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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT

**DANNY VILLANUEVA, NIAL STALLARD,  
RUBEN BARRIOS, CHARLIE COX, MARK  
STROH, ANTHONY MENDOZA, AND  
CALIFORNIA RIFLE & PISTOL  
ASSOCIATION, INCORPORATED,**

Plaintiffs and Appellants,

v.

**XAVIER BECERRA, in his official capacity as  
Attorney for the State of California; BRENT E.  
ORICK, in his official capacity as Acting  
Director of the California Department of  
Justice, Bureau of Firearms; CALIFORNIA  
DEPARTMENT OF JUSTICE; and DOES 1-  
10,**

Defendants and Respondents.

Case No. F078062

Fresno Superior Court, Case  
No. 17CECG03093

**RESPONDENTS' MOTION FOR SUBSTITUTION OF PARTIES**

**MOTION TO SUBSTITUTE BRENT E. ORICK, IN HIS OFFICIAL CAPACITY AS ACTING DIRECTOR OF THE CALIFORNIA DEPARTMENT OF JUSTICE, BUREAU OF FIREARMS, IN PLACE OF STEPHEN LINDLEY, IN HIS OFFICIAL CAPACITY AS CHIEF OF THE CALIFORNIA DEPARTMENT OF JUSTICE, BUREAU OF FIREARMS**

Pursuant to rule 8.36, subdivision (a), of the California Rules of Court and Code of Civil Procedure section 368.5, Respondents respectfully move for an order substituting Brent E. Orick, in his official capacity as the Acting Director of the California Department of Justice, Bureau of Firearms, in place of Stephen Lindley, in his official capacity as the Chief of the California Department of Justice, Bureau of Firearms.

Respondents bring this motion on the grounds that Appellants' lawsuit seeks relief against the California Department of Justice, Bureau of Firearms, and that the current head of the Bureau of Firearms is Acting Director Brent E. Orick.

Therefore, Respondents respectfully request that the Court enter an order substituting Brent E. Orick, in his official capacity as the Acting Director of the California Department of Justice, Bureau of Firearms, as a Respondent in this matter in place of Stephen Lindley.

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO SUBSTITUTE PARTIES**

Where, as here, an action involves a public officer's official duties, the action does not abate when an incumbent's term expires but may be continued by his or her successor. (*Weadon v. Shahan* (1942) 50 Cal.App.2d 254, 260.) In such circumstances, the successor may be substituted on motion "as matter of course." (*In re Estate of Lermond* (1904) 142 Cal. 585, 586.) The rule liberally allowing substitution as a matter of course applies to state government officials. (See, e.g., *Hotel Employees and Restaurant Employees Intern. Union v. Davis* (1999) 21 Cal.4th 585, 590 [substituting Governor Davis in mandamus proceeding after Governor Wilson left office]; *California Welfare Rights Organization v. Carleson* (1971) 4 Cal.3d 445, 447, fn. 1 [substituting

current Director of Department of Social Welfare]; *Weadon, supra*, 50 Cal.App.2d 254, 260 [Superintendent of Banks].)

When this case was commenced in September 2017, Stephen Lindley was the Chief of the California Department of Justice, Bureau of Firearms, and was sued in his official capacity. (Respondent's Appendix 3.) Appellants' lawsuit seeks relief against the California Department of Justice, Bureau of Firearms, and the current head of the Bureau of Firearms is Acting Director Brent E. Orick. Consequently, Brent E. Orick, in his official capacity as Acting Director of the California Department of Justice, Bureau of Firearms, should be substituted as a Respondent in place of former Chief of the California Department of Justice, Bureau of Firearms, Stephen Lindley.

Dated: August 9, 2019

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
THOMAS S. PATTERSON  
Senior Assistant Attorney General  
PAUL STEIN  
Supervising Deputy Attorney General

/s/ P. PATTY LI

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Deputy Attorney General  
*Attorneys for Defendants and Respondents  
Xavier Becerra, et al.*

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**[PROPOSED] ORDER GRANTING RESPONDENTS' MOTION FOR  
SUBSTITUTION OF PARTIES**

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Good cause appearing, IT IS HEREBY ORDERED that Brent E. Orick, in his official capacity as Acting Director of the California Department of Justice, Bureau of Firearms, should be and hereby is substituted in place of former Chief of the California Department of Justice, Bureau of Firearms, Stephen Lindley.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Justice of The Court of Appeal  
Fifth Appellate District

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## **DECLARATION OF SERVICE**

Case Name: ***Villanueva, Danny, et al. v. Xavier Becerra, et al.***

No.: **F078062**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collecting and processing electronic and physical correspondence.

On August 9, 2019, I electronically served the attached **RESPONDENTS' MOTION FOR SUBSTITUTION OF PARTIES** by transmitting a true copy via this Court's TrueFiling system. Because one or more of the participants in this case have not registered with the Court's TrueFiling system or are unable to receive electronic correspondence, on August 9, 2019, I placed a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

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The Honorable Mark W. Snauffer  
Fresno County Superior Court  
Civil Division  
1130 O Street  
Fresno, CA 93721-2220

*Attorney for Appellants*

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 9, 2019, at San Francisco, California.

Susan Chiang  
Declarant

/s/ Susan Chiang  
Signature