

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO**

DATE/TIME	January 18, 2019, 10:00 a.m.	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 style="text-align: center;">v.</p> XAVIER BECERRA, in His Official Capacity as Attorney General for the State of California; MARTIN HORAN, in His Official Capacity as 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:		PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF	

The parties are ordered to appear at the hearing in this matter set for Friday, January 18, 2019 at 10:00 a.m. in Department 28.

Oral argument shall be limited to no more than 20 minutes per side, subject to questions by the Court.

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.

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The Court requests the parties be prepared to discuss the following questions as part of their oral presentations:

1. In *California Farm Bureau Federation v. State Water Resources Control Board* (2011) 51 Cal.4th 421, the California Supreme Court held that,

Simply because a fee exceeds the reasonable cost of providing the service or regulatory activity for which it is charged does not transform it into a tax. A regulatory fee does not become a tax simply because the fee may be disproportionate to the service rendered to individual payors. The question of proportionality is not measured on an individual basis. Rather, it is measured collectively, considering all rate payors.

(*Id.* at 438.)

In light of this language, when considering the reasonableness of the DROS Fee, does the Court properly consider the overall cost of the governmental regulation in connection to the group that is DROS Fee payors?

2. Do the parties dispute that the percentage of DROS Fee payors that end up on the APPS List is small, and if not, how does this impact, if at all, the analysis of whether the DROS fee constitutes a fee or a tax?