1	C.D. Michel - S.B.N. 144258		FILED/ENDORSED	
2	Scott M. Franklin – S.B.N. 240254			
2	Sean A. Brady – S.B.N. 262007		JUN 1 5 2018	
3	MICHEL & ASSOCIATES, P.C.	·		
	180 East Ocean Blvd., Suite 200		By: H. Portalanza	
4	Long Beach, CA 90802	1	Deputy Clerk	
5	Telephone: (562) 216-4444			
٦	Facsimile: (562) 216-4445			
6	Email: cmichel@michellawyers.com			
7	Attorneys for Plaintiffs			
8	SUPERIOR COURT OF THE STATE OF CALIFORNIA			
9	FOR THE COU	NTY OF SACRA	MENTO	
10	DAVID GENTRY, JAMES PARKER,	Case No. 34-20	013-80001667	
	MARK MIDLAM, JAMES BASS, and	Cuse 1(0. 54-20	,13-5000100,	
11	CALGUNS SHOOTING SPORTS	SUPPLEMEN'	TAL DECLARATION OF	
12	ASSOCIATION,		ANKLIN IN SUPPORT OF	
	ŕ	PLAINTIFFS'	MOTION FOR LEAVE TO	
13	Plaintiffs and Petitioners,	FILE SECONI	D AMENDED COMPLAINT	
14			RATORY AND INJUNCTIVE	
**	v.		SECOND AMENDED	
15	XAVIER BECERRA, in His Official	PETITION FO	R WRIT OF MANDAMUS	
16	Capacity as Attorney General for the State		L 22 2018	
10	of California; STEPHEN LINDLEY, in	Hearing Date: Hearing Time:	June 22, 2018 10:00 a.m.	
17	His Official Capacity as Acting Chief for	Judge:	Honorable Richard K. Sueyoshi	
	the California Department of Justice,	Dept.:	28	
18	BETTY T. YEE, in Her Official Capacity	Вери	20	
19	as State Controller, and DOES 1 - 10,			
17	. '	Trial Date: A	August 24, 2018	
20	Defendants and Respondents.		October 16, 2013	
21		J		
	·			
22				
23	·			
23			•	
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27			. •	
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SUPPLEMENTAL DECLARATION OF SCOTT M. FRANKLIN

I, Scott M. Franklin, declare:

- 1. I am an attorney at law admitted to practice before all courts of the state of California. I have personal knowledge of each matter and the facts stated herein as a result of my employment with Michel & Associates, P.C., attorneys for Plaintiffs/Petitioners ("Plaintiffs"), and if called upon and sworn as a witness, I could and would testify competently thereto.
- 2. On at least one occasion, opposing counsel and I spoke with Judge Michael P. Kenny regarding the fact that he considered his ruling on the bifurcated issues interlocutory, and that if my clients wanted the ruling to go into effect prior to final judgment, they would have to make a separate claim (e.g., a motion for protective order) to obtain the relief sought prior to judgment.
- 3. Defendants' discovery responses were often evasive in my opinion, which led to many, many meet-and-confer emails and calls, and eventually several motions to compel or requests for informal discovery conferences. It is my belief that discovery was so difficult in this case because Defendants went to extreme efforts to avoid making admissions harmful to their case by the use of unreasonable parsing of questions and unreasonable intentional misinterpretations. As a result of the extensive meet-and-confers in this case, Defendants were given the opportunity to serve multiple rounds of amended responses, which significantly delayed the progress of this case. Attached hereto as Exhibit 1 is a list, compiled by my office, of the amended responses provided by Defendants.
- 4. During a meeting with opposing counsel and Judge Michael P. Kenny, Judge Kenny suggested that this case be bifurcated with two particular causes of action being heard in the first phase, and the remainder being heard in a second phase, if necessary. He expressed that the idea behind the bifurcation was that resolution of the two issues bifurcated to be heard first could resolve some or all aspects of the remaining claims. I did not agree with that conclusion, but in light of my understanding that Judge Kenny had the power to bifurcate the case without my client's consent, Plaintiffs agreed to the case being bifurcated.
 - 5. Attach hereto as Exhibit 2 is a true and correct copy of an excerpt from the

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.

Godf W-

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)

1	SUPERIOR COURT OF THE STATE OF CALIFORNIA
2	FOR THE COUNTY OF SACRAMENTO
3	000
4	DANTO CENTRY TAMEC
5	DAVID GENTRY, JAMES PARKER, MARK MIDLAM, JAMES BASS, and CALGUNS
6	SHOOTING SPORTS ASSOCIATION,
7	Plaintiffs and
8	Petitioners,
9	vs. Case No. 34-2013-80001667
10	KAMALA HARRIS, in Her Official Capacity as
11	Attorney General for the State of California;
12	STEPHEN LINDLEY, in His Official Capacity as
13	Acting Chief for the California Department of
14	Justice, BETTY YEE, in Her Official Capacity as
15	State Controller for the State of California and
16	DOES 1-10,
17	Defendants and Respondents.
18 .	/
19	DEPOSITION OF
20	DAVID SCOTT HARPER
21	January 30, 2017
22	8:46 a.m.
23	1300 I Street
24	Sacramento, California
25	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 L have no idea what
24	analysis went in to establishing that level of fee.
25	But that level of feeris 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	Absolutely. It could change It could go
5	up. It 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 and 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



question. Assuming all other revenue and expenditure 1 2 amounts are consistent, if the department has an 3 increase in costs related to APPS-based law enforcement, is it your understanding that the 4 5 department could increase the amount of the feet because of that increase in APPS-based law 6 7 enforcement costs? 8 MR. HAKL: Objection. Vague as to 9 APPS-based law enforcement costs, but you can answer. THE WITNESS: So my understanding would be 10 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 Budget Act? 18 19 A. Correct. 20 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 Α. That's a component of it, yes.

1	PROOF OF SERVICE		
2	STATE OF CALIFORNIA		
3	COUNTY OF SACRAMENTO		
California. I am over the age of eighteen (18) years and am	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.		
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 COMPLA FOR DECLARATORY AND INJUNCTIVE RELIEF AND SECOND AMENDE PETITION FOR WRIT OF MANDAMUS		
9	on the interested parties in this action by placing		
10	☐the original		
☐ a true and correct copy thereof enclosed in sealed envelope(s) addressed as follows:			
12	Anthony R. Hakl		
13	anthony.hakl@doj.ca.gov Deputy Attorney General		
1300 I Street, Suite 125 P.O. Box 944255 Sacramento, CA 94244-2550	P.O. Box 944255		
Attorney for Defendants			
17 18	⊠ (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 June 15, 2018, at Long Beach, California.		
	☐ (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and		
20	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,		
21	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		
22	deposit for mailing an affidavit. 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	LAURA PALMERIN		
26			
27			

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