

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SACRAMENTO  
GORDON D SCHABER COURTHOUSE**

**MINUTE ORDER**

DATE: 11/03/2017

TIME: 09:00:00 AM

DEPT: 31

JUDICIAL OFFICER PRESIDING: Michael P. Kenny

CLERK: S. Lee

REPORTER/ERM: B. Ryan, CSR #11373

BAILIFF/COURT ATTENDANT: Larry Moorman

CASE NO: **34-2013-80001667-CU-WM-GDSCASE** INIT.DATE: 10/16/2013

CASE TITLE: **Gentry vs. Harris**

CASE CATEGORY: Civil - Unlimited

---

EVENT ID/DOCUMENT ID: ,15235600

**EVENT TYPE:** Motion - Other - Writ of Mandate

MOVING PARTY: David Gentry

CAUSAL DOCUMENT/DATE FILED: Notice - Other Amended Notice of Motion to Compel, 10/13/2017

---

EVENT ID/DOCUMENT ID: ,15235595

**EVENT TYPE:** Motion - Other - Writ of Mandate

MOVING PARTY: Calguns Shooting Sports Association, David Gentry, Mark Midlam, James Bass, James Parker

CAUSAL DOCUMENT/DATE FILED: Notice of Motion Amended (set four), 10/13/2017

---

**APPEARANCES**

Scott M. Franklin, counsel present for Petitioners/Plaintiffs.

Anthony R. Hakl, Deputy Attorney General, counsel present for Respondents/Defendants.

The services of the certified court reporter is requested by the Petitioners/Plaintiffs.

---

**NATURE OF PROCEEDINGS: MOTIONS TO COMPEL ADDITIONAL RESPONSES TO REQUEST FOR ADMISSION (SET THREE), SPECIAL INTERROGATORIES (SET FOUR) AND FOR SANCTIONS**

**TENTATIVE RULING**

The following shall constitute the Court's tentative ruling on the discovery motions and requests for sanctions, which are scheduled to be heard by the Court on Friday, November 3, 2017 at 9:00 a.m. in Department 31. The tentative ruling shall become the final ruling of the Court unless a party wishing to be heard so advises the clerk of this Department no later than 4:00 p.m. on the court day preceding the hearing, and further advises the clerk that such party has notified the other side of its intention to appear.

In the event that a hearing is requested, oral argument shall be limited to no more than 20 minutes per side.

Any party desiring an official record of this proceeding shall make arrangements for reporting services with the Clerk of the Department where the matter will be heard not later than 4:30 p.m. on the day before the hearing. The fee is \$30.00 for civil proceedings lasting under one hour, and \$239.00 per half day of proceedings lasting more than one hour. (Local Rule 1.12(B) and Government Code § 68086.) Payment is due at the time of the hearing.

---

DATE: 11/03/2017

MINUTE ORDER

DEPT: 31

Page 1  
Calendar No.

**I. Factual and Procedural Background**

In this matter, Plaintiffs contend Defendants have been improperly imposing a fee, the Dealer's Record of Sale transaction fee (hereinafter the "DROS Fee") on firearm purchasers without calculating the proper fee amount, and then have been using the funds collected outside of their statutorily authorized purposes. Plaintiffs also contend the DROS fee constitutes an unlawful tax, and that SB 140 constitutes an illegal appropriation.

Via stipulation, the Court bifurcated the matter, hearing the fifth and ninth causes of action first. Via ruling on submitted matter the Court found in favor of Plaintiffs. Specifically, the Court held, the phrase "no more than necessary" as used in section 28225 imposes a ministerial duty to perform a reassessment of the DROS Fee more frequently than every thirteen years. Defendants have failed to perform this duty. With regard to statutorily authorized purposes, the plain language of subdivision (b)(11) does not specify to what "possession" activities it refers. However, SB 819, section 1, subdivision (g) makes clear that "possession" is limited to APPS-based enforcement. Accordingly, Plaintiffs' request for a declaration that SB 819 does not permit Defendants to use DROS Special Account Funds for "some use other than APPS-based law enforcement activities" was granted.

Plaintiffs' first through fourth, and sixth through eighth causes of action remain pending.

**II. Special Interrogatories**

Plaintiffs seek to compel further responses to their special interrogatories numbers 33, 35, 37, 38, 39, 40, 41, 42, 43, 45, 46, 47, 48, 49, 52, and 53. In their opposition, Defendants agree to provide further responses to numbers 35, 37-41, and 49. Accordingly, the Court will grant those requests as there is no evidence Defendants have yet provided supplemental responses per their agreement that such responses are warranted.

Plaintiffs are admonished for providing what are mostly boiler plate explanations in their separate statement as to why further responses should be compelled. Such generalized explanations do not provide the Court guidance as to why Plaintiffs contend they are entitled to further responses for each specific request. The Court also notes Defendants' opposition does not include a responsive separate statement. While not required by the rules, the lack of separate statement causes the Court significant additional review to assess the parties' arguments.

The Court has reviewed the parties' arguments and rules as follows:

33 – DENIED

35 – GRANTED

37 – GRANTED

38 – GRANTED

39 – GRANTED

40 – GRANTED

41 – GRANTED

42 – DENIED

43 – DENIED

45 – DENIED

46 – DENIED

47 – DENIED

48 – DENIED

49 – GRANTED

52 – DENIED

53 – DENIED

The request for sanctions is denied.

### **III. Request for Admissions**

Plaintiffs seek to compel further responses to their request for admissions numbers 153, 156, 157, 158, 159, 160, 161, 162, 166, 167, 168, 169, 171, 172, 173, 176, 177, 180, 181, 182, 183, 184, 185, 186, 189, 190, 191, 192, 195, 196, 201, 203, 205, 206, 209, 211, 212, and 214. In their opposition, Defendants agree to provide further responses to numbers 153, 195, 196, and 203. Accordingly, the Court will grant those requests as there is no evidence Defendants have yet provided supplemental responses per their agreement that such responses are warranted.

Plaintiffs are admonished for providing what are mostly boiler plate explanations in their separate statement as to why further responses should be compelled. Such generalized explanations do not provide the Court guidance as to why Plaintiffs contend they are entitled to further responses for each specific request. The Court also notes Defendants' opposition does not include a responsive separate statement. While not required by the rules, the lack of separate statement causes the Court significant additional review to assess the parties' arguments.

The Court has reviewed the parties' arguments and rules as follows:

153 – GRANTED

156 – DENIED

157 – DENIED

158 – DENIED

159 – DENIED

160 – DENIED

161 – DENIED

162 – DENIED

166 – DENIED  
167 – DENIED  
168 - GRANTED  
169 - GRANTED  
171 – DENIED  
172 – DENIED  
173 – DENIED  
176 – DENIED  
177 – DENIED  
180 – DENIED  
181 – DENIED  
182 – DENIED  
183 – DENIED  
184 – DENIED  
185 – DENIED  
186 – DENIED  
189 – GRANTED  
190 – DENIED[1]  
191 – DENIED  
192 – DENIED  
195 – GRANTED  
196 – GRANTED  
201 – DENIED  
203 – GRANTED  
205 – DENIED  
206 – DENIED



XIIIA, section 3 claim, which was no longer pending. The Court did not intend to, and finds the ruling does not, preclude a relevant benefit/burden inquiry with regard to the tax claims still pending.

Certificate of Service by Mailing is attached.

I, the Clerk of the Superior Court of California, County of Sacramento, certify that I am not a party to this cause, and on the date shown below I served the foregoing MINUTE ORDER DATED NOVEMBER 3, 2017 by depositing true copies thereof, enclosed in separate, sealed envelopes with the postage fully prepaid, in the United States Mail at Sacramento, California, each which envelopes was addressed respectively to the persons and addresses show below:

SCOTT M. FRANKLIN, ESQ.  
Michel & Associates, P.C.  
180 E. Ocean Boulevard, Suite 200  
Long Beach, CA 90802

ANTHONY R. HAKL  
Deputy Attorney General  
P.O. Box 944255  
Sacramento, CA 94244-2550

I, the undersigned Deputy Clerk, declare under penalty of perjury that the foregoing is true and correct.

Dated: November 3, 2017

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO

/s/ S. Lee

By S. Lee, Deputy Clerk