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FILED/ENDORSED

State of California
DEPARTMENT OF JUSTICE



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DEC 14 2017
S. Lee
By S. Lee, Deputy Clerk

December 14, 2017.

Hon. Michael P. Kenny
Department 31
Sacramento County Superior Court
720 Ninth Street
Sacramento, CA 95814



RE: David Gentry, et al. v. Xavier Becerra, et al.
Superior Court of California, County of Sacramento, Case No. 34-2013-80001667

Dear Judge Kenny:

This letter responds to plaintiffs' December 13, 2017 letter to the Court.

As the Supreme Court has stated, the discovery rules "are designed to expedite the trial of civil matters by (1) enabling counsel to more quickly and thoroughly obtain evidence and evidentiary leads, and thus to more quickly and effectively prepare for trial, and (2) enabling counsel to 'set at rest' issues that are not genuinely disputed." (*Burke v. Superior Court of Sacramento Cty.* (1969) 71 Cal. 2d 276, 280-81.) Thus, "a defendant in California courts may be required through discovery to disclose not only the evidentiary facts underlying his affirmative defenses and denials but also whether or not he makes a particular contention, either as to the facts or as to the possible issues in the case." (*Id.* at p. 281 [citations omitted].)

Here, defendants have answered each of the five contention interrogatories at issue in the affirmative, clearly indicating that they make the particular contentions. It is clear that those issues are genuinely disputed. Thus, defendants' answers to the contention interrogatories have served their purpose. There is no reason for further answers.

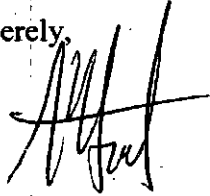
By way of compound questioning (in violation of the discovery rules and this Court's authorization of no more than *eight* additional discovery questions), plaintiffs also have asked defendants to "explain" or "describe" the bases for their affirmative answers. Despite the objectionable nature of those questions, defendants have done so, and their answers are sufficient in light of the purpose of discovery. Plaintiffs' contentions with respect to those answers reveal, more than ever, plaintiffs' apparent intention to effectively brief the merits of this case in advance of trial, which is *not* the purpose of discovery.

December 14, 2017

Page 2

Finally, the undersigned read plaintiffs' December 13 letter for the first time this morning, having received the letter by e-mail last night at approximately 9:06 p.m. Defendants also understand that plaintiffs intend to go forward with the informal discovery conference at 11:00 a.m. tomorrow. In light of these circumstances, this letter is necessarily short and does not attempt to address plaintiffs' lengthier letter point-by-point. The undersigned is willing to further discuss this matter as needed tomorrow.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Hakl', written over a horizontal line.

ANTHONY R. HAKL
Deputy Attorney General

For XAVIER BECERRA
Attorney General

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