

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO**

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|--|--------------------------|---|-------------|
| DATE/TIME | August 21, 2018 | DEPT. NO | 28 |
| JUDGE | HON. RICHARD K. SUEYOSHI | CLERK | E. GONZALEZ |
| DAVID GENTRY, JAMES PARKER, MARK MIDLAM, JAMES BASS, and CALGUNS SHOOTING SPORTS ASSOCIATION, <p style="text-align: center;">Plaintiffs and Petitioners,</p> <p>v.</p> 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, <p style="text-align: center;">Defendants and Respondents.</p> | | Case No.: 34-2013-80001667 | |
| Nature of Proceedings: | | ORDER REGARDING RESERVED HEARING DATE OF AUGUST 24, 2018 | |

The Court issues this minute order given apparent confusion regarding a reserved hearing date for Friday August 24, 2018, and whether Plaintiffs filed and served proper advanced notice for such a hearing. Plaintiffs' counsel has recently indicated to the Court clerk that he believes this matter is on for a hearing on the merits. Rather, while Plaintiffs *reserved* a time slot for that date, the Court's file does not indicate any notice of hearing or motion whereby the matter would actually be placed on the Court's docket, whether for a motion for leave to amend or a merits hearing. While it is the practice of this Court's clerk to assist counsel by reserving a date for a specified hearing upon the request of a party, it remains incumbent upon the requesting party to file and serve the requisite notice and any other filings sufficiently in advance of such reserved date. That is, the clerk's reserving of a hearing date in advance of such requisite notices is an accommodation only and does not constitute or replace formal notice to all parties that the hearing is to be actually set for such date.

While the Court acknowledges the emails attached to a declaration in support of Plaintiffs' previously denied motion to amend indicates the *parties agreed* upon an August 24, 2018 hearing, at the hearing on June 22, 2018, Plaintiffs' counsel indicated Plaintiffs were considering filing a new motion to amend, and would potentially use the August 24, 2018 hearing that had been *reserved* for such a motion. Plaintiffs' counsel never contacted the Court to indicate that they, in fact, elected to proceed with a hearing on the merits without seeking leave to amend. Such conclusion was certainly not readily apparent, especially where their prior

motion for leave to amend was denied without prejudice, leaving open the possibility of another such motion. Plaintiffs did not file and serve any notice pertaining to the August 24, 2018 reserved date, including any notice indicating their election to proceed with a merits hearing without amending their petition.

Under the unique circumstances here, the Court will not proceed with a merits hearing on the reserved, but unnoticed date of August 24, 2018. Given Plaintiffs' apparent election not to seek amendment to their petition, Plaintiffs shall (1) contact the Court clerk to reserve a date for a hearing on the merits; and (2) file and serve a proper notice of merits hearing for such date. For clarity of the Court's review and the record on appeal, prior to said hearing, the parties shall re-file new briefing, which shall delete/remove all arguments concerning the claims and issues that the Court previously found were not properly before it absent a motion and order permitting amendment. The edited briefs shall be filed pursuant to Local Rule 2.26(D).

Certificate of Service by Mailing attached.

CERTIFICATE OF SERVICE BY MAILING
(C.C.P. Sec. 1013a(4))

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 **ORDER REGARDING RESERVED HEARING DATE OF AUGUST 24, 2018** by depositing true copies thereof, enclosed in separate, sealed envelopes with the postage fully prepaid, in the United States Mail at Sacramento, California, each of which envelopes was addressed respectively to the persons and addresses shown below:

SCOTT M. FRANKLIN, ESQ.
Michael & 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: August 21, 2018

Superior Court of California,
County of Sacramento

By:


E. GONZALEZ

Deputy Clerk