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California Department of Justice and
7 *Attorney General Xavier Becerra*

Exempt from filing fees pursuant to
Government Code section 6103

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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES
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13 **FRANKLIN ARMORY, INC. AND**
14 **CALIFORNIA RIFLE & PISTOL**
ASSOCIATION, INCORPORATED,
15
16 Petitioners-Plaintiffs,
17
18 **v.**
19 **CALIFORNIA DEPARTMENT OF**
JUSTICE, XAVIER BECERRA, IN HIS
20 **OFFICIAL CAPACITY AS ATTORNEY GENERAL**
FOR THE STATE OF CALIFORNIA, AND DOES
1-10,
21 Respondents-Defendants.

Case No. 20STCP01747

**NOTICE OF HEARING ON DEMURRER
TO FIRST AMENDED COMPLAINT
AND PETITION AND DEMURRER TO
FIRST AMENDED COMPLAINT AND
PETITION BY DEFENDANTS AND
RESPONDENTS CALIFORNIA
DEPARTMENT OF JUSTICE AND
ATTORNEY GENERAL XAVIER
BECERRA [FIRST, SECOND AND
EIGHTH CAUSES OF ACTION];
DECLARATION OF BENJAMIN
BARNOUW REGARDING MEET AND
CONFER PURSUANT TO CODE OF
CIVIL PROCEDURE SECTION 430.41**

**[MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
DEMURRER FILED SEPARATELY]**

Date: January 26, 2021
Time: 1:30 p.m.
Dept: 85
Judge: Hon. James C. Chalfant
Trial Date: Not set
Action Filed: May 27, 2020

Reservation made with Department 85

1 TO ALL PARTIES:

2 PLEASE TAKE NOTICE that on January 26, 2021, at 1:30 p.m., in Department 85 of the
3 above-entitled Court, located at 111 North Hill Street, Los Angeles, California, 90012, defendants
4 and respondents California Department of Justice and Attorney General Xavier Becerra will
5 move the Court for an Order sustaining their Demurrer to the First Amended Complaint and
6 Petition of Franklin Armory, Inc. and California Rifle and Pistol Association, and specifically the
7 First, Second and Eighth causes of action for declaratory relief, injunctive relief and writ of
8 mandate set forth in the First Amended Complaint and Petition, on the grounds that the claims of
9 Franklin Armory, Inc. and California Rifle and Pistol Association for declaratory relief, injunctive
10 relief and writ of mandate are moot and/or not ripe for judicial review, and that Franklin Armory,
11 Inc. and California Rifle and Pistol Association lack legal standing to pursue such claims.

12 This Demurrer is based on the pleadings and records on file herein, this Notice of Hearing
13 on Demurrer to First Amended Complaint and Petition and Demurrer to First Amended
14 Complaint and Petition, the Memorandum of Points and Authorities filed concurrently but
15 separately, and upon such argument as may be made at the time of the hearing upon the
16 Demurrer. Attached hereto is a Declaration submitted pursuant to Code of Civil Procedure
17 section 430.41, subdivision (a)(3), demonstrating that the parties met and conferred regarding this
18 Demurrer in conformance with Code of Civil Procedure section 430.41, subdivision (a)(2).

19 DEMURRER TO FIRST AMENDED COMPLAINT AND PETITION

20 Defendants California Department of Justice and Attorney General Xavier Becerra hereby
21 demur to the First Amended Complaint and Petition on file herein, on the following grounds:

22 The First Cause of Action is moot and/or not ripe for judicial review, and plaintiffs and
23 petitioners Franklin Armory, Inc. and California Rifle and Pistol Association lack legal standing
24 to pursue their claims. (Code Civ. Proc., §§430.10, subd. (e), 525, 526, 1060.)

25 The Second Cause of Action is moot and/or not ripe for judicial review, and plaintiffs and
26 petitioners Franklin Armory, Inc. and California Rifle and Pistol Association lack legal standing
27 to pursue their claims. (Code Civ. Proc., §§430.10, subd. (e), 1085, 1086.)

28 The Eighth Cause of Action is moot, and plaintiffs and petitioners Franklin Armory, Inc.

1 and California Rifle and Pistol Association lack legal standing to pursue their claims. (Code Civ.
2 Proc., §§430.10, subd. (e), 525, 526, 1060.)

3 WHEREFORE, defendants and respondents California Department of Justice and Attorney
4 General Xavier Becerra move the Court for an order sustaining their Demurrer to the First
5 Amended Complaint and Petition.

6 Dated: October 30, 2020

Respectfully Submitted,

7 XAVIER BECERRA
8 Attorney General of California
9 MARK T. CUMBA
10 Supervising Deputy Attorney General



11 BENJAMIN BARNOUW
12 Supervising Deputy Attorney General
13 *Attorneys for Defendants and Respondents*
14 *California Department of Justice and*
15 *Attorney General Xavier Becerra*

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DECLARATION OF BENJAMIN BARNOUW

I, Benjamin Barnouw, do hereby declare as follows:

1. I am a Supervising Deputy Attorney General at the California Attorney General’s Office. I am admitted to practice in the courts of the State of California. I represent the California Department of Justice and Attorney General Xavier Becerra in this matter. I make this declaration of my own personal knowledge, am competent to testify to the facts stated herein, and would so testify if called.

2. On October 16 and 21, 2020, I spoke by telephone with Jason Davis, counsel for plaintiffs and petitioners Franklin Armory, Inc. and the California Rifle and Pistol Association, regarding the intention of the California Department of Justice and Attorney General Xavier Becerra to file a Demurrer to Franklin Armory, Inc.’s and the California Rifle and Pistol Association’s claims for writ of mandate, injunctive relief and declaratory relief, including those claims set forth in the First, Second and Eighth causes of action in the First Amended Complaint and Petition. The parties did not reach an agreement resolving the objections raised in the Demurrer.

I declare, under penalty of perjury, that the foregoing is true and correct, and that this declaration is executed on October 30, 2020, at Los Angeles, California.


Benjamin Barnouw

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Franklin Armory, Inc. v. California Department of Justice**
Case No.: **20STCP01747**

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 collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On **October 30, 2020**, I served the attached **NOTICE OF HEARING ON DEMURRER TO FIRST AMENDED COMPLAINT AND PETITION AND DEMURRER TO FIRST AMENDED COMPLAINT AND PETITION BY DEFENDANTS AND RESPONDENTS CALIFORNIA DEPARTMENT OF JUSTICE AND ATTORNEY GENERAL XAVIER BECERRA [FIRST, SECOND AND EIGHTH CAUSES OF ACTION]; DECLARATION OF BENJAMIN BARNOUW REGARDING MEET AND CONFER PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 430.41** by placing a true copy thereof enclosed in a sealed envelope in the *internal mail collection system* at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

C.D. MICHEL
Jason A. Davis
MICHEL & ASSOCIATES, P.C.
180 E. Ocean Blvd, Suite 200
Long Beach, CA 90802

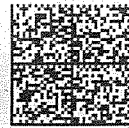
I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **October 30, 2020**, at Los Angeles, California.

Whitney A. Sims

Declarant

/s/ Whitney A. Sims

Signature



U.S. POSTAGE >> PITNEY BOWES



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DEPARTMENT OF JUSTICE

Office of the Attorney General
Ronald Reagan Building
300 South Spring Street, Suite 1702
Los Angeles, CA 90013

TO:

C.D. MICHEL
Jason A. Davis
MICHEL & ASSOCIATES, P.C.
180 E. Ocean Blvd, Suite 200
Long Beach, CA 90802