

Court of Appeal Third Appellate District	34-2013-80001667 TRIAL COURT CASE NUMBER COUNTY: SACRAMENTO
Appellate Case No: <u>C089655</u>	For Court Use Only
ATTORNEY (Name, State Bar Number, Address) C.D. Michel (SBN: 144258), Anna M. Barvir (SBN: 268728), Scott M. Franklin (SBN: 240254), Sean A. Brady (SBN: 262007), Michel & Associates, P.C., 180 E. Ocean Blvd., Ste. 200, Long Beach, CA 90802 Telephone No: (562) 216-4444 Attorney For: Appellants David Gentry, et al.	
APPELLANT: David Gentry, et al. RESPONDENT: Xavier Becerra, et al.	
APPELLANT'S CIVIL APPEAL MEDIATION STATEMENT	

(USE ADDITIONAL SHEETS AS NECESSARY.)

1. Provide a concise statement of the case, including a brief procedural history and a recitation of facts material to disposition of the issues to be decided on appeal:

This is a challenge to California's "DROS fee," a fee imposed on all firearm sales, as violating various provisions of the California Constitution that restrict illegal taxes. Defendants' (all state actors) motion for judgment on the pleadings was granted as to one cause of action and portions of another. Plaintiffs then amended their complaint to include new causes of action. The trial court bifurcated the issues for the merits stage. In the first portion, the court ruled in Plaintiffs' favor on two causes of action. In the second portion, the court issued a final judgment holding that the DROS fee is not a tax, dismissing the remaining causes of action, and finding that Defendants had met their duty to review and confirm that the amount being charged for the DROS fee was appropriate, based on the representations made in their briefing. Plaintiffs now appeal.

2. List the issues you expect to raise on appeal:

1. Whether the trial court erred in granting Defendants' motion for judgment on the pleadings on the basis that a change in the use of a large portion of money collected through the DROS fee did not trigger Proposition 26's limitations because the total amount of the fee actually charged did not increase.

2. Whether the trial court's finding that the DROS fee was not a tax is incorrect under, inter alia, Sinclair Paint Co. v. State Board of Equalization (1997) 15 Ca1.4th 866.

3. Whether the trial court's finding that the calculations presented in Defendants' briefing below were sufficient to meet their ministerial duty to periodically review the amount charged for the DROS fee and determine whether that amount is appropriate.

Date: June 27, 2019

Anna M. Barvir

(Print or Type Name)


(Signature of Attorney)

***A proof of service of this document on all counsel, prior to filing, must be attached.

NOTES: Recognizing the appellate record has not yet been prepared and that counsel and parties may not yet be able to identify all appellate contentions, the Court will not deem an omission from this Statement to be a waiver or forfeiture of any claim on appeal.

This form is also online in fillable form at <http://www.courts.ca.gov/3140.htm>. Questions about the Appellate Mediation Program should be directed to the Appellate Mediation Coordinator at 916-643-7084. For general information about your appeal, please contact the clerk's office of the Third District Court of Appeal at 916-654-0209, or visit its web site at <http://www.courts.ca.gov/3dca.htm>; click on Court Programs, click on Mediation Program.

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Case Name: David Gentry, et al. v. Xavier Becerra, et al. Court of Appeal Case Number: C089655 Superior Court Case Number: 34-2013-80001667	

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2. My residence business address is (*specify*):
180 East Ocean Boulevard, Suite 200, Long Beach, California 90802
3. I mailed or personally delivered a copy of the following document as indicated below (*fill in the name of the document you mailed or delivered and complete either a or b*):
Appellant's Civil Appeal Mediation Statement
 - a. **Mail**. I mailed a copy of the document identified above as follows:
 - (1) I enclosed a copy of the document identified above in an envelope or envelopes **and**
 - (a) **deposited** the sealed envelope(s) with the U.S. Postal Service, with the postage fully prepaid.
 - (b) **placed** the envelope(s) for collection and mailing on the date and at the place shown in items below, following our ordinary business practices. I am readily familiar with this business's practice of collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service, in a sealed envelope(s) with postage fully prepaid.
 - (2) Date mailed: June 27, 2019
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 - (a) Person served:
 - (i) Name: Anthony R. Hakl, attorney for Respondents/Defendants
 - (ii) Address:
P.O. Box 944255, Sacramento, CA 94244
 - (b) Person served:
 - (i) Name:
 - (ii) Address:
 - (c) Person served:
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Additional persons served are listed on the attached page (*write "APP-009, Item 3a" at the top of the page*).

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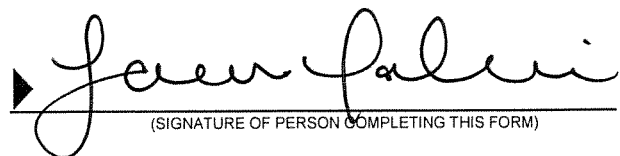
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: June 27, 2019

Laura Palmerin

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