUTHORITIES

I. INTRODUCTION

Because Defendants' legally unfounded objections are but a stalking horse for an intentional strategy aiming to avoid providing key admissions and interrogatory responses, further responses should be ordered and the Court should sanction the responsible parties accordingly.

II. RESPONSE TO DEFENDANTS' "RELEVANT PROCEDURAL HISTORY"

Defendants like to recite: (1) the amount of discovery propounded in this case, (2) that there was a different case, *brought by different plaintiffs than those herein*, wherein discovery was also obtained on issues similar to what is at the core of this case, and (3) that Plaintiffs have "deposed those persons with considerable knowledge of" relevant issues. (Opp. § II; *accord* Ex. 1 to the Suppl. Decl. of Scott M. Franklin in Supp. of Mots. to Compel ["Suppl. Franklin Decl."].) Clearly, Defendants are attempting to color the Court's analysis with the three items mentioned above, but this attempt fails for the simple reason that Defendants have never provided any legal authority suggesting these are appropriate considerations in this instance.

First, Defendants did not challenge either the declaration of necessity supporting Plaintiffs' Requests for Admissions (Set Three) (the "Requests") or Special Interrogatories (Set Four) (the "Interrogatories") (collectively the "Written Discovery"); when a declaration of necessity is served, "any challenge to the number served must be by motion for protective order. The motion effectively controverts the statement of grounds in the declaration, and places the burden on the propounding party to prove the excessive number of requests is warranted by the complexity of the case." Weil & Brown, Cal. Prac. Guide Civ. Pro. Before Trial § 8:1307 (Rutter 2017) (citing Code Civ. Proc. § 2033.040(b)); *see also id.* § 8:1090 (stating a similar standard for interrogatories). And more to the point, the separate statements filed by Plaintiffs herein show Defendants' responses to the Written Discovery did not include any objection based on the number of requests or interrogatories sought. Objections not made in an initial response are waived. *Scottsdale Ins. Co. v. Super. Ct.*, 59 Cal. App. 4th 263, 273 (1997). The Court should thus disregard Defendants' attempt to surreptitiously raise an unfounded and waived objection.

As to the second item, Defendants provide no authority suggesting that discovery in a different case, brought by plaintiffs different from those herein, is somehow relevant to how this

Court should handle a discovery dispute among the parties before it. Again, Defendants' goal is presumably to paint the Written Discovery in a particular negative light, but because Defendants' comments are unsupported by the law, they should be disregarded.

Finally, in what will become a consistent theme herein, the third item was expressly discussed in Plaintiffs' motion papers (Mot. for Add'l Resps. to Req. for Admis. (Set Three) ["MTC Re: RFAs"] at § III.C), but Defendants simply ignore that argument rather than admit it is correct. The fact that Plaintiffs deposed three people (Opp. at 8:19-9:2) is irrelevant to the current discovery motions, and Defendants mention it only to fill space in a gossamer brief. The third item mentioned in Section II of the Opposition, and Section II in toto, is a legally unfounded distraction. The Court should disregard Defendants' strategic "painting" of the current dispute.

III. THE WRITTEN DISCOVERY SEEKS RELEVANT INFORMATION

A. *Sinclair Paint* States the Standard for Distinguishing a Fee from a Tax, which Is a Predicate to, But Not Part of, Analyzing If a Tax Is Unconstitutional.

Plaintiffs' MTC Re: RFAs at 9:3-7 states Plaintiffs have "not completed their legal research for the merits briefing in this case," but that it "seems likely *Sinclair Paint* will be a major guidepost[.]" Strangely, Defendants claim this is proof that Plaintiffs have "an absence of a complete understanding of the elements of their claim" and thus Plaintiffs' motions are tainted by unclean hands. (Opp. at 16:23-17:4.) Even assuming arguendo Plaintiffs are mistaken, Plaintiffs' hypothetical good faith error is plainly not a matter of unclean hands, and Defendants' failure to cite any authority for its claim to the contrary is clearly nothing more than unfounded bluster.

Defendants claim that *Sinclair Paint v. State Bd. of Equalization*, 15 Cal. 4th 866 (1997) is inapplicable regarding the illegal tax claims herein because those claims are founded in Article XIII of the California Constitution ("Article XIII"), whereas the constitutional challenge in *Sinclair Paint* specifically concerns Article XIIIA thereof ("Article XIIIA"). (Opp. at 10:11-20).

Sinclair Paint's Article XIIIA analysis is separate from the predicate question therein, i.e., "[t]he question arises whether [(1)] *these fees were in legal effect "taxes"* [(2)] required to be enacted by a two-thirds vote of the Legislature. (See Cal. Const., art. XIII A, § 3.)" *Sinclair Paint*, 15 Cal. 4th at 870 (emphasis added). *Sinclair Paint*'s discussion concerning "general police power

authority" is not based on Article XIIIA. This point is proven by the fact that *Sinclair Paint*'s discussion on the issue includes cases that predate Article XIIIA. *See id.* at 872 (noting Article XIIIA became law in 1978), 877-78 (citing, inter alia, cases from 1915 and 1906).

The standard used to distinguish regulatory fees from taxes has not changed dramatically over the last century. In 1906, the California Supreme Court held that

> The amount of the license fee, however, must not be more than is reasonably necessary for the purpose sought, i.e., the regulation of the business. If it is so great that the court can plainly see that the purpose of its imposition was to realize a revenue under the guise of regulating the business, the provision for the fee cannot stand as an exercise of the police power.

Plumas Cty. v. Wheeler, 149 Cal. 758, 763 (1906); *accord Sinclair Paint*, 15 Cal. 4th at 889 (citing *Plumas*). *Sinclair Paint* states a very similar standard: "to show a fee is a regulatory fee and not a special tax, the government should prove . . . charges allocated to a payor bear a fair or reasonable relationship to the payor's burdens on or benefits from the regulatory activity." *Sinclair Paint*, 15 Cal. 4th at 878. Thus, the fact that the constitutional challenge in *Sinclair Paint* was based on Article XIIIA, and not Article XIII, has no impact on whether *Sinclair Paint*'s discussion of the limits of the police power are applicable here.

Furthermore, Defendants are wrong in impliedly arguing that the difference between the version of Article XIIIA at issue in *Sinclair Paint* and Article XIII is legally relevant. The California Supreme Court issued *Sinclair Paint* well *before* Article XIIIA was amended in 2010 to include a definition of "tax[.]" *Schmeer v. Cty. of Los Angeles* 214 Cal. App. 4th 1310, 1322-24 (2013) (noting Proposition 26 became law in 2010). So prior to Proposition 26 (e.g., when *Sinclair Paint* was decided) Article XIIIA, just like Article XIII, had no definition of "tax" upon which the two articles could be distinguished.

Sinclair Paint's police power analysis relies heavily on *United Bus. Com. v. City of San Diego*, 91 Cal. App. 3d 156, 165 (1979) a case that was filed *prior* to Article XIIIA being enacted. *Id.* at 164. *United* holds that "[t]he general rule is that a regulatory . . . fee levied cannot exceed the sum reasonably necessary to cover the costs of the regulatory purpose sought." *Sinclair Paint* specifically recognizes that the *United* "court observed that, under the police power, municipalities

may impose fees for the purpose of legitimate regulation, and not mere revenue raising, if the fees do not exceed the reasonably necessary expense of the regulatory effort." *Sinclair Paint*, 15. Cal. 4th at 880-81. In fact, the case *Sinclair Paint* itself relies on for establishing the standard Plaintiff believes to be applicable—*San Diego Gas*—also specifically relies on *United* because it describe[s the] distinctions between regulatory fee and revenue-raising tax[.]" *Id.* at 878; *San Diego Gas v. San Diego Cty. Air Pollution Control Dist.*, 203 Cal. App. 3d 1132, 1135-36 (1988).

Defendants' contention is a red herring; *Sinclair Paint*, *San Diego Gas, United,* and similar cases are relevant not because they concern a particular constitutional provision, but because they explain the standard for analyzing if a levy exceeds the scope of the police power. Because determining if the DROS Fee is in any part a tax is a separate question from whether the tax is constitutional, Defendants' argument on this issue is legally invalid and should be ignored.

B. Proposition 26 Included *Existing* "Benefit" and "Burden" Elements.

Defendants claim that "many of plaintiffs' discovery requests—which demand that defendants explain the 'benefits,' 'burdens,' and related interests associated with the DROS Process — were drafted in light of the actual language of Article XIIIA, which mentions those considerations." (Opp. at 10:21-27). Defendants' assumption is wrong: Plaintiffs propounded the relevant discovery requests "in light of" the fact that "benefit" and "burden" issues have always been relevant in all cases wherein a supposed regulatory fee is challenged—it is not something unique to claims made under Article XIIIA post-Proposition 26. *See S. Cal. Edison Co. v. Public Utilities Comm'n*, 227 Cal. App. 4th 172, 198-99 (2014) (stating that Proposition 26's definition of "tax" tracked the "pre-*Sinclair Paint* definition"). If "benefit" and "burden" analysis is not apt, then what is the standard? Defendants certainly do not attempt prove their argument by identifying the "right" standard. Because "Requests for Admissions Nos. 157, 159-162, 176-177, 181-185, 209-211, and Special Interrogatories Nos. 42-43 and 52" are relevant under the standard that applies to matters unaffected by Proposition 26, e.g., claims under "Article XIII, Section 1, 2, and 3(m)" (Opp. at 10:21-27), the Court should overrule Defendants' relevancy objection.

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C. The Order of May 31, 2016, Should Not Be Determinative Here.

Defendants claim the Court's order of May 31, 2016 (the "Discovery Order"), supports their relevancy objection. Plaintiffs do not dispute that there are five specific requests for admissions discussed therein that are substantively the same as five requests for admissions at issue herein. And if the Discovery Order was in fact intended by this Court to reflect the Court's analysis and provide a substantive ruling on whether the salient requests for admission were relevant as to the remaining illegal tax causes of action, Plaintiffs recognize their options may be limited as to those five requests. E.g., Plaintiffs could request that the Court consider its bifurcation of the case, and its ruling granting Plaintiffs' Motion for Adjudication of Plaintiffs' Fifth and Ninth Causes of action, as new circumstances that justify a renewed motion for further responses to the five requests for admissions at issue (per Code of Civil Procedure section 1008(b). But it is Plaintiffs' position that, because of a determinative flaw in the Discovery Order, it should not be given any weight in the instant dispute.

The Discovery Order states that "Petitioners contend the issues of a claimed tax's benefits and burdens on those required to pay it remains relevant, even absent a constitutional provision so providing[.]" (Opp. Ex. A at 4:12-13). The problem with the Discovery Order becomes apparent during the Court's discussion of a case cited by Plaintiffs, *Cal. Farm Bureau Fed'n v. State Water Res. Control Bd.*, 51 Cal. 4th 421, 428 (2011), *as modified* (Apr. 20, 2011). The relevant passage is as follows: "*California Farm Bureau Federation* specifically dealt with the Article XIIIA, section 3 language that is no longer at issue in this case. Accordingly, the case does not stand for the proposition that such "benefit" "burden" analysis is applicable for the constitutional claims petitioners currently allege [under Article XIII]." (Opp. Ex. A at 5:6-7). *Cal. Farm*, however, did *not* deal "with the Article XIIIA, section 3 language" concerning "'benefit' 'burden' analysis" because that case was filed before relevant language was added to Article XIIIA. *Cal. Farm,* 51 Cal. 4th at 428 n.2 ("On November 2, 2010, the voters approved Proposition 26. . . . None of the parties have asserted . . . Proposition 26 applies to this case."). *Cal. Farm* thus concerned the "'benefit' 'burden' analysis" applied *before* Article XIIIA included a definition of the word "tax."

The Discovery Order, after setting *Cal. Farm* aside, goes on to cite other pre-Proposition

26 cases that, like *Cal. Farm*, recognize the "nexus" requirement for regulatory fees; i.e., the amount charged must be reasonably related to the regulatory activity being performed. (Opp. Ex. A at 5:11-23). Specifically, the Discovery Order cites a footnote in *San Diego Gas* for the undisputed proposition that a regulatory fee does not necessarily create a benefit to the payer. That footnote, however, follows *San Diego Gas*' express adoption of a standard that requires "charges allocated to the payor bear a fair or reasonable relationship to the payors' burdens on or benefits from the regulatory activity." *San Diego Gas*, 203 Cal. App. 3d at 1146; *see also Mills v. Cty. of Trinity*, 108 Cal. App. 3d 656, 660 (1980) (a pre-Proposition 26 case cited in the Discovery Order that notes the term "tax" "has been construed to exclude charges to particular individuals which do not exceed the value of the government benefit conferred. . . . ").

Under *Cal. Farm, San Diego Gas, Sinclair Paint,* and *United*, it is clear that the "'benefit' 'burden' analysis" is part of determining if a purported regulatory fee is actually a tax. Because pre-Proposition 26 case law (not to mention pre-*Sinclair Paint* and pre-Proposition 13 case law) that confirms the "'benefit' 'burden' analysis" is part of determining if a purported regulatory fee is actually a tax regardless of what type of illegal tax claim is raised, the Court should not rely on the Discovery Order to the extent it conflicts with the cited authority.

D. The Order of August 9, 2017, Did Not Moot Any of the Instant Dispute.

On August 9, 2017, this Court held that the California Department of Justice needed to review the amount it was charging for the DROS Fee, and that, contrary to Defendants' position, the term 'possession' as it is used in section 28225, subdivision b (11) "is limited to APPS-based enforcement." (Opp. at 11:19-12:7.) From this starting point Defendants take an unfounded leap of logic: "Thus, all of those requests aimed at [(1)] how the Department calculates the amount of the DROS Fee, [(2)] how it interprets the word "possession," [(3)] how APPS-based enforcement activities are paid for, [(4)] the composition of the APPS list, and similar requests are now beside the point." (*Id.* at 12:2-5.) As to the issues Defendants actually identified (as opposed to the "similar requests" boilerplate catchall that needs no response), Plaintiffs respond to each in turn.

First, how the Department calculates the DROS Fee is very important to Plaintiffs claims. For example, if 99 percent of DROS Fee revenue is being spent on processing firearm purchasers'

background checks, Plaintiffs likely do not have a viable illegal tax claim. *See, e.g.*, *United*, 91 Cal. App. 3d at 165 ("if regulation is the primary purpose the mere fact that incidentally a revenue is also obtained does not make the imposition a tax"). Conversely, if only 20 percent of DROS Fee revenue is being spent on "regulatory"[2] costs, then "revenue is the primary purpose and regulation is merely incidental [and] the imposition is a tax." *Id.* Second, though Defendants' failure to link the listed topics to specific requests makes responding somewhat difficult, it seems the second issue refers to Request for Admission Nos. 190 and 191, which seek to pin Defendants down as to whether they will admit the costs of "APPS-based enforcement" activities are not regulatory costs. If Defendants admit as much, given the millions of dollars spent on APPS-based enforcement, the response will be at least relevant as to Plaintiffs' assertion that the DROS Fee is being improperly used for general fund (i.e., tax) purposes.

On the third topic, the question of how APPS-based activities are paid for is relevant because, as stated by the head of the Bureau of Firearms, Stephen Lindley, approximately 5% of the cases it classified as "APPS cases" were not based on information on the APPS list. (Suppl. Franklin Decl. at Ex. 2.) In light of the Court's ruling on August 9, 2017, even if actual APPS-based cases are "regulatory," the other cases should have been funded out of the general fund. Accordingly, discovery seeking to determine what actual and unauthorized expenditures were made is relevant to the fee/tax determination. Finally, the fourth topic, again somewhat vaguely, appears to be a reference to Request for Admission No. 173, which inquires as to whether Defendants have opinion as to the percentage of DROS Fee payers who will end up on the APPS List. Plaintiffs believe this is relevant because, for example, if only .00001 percent of DROS Fee payers end up on the APPS List, the lack of "nexus" between the payer and the regulatory purpose cuts in favor of finding that at least part of the DROS Fee is operating as a tax. And if more than 50 percent of DROS Fee payers end up on the APPS list, Plaintiffs recognize that might cut against their claim that the DROS Fee is not being used as a proper regulatory tool. *Cf. Sinclair Paint*, 15

[2] The parties likely disagree on what costs funded with DROS Fee money are, and are not, "regulatory." Given that Penal Code section 28225 mixes regulatory and non-regulatory activities (e.g., APPS-based law enforcement activities), figuring out what is (and what Defendants claim to be) "regulatory" is relevant to evaluating whether the DROS Fee includes a tax element.

Cal. 4th at 881 (recognizing the "police power is broad enough to include . . . measures to mitigate . . . *future* impact of the fee payer"). Because the Court's order of August 9, 2017, did not moot any of the relevant discovery, the Court should disregard Defendants' objection as to "Request for Admissions Nos. 171-173, 180, 186, 189, 190-192, 201, 205, and 212 and Special Interrogatories Nos. 33, 45-48, and 53[.]"

E. Plaintiffs Do Not Seek Information "Already in the Record"

This strawman argument is premised on a misstatement. (Opp. at 12:8-25.) Defendants state "Plaintiffs claim the current requests are designed to learn 'who pays the [DROS] Fee, what they purportedly are paying for, and what they are actually funding." (*Id.*) What Plaintiffs actually said was that the identified issues need to be examined to answer the mixed question of whether the DROS Fee is operating as a tax, and that "to the extent the pending discovery concerns these factual issues, *or the Defendants' legal positions as to these issues*, these are proper topics for discovery in an illegal tax case." (MTC Re: RFAs at 10:9-15 (italics added).)

Plaintiffs do not dispute that the first issue, and potentially the second, are already reflected "in the record." But even assuming that is correct, Plaintiffs still have the right to seek discovery regarding Defendants' legal contentions to prepare for, and avoid surprises at, trial. *Puerto v. Super. Ct.*, 158 Cal. App. 4th 1242, 1249 (2008) ("the discovery process is 'designed to eliminate the element of surprise'"). And as to the last topic, Plaintiffs recognize that Defendants have provided many pages of budgetary information, including some very recently. But without identifying a specific request or interrogatory that seeks information already produced, Defendants' protestations seem out of place and are impossible to reasonably respond to.

Defendants' ruse should not be indulged, and the Court should therefore reject Defendants' attempt to avoid producing relevant information not yet produced.

IV. THE DISCOVERY SOUGHT WILL NOT CAUSE UNDUE BURDEN

The Opposition's discussion at 13:5-22 is mostly covered in the argument put forth above, but Defendants' claim about specific cumulative discovery requests calls for attention. To support their "cumulative" and "burdensome and oppressive" objections, Defendants claim "Requests for Admissions Nos. 11-14" are "effectively the same questions" as requests at issue in the current

dispute, i.e., "Nos. 156, 158, and 166-169." (Opp. at 13:9-15.) Though Defendants do not identify which specific requests are "effectively the same[,]" a review of all the requests shows they each ask a different question, and, it is worth noting, the earlier round of discovery was propounded and responded to before Plaintiff added its Article XIII causes of action to the Complaint. (*See* Supp. Franklin Decl. Ex. 3.) Defendants' argument is plainly wrong and thus it does not provide any reason for the Court deny Plaintiffs' motions.

V. LEGAL CONTENTIONS ARE A PROPER SUBJECT FOR DISCOVERY

Defendants' ongoing refusal to admit the availability of legal contention discovery is astonishing. Defendants' boilerplate argument regarding requests for admission, repeated at 13:24-14:11 in the Opposition, is dissected in Section the MTC Re: RFAs, which proves that *none* of the cited cases have the legal relevance Defendants claim. And what do Defendants say in response? "Plaintiffs attempt to distinguish the above cases based on their facts. But the legal principles articulated in those cases still apply." (Opp. at 14:13-14.) Further, the MTC Re: RFAs does not only rebut the supposed relevance of the cases cited by Defendants, it cites recent cases that confirm legal contention discovery is allowed. The Opposition does not mention those cases.

Defendants argue that the Code of Civil Procedure can protect them from legal contention interrogatories. For example, Defendants claim the Court could limit the scope of the discovery "if the burden, expense, or intrusiveness of the discovery outweighs the likelihood that the information sought will lead to the discovery of admissible evidence." (Opp. 14:15-19.) But Defendants do not, and cannot provide any factual support that the legal contention interrogatories have any appreciable "burden, expense, or intrusiveness;" Defendants are not being asked to, for example: search through boxes upon boxes of documents, do legal work that requires staffing additional attorneys, or submit to an invasive medical exam. They are just being asked to provide an honest statement of their legal positions. Unless the Court finds that legal contention discovery as a concept is unavailable, there is nothing that would allow the relevant discovery to be limited per Code of Civil Procedure section 2017.020.

Defendants also state that they could have sought a protective order and have challenged the relevant declarations of necessity, and that the Court could issue a protective order if it finds

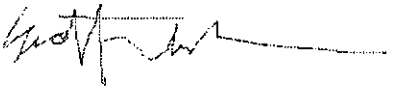
"justice so requires." (Opp. at 14:19-15:3.) First, as discussed above, Defendants never sought a protective order, so the fact that they hypothetically could have is a canard. Second, the Opposition does not actually argue that something in Plaintiffs' declarations of necessity is untrue. Third, a party can only challenge a declaration of necessity on the grounds that the number of requests sought is unwarranted (see, e.g., Code of Civil Procedure section 2030.090), not that the discovery is "tantamount to a demand that [a party] brief the merits of the case by way of discovery responses." (Opp. at 13:24-25.) Fourth, the interests of justice surely do not require Defendants be allowed to avoid litigation tools *because* they are effective, which is clearly the actual basis for Defendants' intransigence. Defendants' resistance to legal contention interrogatories does not fall in a gray area; because the Code of Civil Procedure and case law unambiguously allow for legal contention discovery, Defendants' continued assertion of the relevant objection justifies an award of sanctions and the order of further responses.

VI. CONCLUSION

The arguments made in sections IV, V, and VI of the Opposition do not merit discussion other than to say that: (1) During the meet-and-confer process, it was Plaintiffs' counsel's understanding that Defendants agreed to produce certain further responses prior to Plaintiffs' filing of this reply (Suppl. Franklin Decl. ¶ 5), and such further responses have not been provided; (2) if Defendants contend they were actually prejudiced by Plaintiffs' counsel's error that resulted in the complete and correct sanctions motion being served one day after the due date, Plaintiffs will not object to the hearing of the sanction issue being reset; and (3) Defendants' characterization of its objections as "the basis of defendants' successful opposition to Plaintiffs' previous motions to compel" is patently false—this Court has never issued a ruling indicating that legal contention discovery is not a proper form of discovery. As shown herein, and order requiring further responses, and an award of sanctions, is appropriate.

Dated: October 27, 2017

MICHEL & ASSOCIATES, P.C.



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PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

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

On October 27, 2017, the foregoing document described as

PLAINTIFFS' REPLY IN SUPPORT OF MOTION TO COMPEL ADDITIONAL RESPONSES TO: [1] REQUESTS FOR ADMISSIONS (SET THREE) AND [2] SPECIAL INTERROGATORIES (SET FOUR)

on the interested parties in this action by placing
☐ the original
☒ a true and correct copy
thereof enclosed in sealed envelope(s) addressed as follows:

Anthony R. Hakl
Deputy Attorney General
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550

Attorney for Defendants

☒ (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 October 27, 2017, at Long Beach, California.

☒ (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under the practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date is more than one day after date of deposit for mailing an affidavit.
Executed on October 27, 2017, at Long Beach, California.

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

LAURA PALMERIN