

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
IN AND FOR THE 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 General for the
State of California; STEPHEN
LINDLEY, in his official capacity as
Chief of the California Department of
Justice, Bureau of Firearms;
CALIFORNIA DEPARTMENT OF
JUSTICE; and DOES 1-10,

Defendants and Respondents.

Case No. F078062

**EXHIBITS TO APPELLANTS'
REQUEST FOR JUDICIAL NOTICE**

Fresno County Superior Court, Case No. 17CECG03093
Honorable Mark W. Snauffer, Judge

C. D. Michel – SBN 144258
Anna M. Barvir – SBN 268728
Sean A. Brady – SBN 262007
MICHEL & ASSOCIATES, P.C.
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Counsel for Appellants

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EXHIBIT A



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Public: (916) 445-9555
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July 11, 2018

Brandon Combs
4212 N. Freeway Blvd., Suite 6
Sacramento, CA 95834

Re: Public Records Act Request received July 2, 2018

Dear Mr. Combs:

This letter is in response to your public records request in which you sought records pursuant to the Public Records Act ("PRA") as set forth in Government Code section 6250 et seq. Specifically, you requested the following information:

"Please provide me with a copy of the following records in existence that allow me and the public to determine:

1. The number of applications for firearm registration as an "Assault Weapon" under Penal Code section 30900(b) that were submitted from July 31, 2017, to the present. In lieu of documents I will accept your calculation of the number of applications as a full response to this request.
2. The number of applications for firearm registration as an "Assault Weapon" under Penal Code section 30900(b) that have been approved from July 31, 2017, to the present. In lieu of documents I will accept your calculation of the number of applications that have been approved as a full response to this request.
3. The number of applications for firearm registration as an "Assault Weapon" under Penal Code section 30900(b) that have been denied/rejected from July 31, 2017, to the present. In lieu of documents I will accept your calculation of the number of applications that have been denied/rejected as a full response to this request.
4. The number of applications for firearm registration as an "Assault Weapon" under Penal Code section 30900(b) submitted from July 31, 2017, to the present that are still being processed. In lieu of documents I will accept your calculation of the number of applications still being processed as a full response to this request.

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5. The average time it takes to review and make a determination on an "Assault Weapon" registration application under Penal Code section 30900(b) submitted from July 31, 2017, to the present. In lieu of documents I will accept a list of all applications including their respective dates of submission and DOJ's determination of acceptance or denial as a full response to this request.

6. From January 1, 2017, to the present, a copy of all daily, weekly, monthly, or other periodical reports about "Assault Weapon" registrations and applications under Penal Code section 30900(b)."

Here are the responses to your requested information:

1. 68,848 applications to register bullet button assault weapons were submitted for registration in the California Firearms Application Reporting System (CFARS).
2. 13,519 firearms were registered as of June 30, 2018. An application that is being processed is not considered "registered." An assault weapon would only be registered if the applicant meets all the firearm and background requirements and is approved by the Department.
3. 1,373 applications were rejected as of July 11, 2018.
4. 52,443 applications are still being processed by the Department as of July 11, 2018.
5. We cannot provide you with an estimate on the time it takes to review and make a determination on an assault weapon registration application because it varies greatly depending on the circumstances.
6. Please find enclosed the information you seek.

Sincerely,



ROBERT D. WILSON
Deputy Attorney General

For XAVIER BECERRA
Attorney General

Enclosure

Document received by the CA 5th District Court of Appeal.

DATE	NUM OF GUNS	GUN PISTOL	GUN SHOTGUN	GUN RIFLE	NUM OF TRANSACTION	NUM OF UNIQUE ID	NUM JOIN GUNS	NUM JOIN TRANS	NUM SERIAL FMB US	NUM SERIAL REGULAR
08/03/2017	80	11	1	68	22	22	10	1	3	77
08/04/2017	26	2	2	22	15	14	1	1	0	26
08/05/2017	10	1		9	8	8			1	9
08/06/2017	7			7	6	6			0	7
08/07/2017	29	1		28	22	21	1	1	0	29
08/08/2017	59	1		58	32	22	2	1	0	59
08/09/2017	21			21	11	10	11	1	0	21
08/10/2017	6	1		5	6	6			0	6
08/11/2017	4			4	4	4			0	4
08/12/2017	3			3	3	2			0	3
08/13/2017	20	2		18	10	9	1	1	0	20
08/14/2017	6	1	1	4	3	3			0	6
08/15/2017	4			4	2	2			0	4
08/16/2017	7			7	7	6			0	7
08/17/2017	2			2	2	2			0	2
08/18/2017	10		1	9	8	8			0	10
08/19/2017	17	4		13	12	11			4	13
08/20/2017	7	4		3	4	3			4	3
08/21/2017	24	2		22	15	15	3	1	0	24
08/22/2017	38			38	23	21	1	1	0	38
08/23/2017	30			30	21	19	2	1	0	30
08/24/2017	23	1	1	21	19	18			0	23
08/25/2017	29	4	1	24	15	12			0	29
08/26/2017	31			31	14	13	3	2	0	31
08/27/2017	26			26	13	12	3	1	0	26
08/28/2017	11	2		9	8	7	1	1	0	11
08/29/2017	1			1	1	1			0	1
08/30/2017	4			4	4	4			0	4
08/31/2017	15			15	14	13			0	15
09/01/2017	23	4		19	15	15			0	23
09/02/2017	23			23	13	12			0	23
09/03/2017	23	6		17	13	11	2	2	6	17
09/04/2017	46	6	2	38	13	13			0	46
09/05/2017	18			18	11	10			0	18
09/06/2017	13	1		12	9	9	3	1	0	13
09/07/2017	11			11	9	9	2	1	0	11
09/08/2017	9	1		8	7	7			1	8
09/09/2017	7			7	6	6			0	7
09/10/2017	24			24	9	9	11	3	0	24
09/11/2017	14		2	12	12	11			1	13
09/12/2017	17	3		14	10	9	1	1	0	17
09/13/2017	26	3		23	16	14			0	26
09/14/2017	16	1		15	9	9			0	16
09/15/2017	11			11	11	10	1	1	0	11
09/16/2017	16			16	15	14	2	2	0	16
09/17/2017	9			9	8	8			0	9
09/18/2017	20	1		19	12	12			0	20
09/19/2017	15			15	13	12			0	15
09/20/2017	10			10	10	10			0	10
09/21/2017	14	1		13	11	10			0	14
09/22/2017	13	1		12	7	7			0	13
09/23/2017	17	2		15	7	7			0	17
09/24/2017	10			10	8	7			0	10
09/25/2017	9			9	9	9			0	9
09/26/2017	19			19	7	7			2	17
09/27/2017	11			11	9	9			0	11
09/28/2017	21	1		20	9	9	11	1	0	21
09/29/2017	9			9	8	8			0	9
09/30/2017	13			13	12	12			1	12
10/01/2017	27	4		23	13	13	8	2	2	25
10/02/2017	34	2		32	24	21			0	34
10/03/2017	17	2		15	12	12			0	17
10/04/2017	20	1	1	18	16	16	4	2	0	20
10/05/2017	28	3		25	18	16			0	28
10/06/2017	16	1		15	15	15			0	16
10/07/2017	55	1		54	27	25	7	2	0	55
10/08/2017	41	3	1	37	28	25	4	4	2	39

10/09/2017	19	3		16	14	14			0	19
10/10/2017	15			15	13	13			0	15
10/11/2017	9	2		7	9	9	1	1	0	9
10/12/2017	9			9	9	8	1	1	0	9
10/13/2017	21	3		18	16	16			0	21
10/14/2017	31	3		28	17	16	7	2	0	31
10/15/2017	34	1		33	20	20	2	2	0	34
10/16/2017	25		3	22	13	12			0	25
10/17/2017	28		1	27	21	20			0	28
10/18/2017	17			17	16	14			0	17
10/19/2017	10			10	8	8	1	1	1	9
10/20/2017	26	1		25	17	17			0	26
10/21/2017	37	5	1	31	21	18	2	1	0	37
10/22/2017	24	2	1	21	17	16			0	24
10/23/2017	8			8	5	5			0	8
10/24/2017	23	4	1	18	11	11	1	1	0	23
10/25/2017	20			20	12	12	1	1	0	20
10/26/2017	19	2		17	12	12			0	19
10/27/2017	13			13	11	11			0	13
10/28/2017	24	1		23	14	14			0	24
10/29/2017	33	4	1	28	21	19			0	33
10/30/2017	20			20	16	16	1	1	0	20
10/31/2017	22	3		19	12	12			0	22
11/01/2017	9	1	1	7	9	9			0	9
11/02/2017	26			26	17	17			0	26
11/03/2017	27		2	25	15	14			2	25
11/04/2017	25	5		20	17	16	2	2	1	24
11/05/2017	32	1		31	28	28	1	1	0	32
11/06/2017	13			13	10	10			0	13
11/07/2017	14			14	10	10			0	14
11/08/2017	31			31	19	19			0	31
11/09/2017	21	1		20	18	17			0	21
11/10/2017	20	1		19	17	16	1	1	0	20
11/11/2017	44	2	4	38	15	15	6	2	0	44
11/12/2017	31	1	1	29	24	23			0	31
11/13/2017	43	6	1	36	18	17			6	37
11/14/2017	48	6		42	20	19			2	46
11/15/2017	43	3		40	29	25	7	2	2	41
11/16/2017	28	3		25	22	18			1	27
11/17/2017	24	1		23	19	18			0	24
11/18/2017	20	2		18	14	13	1	1	0	20
11/19/2017	43	2		41	20	20			0	43
11/20/2017	31	1		30	25	25			1	30
11/21/2017	29			29	19	18	2	1	1	28
11/22/2017	29	1	1	27	22	18	2	2	1	28
11/23/2017	16	2		14	14	13	3	3	0	16
11/24/2017	24	2		22	20	18	2	2	0	24
11/25/2017	33		1	32	31	25			0	33
11/26/2017	38	1	1	36	30	25			3	35
11/27/2017	27			27	21	20	6	1	0	27
11/28/2017	35	2		33	28	26			1	34
11/29/2017	23			23	19	18			0	23
11/30/2017	19		2	17	17	16	1	1	1	18
12/01/2017	20	2	2	16	16	16			0	20
12/02/2017	25		1	24	19	19	3	1	0	25
12/03/2017	30	1		29	20	20	1	1	1	29
12/04/2017	44	2		42	25	25	3	1	0	44
12/05/2017	47	3		44	26	25	5	1	0	47
12/06/2017	30	1		29	27	26	1	1	0	30
12/07/2017	32	3		29	21	21			3	29
12/08/2017	51	4		47	27	24	4	2	7	44
12/09/2017	56	2	3	51	37	34	3	1	0	56
12/10/2017	60			60	42	40	1	1	0	60
12/11/2017	37	2	1	34	30	29	4	3	0	37
12/12/2017	28	1		27	23	18	2	2	0	28
12/13/2017	44	3	1	38	26	25	1	1	0	44
12/14/2017	22			22	20	19	3	2	0	22
12/15/2017	40			40	33	30	8	3	0	40

12/16/2017	49			49	35	34	2	2	0	49
12/17/2017	68	5	2	61	35	34	1	1	0	68
12/18/2017	49			49	35	32	7	4	0	49
12/19/2017	57	3	2	52	34	31	5	2	0	57
12/20/2017	56	4	2	50	42	38	3	3	0	56
12/21/2017	71	12		59	41	37	12	4	0	71
12/22/2017	59	7	2	50	29	27	2	2	1	58
12/23/2017	67	1		66	32	32	5	2	6	61
12/24/2017	35	2	1	32	18	18			2	33
12/25/2017	34			34	27	27	1	1	0	34
12/26/2017	129	5	1	123	63	60			2	127
12/27/2017	123	2		121	57	56	20	6	0	123
12/28/2017	105	4		101	74	67	7	4	1	104
12/29/2017	122	8	3	111	69	64	6	6	0	122
12/30/2017	122	11		111	85	84	5	2	1	121
12/31/2017	181	13	5	163	107	98	9	7	0	181
01/01/2018	121	7	1	113	61	51			0	121
01/02/2018	57	5		52	41	39	12	3	1	56
01/03/2018	40			40	32	31	1	1	0	40
01/04/2018	66	2	4	60	30	30	1	1	0	66
01/05/2018	57	3	4	50	39	33	4	2	1	56
01/06/2018	112	10	5	97	48	43	16	6	5	107
01/07/2018	66	2		64	35	31	7	2	2	64
01/08/2018	49	3	1	45	33	33	2	1	3	46
01/09/2018	68	2	2	64	35	32	3	2	9	59
01/10/2018	39	3	1	35	25	23			2	37
01/11/2018	35	2		33	24	24	1	1	1	34
01/12/2018	38	1		37	20	19	1	1	0	38
01/13/2018	72	6		66	34	30	17	7	0	72
01/14/2018	87	1	1	85	29	29	18	2	0	87
01/15/2018	45	3		42	33	28	1	1	0	45
01/16/2018	49	3		46	31	29			1	48
01/17/2018	37	4	2	31	22	21	1	1	0	37
01/18/2018	85	8	1	76	28	26	20	2	7	78
01/19/2018	54			54	23	22	24	4	0	54
01/20/2018	58	3		55	29	28	6	3	6	52
01/21/2018	132	3	3	126	53	44	25	6	5	127
01/22/2018	44	4		40	33	27	2	1	3	41
01/23/2018	47	4	1	42	23	21	1	1	0	47
01/24/2018	54	4	3	47	20	20	22	2	0	54
01/25/2018	39	5	2	32	21	21			2	37
01/26/2018	46	17	2	27	17	17	5	2	7	39
01/27/2018	50	8		42	31	31	2	2	0	50
01/28/2018	84	12	3	69	44	39	2	2	3	81
01/29/2018	44	6		38	30	28	1	1	5	39
01/30/2018	39		1	38	21	21	1	1	4	35
01/31/2018	17	1		16	16	16			0	17
02/01/2018	39	7	1	51	23	22	3	1	2	57
02/02/2018	66	4	1	61	45	28	15	3	1	65
02/03/2018	51	6	1	44	32	28	15	6	3	48
02/04/2018	87	20	2	65	34	26	23	2	24	63
02/05/2018	41	3		38	27	26	8	2	3	38
02/06/2018	35	2		33	23	23	4	1	1	34
02/07/2018	74	5	2	67	28	28	1	1	13	61
02/08/2018	17			17	16	16			0	17
02/09/2018	59	6	1	52	27	25	18	3	0	59
02/10/2018	57	7		50	28	27	6	2	0	57
02/11/2018	115	10	2	103	47	43	10	3	1	114
02/12/2018	50	1		49	33	32	6	3	1	49
02/13/2018	47	1		46	34	32	9	2	0	47
02/14/2018	52	5		47	36	27	3	1	3	49
02/15/2018	63	8	1	54	42	37	10	1	4	59
02/16/2018	47	4		43	33	32	6	5	8	39
02/17/2018	104	9	2	93	49	45	26	8	0	104
02/18/2018	91	3		88	56	54	17	7	0	91
02/19/2018	122	2	1	119	61	53	13	5	0	122
02/20/2018	92	6	1	85	41	39	16	7	2	90
02/21/2018	105	4	1	100	61	58	10	4	5	100

02/22/2018	101	5	2	94	56	51	13	8	8	93
02/23/2018	108	6	3	99	51	47	42	5	1	107
02/24/2018	117	4	1	112	74	55	7	6	0	117
02/25/2018	92	4	3	85	50	46	3	2	1	91
02/26/2018	94	7	1	86	52	49	2	2	7	87
02/27/2018	97	8	1	88	52	47	13	3	1	96
02/28/2018	97	2	1	94	48	45	7	4	0	97
03/01/2018	91	11	2	78	60	51	15	5	10	81
03/02/2018	61	2		59	38	37	1	1	4	57
03/03/2018	146	10	2	134	72	59	16	5	10	136
03/04/2018	99	4	2	93	57	55	16	8	4	95
03/05/2018	96	6	1	89	56	47	20	3	0	96
03/06/2018	64	1		63	43	43	4	4	0	64
03/07/2018	57	3		54	30	30	1	1	1	56
03/08/2018	99	20	3	76	48	44	2	2	5	94
03/09/2018	71	6		65	43	37	2	2	1	70
03/10/2018	114	7	2	105	64	57	15	8	7	107
03/11/2018	103	6	2	95	63	55	9	3	1	102
03/12/2018	92	16	1	75	44	41	2	1	1	91
03/13/2018	95	8	1	86	56	51	6	4	4	91
03/14/2018	126	22	4	100	55	45	2	2	1	125
03/15/2018	107	2	2	103	53	49	8	3	2	105
03/16/2018	76	5	3	68	50	48	8	6	1	75
03/17/2018	81	2	2	77	47	42	19	10	1	80
03/18/2018	123	4	1	118	68	55	14	4	0	123
03/19/2018	94	3	1	90	49	47	6	4	1	93
03/20/2018	86	9		77	44	43	8	4	5	81
03/21/2018	68	2	1	65	37	34	5	3	1	67
03/22/2018	51	5	1	45	46	42	4	3	3	48
03/23/2018	82	5	2	75	49	39			0	82
03/24/2018	111	9		102	64	51	27	16	2	109
03/25/2018	141	23		118	74	64	33	12	0	141
03/26/2018	103	8	2	93	46	41	20	2	0	103
03/27/2018	82	10		72	41	37	12	5	0	82
03/28/2018	69	3		66	44	41	2	2	4	65
03/29/2018	70	6	1	63	36	32	3	1	7	63
03/30/2018	53	3		50	36	36	9	5	2	51
03/31/2018	91	8	1	82	41	39	13	6	0	91
04/01/2018	122	13	1	108	44	39	33	6	8	114
04/02/2018	119	7	3	109	51	49	13	3	9	110
04/03/2018	84	9	2	73	43	39	10	5	7	77
04/04/2018	71	7	1	63	44	40	7	6	3	68
04/05/2018	71	9	2	60	36	32	3	2	10	61
04/06/2018	65	4		61	43	40	8	4	7	58
04/07/2018	173	9	5	159	83	81	30	8	3	170
04/08/2018	155	14	1	140	85	80	26	9	6	149
04/09/2018	109	7		102	66	55	13	6	6	103
04/10/2018	58	3	1	54	38	33	5	4	5	53
04/11/2018	92	10	1	81	40	40	16	3	5	87
04/12/2018	85	3		82	59	52	4	4	0	85
04/13/2018	108	8	2	98	65	51	11	5	3	105
04/14/2018	103	4	1	98	56	49	4	2	0	103
04/15/2018	133	9	3	121	80	70	10	5	9	124
04/16/2018	141	8	2	131	63	60	44	12	3	138
04/17/2018	98	14	1	83	61	56	7	7	7	91
04/18/2018	141	11	1	129	69	60	17	7	12	129
04/19/2018	119	5	3	111	58	50			5	114
04/20/2018	96	7	1	88	48	43	17	8	1	95
04/21/2018	158	8	2	148	81	68	2	2	5	153
04/22/2018	145	11	1	133	86	75	14	9	0	145
04/23/2018	143	12	2	129	74	67	16	7	5	138
04/24/2018	110	4	2	104	55	54	9	3	5	105
04/25/2018	107	8	5	94	62	58	11	7	3	104
04/26/2018	86	11		75	44	38	6	4	7	79
04/27/2018	84	6	4	74	46	41	10	3	3	81
04/28/2018	143	11	2	130	89	80	13	9	9	134
04/29/2018	182	13	6	163	94	87	22	11	3	179
04/30/2018	147	22	3	122	81	73	8	5	5	142

05/01/2018	196	23	2	171	92	87	11	5	11	185
05/02/2018	204	9	3	192	97	87	17	8	5	199
05/03/2018	109	12	1	96	55	53	24	10	4	105
05/04/2018	166	10	9	147	88	78	14	6	11	155
05/05/2018	218	17	9	192	103	91	24	10	2	216
05/06/2018	259	35	2	222	125	111	28	11	8	251
05/07/2018	274	33	6	235	128	111	33	9	2	272
05/08/2018	227	16	10	201	109	95	52	12	5	222
05/09/2018	256	21	8	227	104	97	88	17	11	245
05/10/2018	182	15	4	163	97	90	14	7	1	181
05/11/2018	189	17	2	170	91	87	15	3	11	178
05/12/2018	260	42	9	209	109	98	66	13	19	241
05/13/2018	319	13	5	301	163	148	23	10	11	308
05/14/2018	260	27	7	226	136	120	34	9	11	249
05/15/2018	298	40	7	251	136	122	50	15	8	290
05/16/2018	258	23	6	229	130	121	47	12	4	254
05/17/2018	206	28	7	171	121	113	25	5	15	191
05/18/2018	193	25	5	163	104	94	7	6	6	187
05/19/2018	223	6	7	210	125	119	31	13	4	219
05/20/2018	429	55	9	365	188	171	39	17	17	412
05/21/2018	421	36	7	378	173	157	64	20	5	416
05/22/2018	287	26	3	258	172	141	26	12	25	262
05/23/2018	305	32	10	263	153	131	47	25	18	287
05/24/2018	237	32	7	198	120	106	21	12	9	228
05/25/2018	240	9	3	228	151	133	18	11	5	235
05/26/2018	300	20		280	161	137	61	22	20	280
05/27/2018	303	8	9	286	171	148	57	23	9	294
05/28/2018	513	40	10	463	265	212	70	20	37	476
05/29/2018	343	35	7	301	192	174	38	14	22	321
05/30/2018	368	49	6	313	194	173	66	19	26	342
06/01/2018	428	51	2	375	202	186	49	23	12	416
06/02/2018	330	36	6	288	176	155	51	16	32	298
06/03/2018	376	29	9	338	201	177	53	21	11	365
06/04/2018	500	33	5	462	270	245	87	34	19	481
06/05/2018	423	27	7	389	246	226	56	21	34	389
06/06/2018	572	52	9	511	268	241	145	31	31	541
06/07/2018	530	45	9	476	285	254	100	22	31	499
06/08/2018	533	46	11	476	285	238	126	33	13	520
06/09/2018	368	25	7	336	206	180	29	17	8	360
06/10/2018	546	36	5	505	296	263	63	18	40	506
06/11/2018	644	72	17	555	349	293	84	31	39	605
06/12/2018	603	42	12	549	376	326	47	30	32	571
06/13/2018	672	80	18	574	362	328	107	43	24	648
06/14/2018	705	76	10	619	373	336	79	36	29	676
06/15/2018	648	68	15	565	366	310	112	43	49	599
06/16/2018	633	80	11	542	322	282	74	24	30	603
06/17/2018	727	60	18	649	408	330	95	32	41	686
06/18/2018	797	54	6	737	433	356	93	50	26	771
06/19/2018	788	65	13	710	466	400	78	35	25	763
06/20/2018	1017	89	18	910	516	468	156	45	80	937
06/21/2018	932	94	11	827	505	439	170	53	50	882
06/22/2018	1258	120	18	1120	696	605	164	54	51	1207
06/23/2018	1221	83	22	1116	648	559	163	63	34	1187
06/24/2018	1250	122	27	1101	656	589	200	64	58	1192
06/25/2018	2027	247	44	1736	1019	895	337	114	88	1939
06/26/2018	1952	192	46	1714	1065	956	257	94	80	1872
06/27/2018	2307	215	49	2043	1245	1104	260	100	126	2181
06/28/2018	2699	275	55	2369	1477	1286	398	131	185	2514
06/29/2018	3960	462	85	3413	2024	1707	605	179	260	3700
06/30/2018	6040	650	134	5256	3292	2784	940	300	336	5704
06/31/2018	10597	1042	265	9290	5890	4875	1361	469	536	10061
TOTAL	68848	6365	1365	61118	37366	32679	9112	3189	3214	65634

EXHIBIT B

FILED

APR 02 2015

FRESNO COUNTY SUPERIOR COURT

By GAR - DEPUTY

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Attorneys for Plaintiffs

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF FRESNO

KIM BELEMJIAN; JONATHAN
FAIRFIELD; T.J. JOHNSTON;
MATTHEW PIMENTEL; STANLEY ROY;
FFLGUARD, INC.; CALIFORNIA RIFLE
AND PISTOL ASSOCIATION;

Plaintiffs,

vs.

KAMALA D. HARRIS, in her official
capacity as Attorney General for the State
of California; STEPHEN LINDLEY, in his
official capacity as CHIEF OF THE
CALIFORNIA DEPARTMENT OF
JUSTICE BUREAU OF FIREARMS;
CALIFORNIA DEPARTMENT OF
JUSTICE; and DOES 1-10,

Defendants.

CASE NO. 15-CE-CG-00029

**PLAINTIFFS' NON-OPPOSITION TO
DEFENDANTS' AND RESPONDENTS'
DEMURRER TO FIRST AMENDED
COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF AND PETITION
FOR WRIT OF MANDATE**

Date: April 15, 2015
Time: 3:30 p.m.
Dept: 503
Judge: Hon. Alan M. Simpson
Trial Date: None
Action Filed: January 6, 2015

Document received by the CA 5th District Court of Appeal.

1 Plaintiffs Kim Belemjian, Jonathan Fairfield, T.J. Johnston, Matthew Pimentel, Stanley
2 Roy, *FFLGuard*, Inc., and California Rifle and Pistol Association (“Plaintiffs”) agree with
3 Defendants Kamala D. Harris, Stephen Lindley, and the California Department of Justice
4 (“Defendants”) that there remains nothing to be litigated as regards the merits of the claims raised
5 in Plaintiffs’ First Amended Complaint. Plaintiffs thus file this non-opposition to Defendants’
6 Demurrer to First Amended Complaint for Declaratory and Injunctive Relief and Petition for Writ
7 of Mandate, and support the granting of Defendants’ demurrer without leave to amend. Plaintiffs
8 believe, however, that Defendants’ suggestion that they have not disputed Plaintiffs’ position is
9 misleading (if not patently false). As such, they also request that the Court delay entering
10 judgment pending limited discovery to investigate the extent to which this litigation prompted
11 Defendants’s actions and to establish that Plaintiffs have a valid catalyst-based fee claim.

12 On October 2 and December 18, 2014, Defendants announced, by way of letter to various
13 interested parties, four regulations for the implementation and administration of the newly enacted
14 Firearm Safety Certificate Program (“FSC Program”) and long-gun safe-handling demonstrations.
15 (Barvir Decl. Supp. Pls.’ Non-oppn. to Defs.’ Demurrer (“Barvir Decl.”), Exhs. B-C.) Those
16 regulations were not adopted pursuant to the stringent notice and comment requirements of the
17 California Administrative Procedure Act (“APA”). On December 29, 2014, Plaintiff *FFLGuard*,
18 Inc., thus submitted a petition to the Office of Administrative Law (“OAL”) complaining of
19 Defendants’ failure to adhere to the APA when adopting those implementing regulations. (Barvir
20 Decl., Exh. D.) Petitioners submitted a copy of their OAL complaint to Defendants Harris and
21 Lindley. (Barvir Decl., ¶ D.) Defendants did not respond to *FFLGuard*’s petition; they instead
22 began enforcing the challenged rules on January 1, 2015, when the FSC Program took effect.

23 Plaintiffs thus brought suit on January 6, 2015, challenging the four underground
24 regulations adopted and enforced by Defendants. (Verified Compl. for Decl. & Inj. Rel (“Verified
25 Compl.”), ¶¶ 1-11, 78-126.) Plaintiffs also brought a writ of mandate to compel Defendants to
26 adopt formal regulations implementing the long-gun safe-handling demonstrations as mandated by
27 state law. (Verified Compl., ¶¶ 127-131.) On January 7, 2015, Plaintiffs filed an application for an
28 order to show cause and temporary restraining order. (Pls.’ Ex Parte Appln. Order to Show Cause

1 & Temp. Rest. Order, Jan. 7, 2015.) That request was denied in response to Defendants' argument
2 that Plaintiffs had not established the irreparable harm necessary for such extraordinary relief.
3 (See Barvir Decl., Exh. F, pp. 8-14; Defs.' Mem. Oppn. Pls.' Order to Show Cause & Temp. Rest.
4 Order, p. 4.) Two days later, on January 9, Defendants notified Plaintiffs for the first time that they
5 were "in the process of preparing emergency regulations and final regulations, pursuant to the
6 Administrative Procedures [sic] Act. . . ." (Barvir Decl., ¶ 8, Exh. H.) That emergency regulation
7 package would not be finalized and submitted to OAL until February 25, 2015—nearly seven
8 weeks later. (Defs.' Req. Jud. Not. Supp. Defs.' Demurrer, ¶ 1, Exh. 1.)¹ In the intervening weeks,
9 Defendants continued to enforce the challenged underground regulations.

10 When Defendants filed their demurrer, OAL had not yet ruled on Defendants' proposed
11 package of "emergency" regulations for the implementation and maintenance of the FSC Program
12 and safe-handling demonstrations. On March 9, 2015, however, OAL adopted the "emergency"
13 regulations and those regulations took immediate effect. (Pls.' Req. Jud. Not., ¶ 1 [filed
14 simultaneously herewith]; Pls.' Req. Jud. Not., Exh. A.) The newly adopted regulatory package
15 formalized each of the four illegally adopted and previously enforced rules challenged in
16 Plaintiffs' first through sixth causes of action for declaratory relief. (Pls.' Req. Jud. Not., Exh. A;
17 Pls.' First Am. Compl. & Writ of Mand. ("First Am. Compl."), pp. 17-25.) Adoption of the
18 emergency package also formalized regulations for the implementation of the long-gun
19 safe-handling demonstration as requested in Plaintiffs' seventh cause of action for writ of
20 mandate. (Pls.' Req. Jud. Not., Exh. A; First Am. Compl., pp. 25-26.) As such, Plaintiffs have
21 achieved exactly the result they sought in their First Amended Complaint. (First Am. Compl., pp.
22 26-28.) The underground regulations at the heart of this dispute are no longer being unlawfully
23 enforced against Plaintiffs, their members, or clients. Because Defendants' promulgation of the
24 emergency regulations has favorably mooted each of Plaintiffs' claims, Plaintiffs agree that there

26
27 ¹ Two weeks later, Plaintiffs, in an attempt to gauge whether they could settle this dispute
28 without resort to further litigation, contacted Defendants' counsel to ask if and when the
Department of Justice intended to begin the emergency rule-making process. (Barvir Decl., ¶ 9,
Exh. I, p. 1-2.) They would learn two days later that Defendants would not submit the emergency
package for at least another month. (Barvir Decl., ¶ 10, Exh. I, p. 1.)

1 remains no reason for this Court to consider or for the parties to continue litigating the merits of
2 those claims.

3 Plaintiffs dispute, however, Defendants' contention that no actual controversy has existed
4 between the parties because "(1) the defendants do not actually oppose the position taken by the
5 plaintiffs that Penal Code section 26860, subdivision (b), requires regulations, and (2) the
6 defendants submitted emergency regulations under the APA," (Defs.' Mem. Supp. Demurrer,
7 p. 7.) Defendants have actively resisted Plaintiffs' attempts to resolve the matter at every juncture.
8 And, though they were given many opportunities in the earliest stages of this dispute, Defendants
9 made no mention to Plaintiffs that they were working on formal regulations, emergency or
10 otherwise, until two days after the hearing on Plaintiffs' application for TRO/OSC. (Barvir Decl.,
11 ¶ 8, Exh. H.) In fact, during a week of communications with Plaintiffs' counsel resulting from
12 Plaintiffs' December 30th notice that they'd be filing suit and seeking preliminary relief,
13 Defendants' counsel never disclosed his clients' intention to promulgate emergency regulations,
14 nor did he suggest that litigation could be avoided as a result. (Barvir Decl., ¶ 5; Exh. E.)
15 Defendants, in responding to Plaintiffs' request for temporary injunctive relief, did not take the
16 position they do now that Plaintiffs could not succeed on the merits for lack of controversy or
17 admit that they should have adopted formal regulations. (Defs.' Mem. Oppn. Pls.' Order to Show
18 Cause & Temp. Rest. Order, pp. 4-5.) And at the TRO/OSC hearing, Defendants never discussed
19 their intention to promulgate regulations for the FSC Program or safe-handling demonstrations.
20 (Barvir Decl., ¶ 6; Exh. F.) Instead, they waited until Plaintiffs reached out to engage in
21 settlement negotiations to claim that they were "in the process of drafting emergency regulations."
22 (Barvir Decl., ¶¶ 7-8; Exhs. G-H.) What's more, Defendants never stopped enforcing the illegal
23 safe-handling demonstration rules, even though they now claim that they agree with Plaintiffs'
24 position that Penal Code section 26860 mandated the adoption of formal regulations. (Defs.'
25 Mem. Supp. Demurrer, pp. 5-11.) And Defendants still do not claim to have ever agreed with
26 Plaintiffs' contention that the four FSC Program rules announced by letter were underground
27 regulations that should have been adopted pursuant to the APA.

28 For these reasons, among others, Plaintiffs strongly suspect that the parties did, in fact,

1 face an actual controversy at the start of this litigation and that this case was the very impetus for
2 Defendants' promulgation of emergency regulations. So while Plaintiffs believe they are entitled
3 to attorneys' fees based on the catalyst theory, it is their burden to establish such and Defendants
4 have only recently begun to suggest that formal regulations were being prepared independent of
5 this litigation. But because this case is still in its infancy, no discovery has yet taken place and
6 Plaintiffs have not had the opportunity to test the veracity of Defendants' claims. (Decl. of Jeffrey
7 A. Rich Supp. Defs.' Mem. Supp. Demurrer, Exh. 2; Defs.' Mem. Supp. Demurrer, p. 3.) Plaintiffs
8 thus require limited discovery at this stage for that very purpose.

9 Again, Plaintiffs do not oppose Defendants' request that the Court sustain their demurrer
10 without leave to amend. But Plaintiffs respectfully ask the Court to delay entering a final
11 judgment on Defendants' demurrer to allow for Plaintiffs to engage in limited discovery for the
12 purpose of investigating and confirming the validity of their attorneys' fees claim. Alternatively,
13 Plaintiffs request that the Court order such relief as it deems necessary to allow Plaintiffs to
14 engage in limited discovery for the purpose of supporting their fee motion.

15 Date: April 2, 2015

MICHEL & ASSOCIATES, P.C.

16 

17 Anna M. Barvir
18 Counsel for Plaintiffs

Document received by the CA 5th District Court of Appeal.

PROOF OF SERVICE

I, Laura Quesada, am employed in the City of Long Beach, Los Angeles County, California. I am over the age eighteen (18) years and am not a party to the within action. My business address is 180 East Ocean Blvd., Suite 200, Long Beach, California 90802.

On April 2, 2015, I served the foregoing document(s) described as:

**PLAINTIFFS' NON-OPPOSITION TO DEFENDANTS' AND RESPONDENTS'
DEMURRER TO FIRST AMENDED COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF AND PETITION FOR WRIT OF MANDATE**

on the interested parties in this action by placing

☐ the original

☒ a true and correct copy

thereof enclosed in sealed envelope(s) addressed as follows:

Mr. Jeffrey Rich
Deputy Attorney General
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 95814

(PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the addressee.

Executed on _____, 2015, at Long Beach, California.

X (OVERNIGHT MAIL) As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for overnight delivery by UPS/FED-EX. Under the practice it would be deposited with a facility regularly maintained by UPS/FED-EX for receipt on the same day in the ordinary course of business. Such envelope was sealed and placed for collection and delivery by UPS/FED-EX with delivery fees paid or provided for in accordance.

Executed on April 2, 2015, at Long Beach, California.

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

(FEDERAL) I declare that I am employed in the office of the member of the bar of this court at whose direction the service was made.


LAURA L. QUESADA

Document received by the CA 5th District Court of Appeal.

PROOF OF ELECTRONIC SERVICE (Court of Appeal)	
<p>Notice: This form may be used to provide proof that a document has been served in a proceeding in the Court of Appeal. Please read <i>Information Sheet for Proof of Service (Court of Appeal)</i> (form APP-009-INFO) before completing this form.</p> <p>Case Name: Villanueva, et al. v. Becerra, et al. Court of Appeal Case Number: F078062 Superior Court Case Number: 17CECG03093</p>	

1. At the time of service I was at least 18 years of age.

2. a. My ☐ residence ☒ business address is (*specify*):
 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802

b. My electronic service address is (*specify*): lpalmerin@michellawyers.com

3. I electronically served the following documents (*exact titles*):

Exhibits to Appellants' Request for Judicial Notice

4. I electronically served the documents listed in 3. as follows:

a. Name of person served: P. Patty Li

On behalf of (*name or names of parties represented, if person served is an attorney*):

Defendants-Respondents 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 Dept. of Justice, Bureau of Firearms; and California Department of Justice

b. Electronic service address of person served: patty.li@doj.ca.gov

c. On (*date*): October 9, 2019

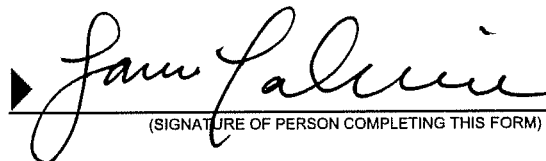
☐ The documents listed in 3. were served electronically on the persons and in the manner described in an attachment (*write "APP-009E, Item 4" at the top of the page*).

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

Date: October 9, 2019

Laura Palmerin

(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)


 (SIGNATURE OF PERSON COMPLETING THIS FORM)