

BY FAX

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

C.D. Michel – S.B.N. 144258
Scott M. Franklin – S.B.N. 240254
Sean A. Brady – S.B.N. 262007
MICHEL & ASSOCIATES, P.C.
180 East Ocean Blvd., Suite 200
Long Beach, CA 90802
Telephone: (562) 216-4444
Facsimile: (562) 216-4445
Email: cmichel@michellawyers.com

Attorneys for Plaintiffs

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.

FILED/ENDORSED
JUN 15 2018
By: H. Portalanza
Deputy Clerk

Case No. 34-2013-80001667

**SUPPLEMENTAL DECLARATION OF
SCOTT M. FRANKLIN IN SUPPORT OF
PLAINTIFFS' MOTION FOR LEAVE TO
FILE SECOND AMENDED COMPLAINT
FOR DECLARATORY AND INJUNCTIVE
RELIEF AND SECOND AMENDED
PETITION FOR WRIT OF MANDAMUS**

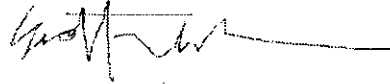
Hearing Date: June 22, 2018
Hearing Time: 10:00 a.m.
Judge: Honorable Richard K. Sueyoshi
Dept.: 28

Trial Date: August 24, 2018
Action Filed: October 16, 2013

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

transcript of the Deposition of David S. Harper.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct, and that this Declaration was executed on June 15, 2018, in Glendale, California.



Scott M. Franklin
Declarant

EXHIBIT 1

Defendants' Amended Discovery Responses

1. Amended Responses to Requests for Admissions, Set One (1/22/15)
2. Amended Responses to Form Interrogatories, Set One (1/22/15)
3. Amended Responses to Requests for Admissions, Set Two (9/3/15)
4. Amended Responses to Special Interrogatories, Set Two (9/3/15)
5. Amended Responses to Requests for Production of Documents, Set Two (9/3/15)
6. Amended Responses to Form Interrogatories, Set Three (9/3/15)
7. Second Amended Responses to Special Interrogatories, Set Two (9/15/15)
8. Amended Responses to Requests for Admissions, Set Two (9/15/15)
9. Amended Responses to Form Interrogatories, Set Three (9/15/15)
10. Second Amended Responses to Requests for Admissions, Set One (9/15/15)
11. Second Amended Responses to Form Interrogatories, Set One (9/15/15)
12. Amended Responses to Special Interrogatories, Set Three (1/22/16)
13. Second Amended Responses to Special Interrogatories, Set Three (1/29/16)
14. Third Amended Responses to Special Interrogatories, Set Three (3/25/16)
15. Third Amended Responses to Form Interrogatories, Set One (7/5/16)
16. Amended Responses to Special Interrogatories, Set Four (12/4/17)
17. Amended Responses to Form Interrogatories, Set Four (12/4/17)
18. Amended Responses to Requests for Admissions, Set Three (12/4/17)

EXHIBIT 2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

--o0o--

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

Plaintiffs and
Petitioners,

vs.

Case No. 34-2013-80001667

KAMALA HARRIS, in Her
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 for the
State of California and
DOES 1-10,

Defendants and
Respondents.

DEPOSITION OF

DAVID SCOTT HARPER

January 30, 2017

8:46 a.m.

1300 I Street
Sacramento, California

LAURIE D. LERDA, CSR No. 3649

1 any other costs related -- sorry. Strike that.

2 To the best of your knowledge has the
3 department actually engaged in an analysis of the
4 amount being charged of the DROS fee specifically
5 including the costs of APPS-based law enforcement
6 activities?

7 MR. HAKL: Objection. Vague as to
8 "analysis". But go ahead.

9 THE WITNESS: So, in the context of the
10 frequent reviews that I spoke about earlier that
11 perform our budget shop, that would be the analysis I
12 would refer to that the APPS program is now funded
13 within the DROS Fund, and to the extent that the
14 DROS Fund can support those activities, the existing
15 fee is sufficient.

16 BY MR. FRANKLIN:

17 Q. Do you have any understanding about how the
18 amount necessary to fund the activities you just
19 mentioned is determined?

20 A. No.

21 So, going back.

22 The fee we're talking about has been in
23 existence since 2004, and I have no idea what
24 analysis went in to establishing that level of fee.

25 But that level of fee is sufficient to

1 support all the existing activities within the
2 Bureau of Firearms that rely on the DROS Fund.

3 Q. But that could change in the future?

4 A. Absolutely. It could change. It could go
5 up. It could could go down.

6 Q. So, without getting to in the weeds on a
7 hypothetical. If there's a drastic increase in the
8 number of people on the APPS list and it leads to
9 an increase in costs absent enforcement costs,
10 how would that affect the analysis of the propriety
11 of the DROS fee?

12 MR. HAKL: Objection. Incomplete
13 hypothetical. But go ahead.

14 THE WITNESS: So, again, simply an increase
15 in the number of people on the APPS list doesn't
16 necessarily lead to an increase in program costs.

17 If there is some type of a policy decision
18 that is made either by an Attorney General and/or the
19 legislature that they want to increase enforcement,
20 they would have to provide additional appropriation
21 authority to spend more money, if you will, and that
22 appropriation authority would have to be supported by
23 some level of increased revenue if in fact the fund
24 was to remain solvent. So it really depends.

25 The legislature could uniformly just say I'm

1 going to raise the fee \$5, provide all that money for
2 more enforcement. That's not something we would do.

3 We could raise the fee theoretically.

4 That doesn't mean we're going to get
5 additional spending authority to spend that extra
6 revenue. So, the two kind of are hand-in-hand.

7 Conversely, if there's an initiative to
8 expand enforcement in the APPS program say an
9 internal initiative by the Attorney General, we may
10 be able to redirect agents from other programs into
11 the APPS program provided we can create the savings
12 elsewhere in the DROS Fund from our existing
13 appropriation to fund those expanded enforcement
14 activities.

15 So, there's no one answer to your question.

16 It's simply what do you want to achieve, and
17 then knowing what you want to achieve, what is
18 the I'm not going to say what is the best, what are
19 the options to achieve that.

20 And the options may be what are the quickest
21 options. What are the best long-term options.

22 It's -- so there's a lot of factors that go into
23 determining something like that like what you asked.

24 BY MR. FRANKLIN:

25 Q. So, I'll try and make a more simple

1 question. Assuming all other revenue and expenditure
2 amounts are consistent, if the department has an
3 increase in costs related to APPS-based law
4 enforcement, is it your understanding that the
5 department could increase the amount of the fee
6 because of that increase in APPS-based law
7 enforcement costs?

8 MR. HAKL: Objection. Vague as to
9 APPS-based law enforcement costs, but you can answer.

10 THE WITNESS: So my understanding would be
11 yes. If the department chose to expand the APPS
12 unit, the enforcement unit, that they could choose to
13 increase the fee to pay for that expansion provided
14 the legislature provided the additional spending
15 authority to go along with the fee increase.

16 BY MR. FRANKLIN:

17 Q. And the spending authority would be in the
18 Budget Act?

19 A. Correct.

20 Q. And I think you've already answered this
21 question. Looking at total revenue and expenditures
22 going in and out of the DROS Special Account, is that
23 the method used for monitoring the amount of reserve
24 in that account?

25 A. That's a component of it, yes.

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA

3 COUNTY OF SACRAMENTO

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

6 On June 15, 2018, the foregoing document described as

7 **SUPPLEMENTAL DECLARATION OF SCOTT M. FRANKLIN IN SUPPORT OF**
8 **PLAINTIFFS' MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT**
9 **FOR DECLARATORY AND INJUNCTIVE RELIEF AND SECOND AMENDED**
10 **PETITION FOR WRIT OF MANDAMUS**

9 on the interested parties in this action by placing

- 10 the original
11 a true and correct copy

11 thereof enclosed in sealed envelope(s) addressed as follows:

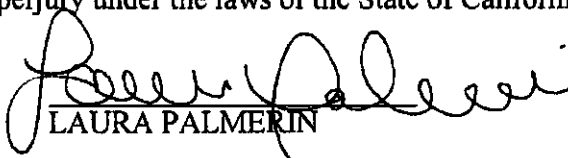
12 Anthony R. Hakl
13 anthony.hakl@doj.ca.gov
14 Deputy Attorney General
15 1300 I Street, Suite 125
16 P.O. Box 944255
17 Sacramento, CA 94244-2550

16 *Attorney for Defendants*

17 **(BY ELECTRONIC MAIL)** As follows: I served a true and correct copy by electronic
18 transmission. Said transmission was reported and completed without error.
19 Executed on June 15, 2018, at Long Beach, California.

20 **(BY MAIL)** As follows: I am "readily familiar" with the firm's practice of collection and
21 processing correspondence for mailing. Under the practice it would be deposited with the
22 U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach,
23 California, in the ordinary course of business. I am aware that on motion of the party served,
24 service is presumed invalid if postal cancellation date is more than one day after date of
25 deposit for mailing an affidavit.
26 Executed on June 15, 2018, at Long Beach, California.

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

25 
26 LAURA PALMERIN