

XAVIER BECERRA
Attorney General of California
THOMAS S. PATTERSON
Senior Assistant Attorney General
PAUL STEIN
Supervising Deputy Attorney General
P. PATTY LI
Deputy Attorney General
State Bar No. 266937
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3817
Fax: (415) 703-1234
E-mail: Patty.Li@doj.ca.gov
Attorneys for Defendants and Respondents
Xavier Becerra, et al.

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; LUIS
LOPEZ, in his official capacity as 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

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

MOTION TO SUBSTITUTE LUIS LOPEZ, IN HIS OFFICIAL CAPACITY AS DIRECTOR OF THE CALIFORNIA DEPARTMENT OF JUSTICE, BUREAU OF FIREARMS, IN PLACE OF BRENT E. ORICK AS A RESPONDENT

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 Luis Lopez, in his official capacity as the Director of the California Department of Justice, Bureau of Firearms, in place of Brent E. Orick as a Respondent in this appeal.

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 Director Luis Lopez. Mr. Lopez succeeded Mr. Orick in that position effective February 15, 2020.

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

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 at p. 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. (Respondents' Appendix 3.) On September 5, 2019, this Court granted Respondents' previous Motion for Substitution of Parties, substituting Brent E. Orick, in his official capacity as Acting Director of the California Department of Justice, Bureau of Firearms, in place of Mr. Lindley. Effective February 15, 2020, Luis Lopez succeeded Mr. Orick as the head of the Bureau of Firearms. Consequently, Luis Lopez, in his official capacity as Director of the California Department of Justice, Bureau of Firearms, should be substituted as a Respondent in place of Mr. Orick.

Dated: October 7, 2020

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 Luis Lopez, in his official capacity as Director of the California Department of Justice, Bureau of Firearms, should be and hereby is substituted in place of former Acting Director of the California Department of Justice, Bureau of Firearms, Brent E. Orick.

Dated: _____

Justice of the Court of Appeal
Fifth Appellate District

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

DECLARATION OF SERVICE

Case Name: *Villanueva, Danny, et al. v. Xavier Becerra, et al.*
Case 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 October 7, 2020, 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 October 7, 2020, 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:

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

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 October 7, 2020, at San Francisco, California.

M. Mendiola

Declarant



Signature