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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

FRANKLIN ARMORY, INC. and
CALIFORNIA RIFLE & PISTOL
ASSOCIATION, INCORPORATED

Petitioners-Plaintiffs,

v.

CALIFORNIA DEPARTMENT OF JUSTICE,
ROB BONTA, in his official capacity as
Attorney General for the State of California,
and DOES 1-10,

Respondents-Defendants.

Case No.: 20STCP01747

[Assigned for all purposes to the Honorable
James C. Chalfant; Department 85]

**JOINT STIPULATION AND [PROPOSED]
ORDER CONTINUING TRIAL SETTING
CONFERENCE AND DISCOVERY CUT-
OFF**

Dept: 85
Judge: Hon. James C. Chalfant
Action Filed: May 27, 2020
Trial Date: Not Yet Set

FILED
Superior Court of California
County of Los Angeles
11/23/2021

Sherri R. Carter, Executive Officer / Clerk of Court
By: J. De Luna Deputy

1 **TO THE CLERK OF THIS COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 This Stipulation, entered into by and between Plaintiffs-Respondents Franklin Armory, Inc., and
3 California Rifle & Pistol Association, Incorporated (“Plaintiffs”) and Defendants-Respondents
4 California Department of Justice (“DOJ”) and Attorney General Rob Bonta by and through their
5 respective counsel, is made with reference to the following facts and recitals:

6 WHEREAS, on February 17, 2021, pursuant to this Court’s January 28, 2021 order granting
7 Defendants DOJ’s and former Attorney General Xavier Becerra’s first demurrer to the First Amended
8 Complaint with leave to amend, Plaintiffs filed the Second Amended Complaint in the above-entitled
9 action;

10 WHEREAS, Defendants DOJ and former Attorney General Xavier Becerra filed a second
11 demurrer to the Second Amended Complaint on March 23, 2021, with a hearing set for June 3, 2021;

12 WHEREAS, on June 3, 2021, this Court overruled the demurrer to the Second Amended
13 Complaint, ordering Defendants DOJ and former Attorney General Xavier Becerra to file an answer on
14 or before June 23, 2021;

15 WHEREAS, at the Case Management Conference on June 3, 2021, this Court set a trial setting
16 conference and discovery cut-off deadline for November 30, 2021;

17 WHEREAS, on June 23, 2021, Defendants DOJ and former Attorney General Xavier Becerra
18 their Answer to the First, Second, and Eighth Causes of Action in the Second Amended Complaint;

19 WHEREAS, on July 6, 2021, Plaintiffs filed a declaration for automatic extension of the deadline
20 to file a demurrer or motion to strike;

21 WHEREAS, on August 4, 2021, Plaintiffs filed a demurrer to and motion to strike Defendant’s
22 answer, with a hearing set for October 14, 2021;

23 WHEREAS, on October 12, 2021, this Court continued the hearing on Plaintiffs’ demurrer and
24 motion to strike to October 26, 2021;

25 WHEREAS, on October 26, 2021, this Court denied Plaintiffs’ motion to strike as moot, but
26 sustained Plaintiffs’ demurrer as to Defendants’ affirmative defenses, giving Defendants until November
27 10, 2021, to file an amended answer, and this Court ordered that Attorney General Rob Bonta is
28 substituted into this action in his capacity as Attorney General in place of Former Attorney General

1 Xavier Becerra;

2 WHEREAS, the attorney primarily responsible for preparing Defendants’ amended answer went
3 on medical leave on November 15, 2021, and requested that Plaintiffs agree to a one-week extension for
4 Defendants to file their amended answer;

5 WHEREAS, pursuant to the Parties’ agreement, Defendants filed their amended answer to the
6 Second Amended Complaint, on November 16, 2021.

7 **Status of Discovery, Settlement & Further Motions Practice**

8 WHEREAS, on August 12, 2021, Defendants served Plaintiff Franklin Armory with requests for
9 production of documents and Plaintiff CRPA with special interrogatories, with responses due on or
10 before September 14, 2021;

11 WHEREAS, on August 18, 2021, Plaintiffs served Defendants with form interrogatories about
12 the affirmative defenses pled in Defendants’ initial answer, with responses due on or before September
13 17, 2021;

14 WHEREAS, on September 14, 2021, Plaintiffs served their responses and objections to
15 Defendants’ August 12, 2021 written discovery, but requested a brief extension to serve additional
16 documents responsive to Defendants’ requests for production due to technical difficulties accessing
17 Plaintiff Franklin Armory’s email system;

18 WHEREAS, the next day, counsel for Defendants informed counsel for Plaintiffs via email that
19 Defendant Department of Justice was working to update the Dealer’s Record of Sale Entry System
20 (“DES”) to include the option to select “Other” as a “subtype” when processing the transfer of “long
21 guns” that are neither “rifles,” nor “shotguns,” nor “rifle/shotguns” through the DES;

22 WHEREAS, counsel for the Parties met and conferred on or about September 21, 2021, to
23 discuss when the option would be added to the DES and to what extent, if any, the change to the DES
24 mooted Plaintiffs’ unstayed claims (i.e., the First, Second, and Eighth Causes of Action for equitable
25 relief). The Parties also discussed the status of then-pending written discovery relevant to the unstayed
26 claims;

27 WHEREAS, during the September 21, 2021, meet-and-confer, the Parties were unable to agree
28 that Plaintiffs’ unstayed claims were immediately mooted by the Defendants’ anticipated change to the

1 DES, but agreed to continue the meet-and-confer process while the Parties continued to consider the
2 impact of the anticipated change on Plaintiffs' unstayed claims. The Parties also agreed to a brief
3 extension to respond to then-pending written discovery;

4 WHEREAS, on September 28, 2021, counsel for the Parties met and conferred again after
5 Defendant Department of Justice had released its September 27, 2021 notice and guidance to licensed
6 firearms dealers in California, informing them that, effective at 5:00 a.m. on October 1, 2021, the DES
7 would include the option to select "Other" as a "subtype" when processing the transfer of "long guns"
8 that are neither "rifles," nor "shotguns," nor "rifle/shotguns" through the DES;

9 WHEREAS, during the September 28, 2021 meet-and-confer, the Parties were again unable to
10 agree that Plaintiffs' unstayed claims were mooted by the Defendants' anticipated change to the DES
11 because Plaintiffs interpreted the September 27, 2021 guidance to firearm dealers to exempt many
12 lawful firearms at issue in this lawsuit from the use of the "Other" option for long gun subtypes in the
13 DES;

14 WHEREAS, on October 1, 2021, Defendants issued guidance to licensed firearms dealers
15 regarding use of the "Other" option for long gun subtypes in the DES, which guidance superseded the
16 guidance issued on September 27, 2021;

17 WHEREAS, on October 5, 2021, Defendant DOJ served its Response to Form Interrogatories
18 propounded by plaintiff-petitioner Franklin Armory, Inc.;

19 WHEREAS, on October 22, 2021, Plaintiffs served on Defendant DOJ two amended notices to
20 take the depositions of persons most knowledgeable on November 23, 2021. The notices included
21 related requests for production of documents. On November 15, 2021, Defendant DOJ served objections
22 to the noticed depositions on several grounds, including mootness in light of Defendants' change to the
23 DES described herein;

24 WHEREAS, at the October 26, 2021 hearing on Plaintiffs' demurrer to and motion to strike
25 Defendants' answer, the Parties and this Court briefly discussed Defendants' change to the DES and
26 potential mootness of the unstayed claims. The Court encouraged the Parties to meet and confer if
27 Defendants intended to file a motion to dismiss on mootness grounds;

28 WHEREAS, on or about November 3, 2021, the Parties met and conferred about Defendants'

1 anticipated motion to dismiss Plaintiffs' unstayed claims as moot in light of Defendants' change to the
2 DES described herein;

3 WHEREAS, at the Parties' November 3, 2021 meet-and-confer, the Parties were again unable to
4 agree that Defendants' change to the DES mooted Plaintiffs' unstayed claims, but the Parties agreed to
5 continue good faith meet-and-confer efforts and to engage in settlement negotiations regarding
6 Plaintiffs' unstayed claims;

7 WHEREAS, since the November 3, 2021 meet-and-confer, the Parties have been negotiating in
8 good faith over possible terms for a partial settlement of Plaintiffs' claims to include the dismissal of the
9 unstayed claims, but have not yet come to an agreement;

10 WHEREAS, the counsel for the Parties met and conferred on November 18, 2021, to discuss the
11 potential for settlement and Defendants' intention to file a motion to dismiss before the Trial Setting
12 Conference currently set for November 30, 2021.

13 **Good Cause for a Continuance**

14 WHEREAS, the Parties agree there is good cause for a 90-day continuance of the November 30,
15 2021 Trial Setting Conference and associated discovery cut-off deadline;

16 WHEREAS, the Parties bring this stipulation and request for a continuance for the reasons of
17 good cause stated herein and not for any improper purpose;

18 WHEREAS, the Parties agree that a continuance of the trial setting conference and discovery
19 cut-off deadline will allow the parties to continue to participate in meaningful settlement discussions
20 without the expense and cost of continued trial preparation;

21 WHEREAS, Defendants have informed Plaintiffs that they will file a motion to dismiss
22 Plaintiffs' unstayed claims before November 30, 2021 and have reserved a hearing date of January 27,
23 2022, and the Parties agree that the outcome of that motion largely informs the relevance and/or
24 mootness of pending discovery, including the two depositions currently scheduled for November 23,
25 2021;

26 WHEREAS, Plaintiffs have not yet received Defendants' motion to dismiss on mootness
27 grounds but, based on the Parties' meet-and-confer efforts to date, Plaintiffs strongly believe they will
28 require written discovery and/or deposition testimony to fully and fairly respond to Defendants' motion

1 to dismiss;

2 WHEREAS, the Parties agree that the continuance requested herein will not prejudice either
3 party but will instead serve the purposes of conserving the Parties' and this Court's resources.


4 IT IS THEREFORE STIPULATED by and between Plaintiffs and Defendants by and through
5 their attorneys of record, and the Parties respectfully request the Court issue an order that:

6 1. The trial setting conference in this matter is continued for 90 days to February 28, 2022,
7 or as soon thereafter as the Court's schedule permits.

8 2. The discovery cut-off deadline in this matter is also continued for 90 days to February 28,
9 2022, or until such time as this court deems appropriate.

10 Date: November 19, 2021

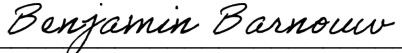
MICHEL & ASSOCIATES, P.C.

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13 Anna M. Barvir
14 Attorneys for Petitioners-Plaintiffs

15 Date: November 19, 2021

16 ROB BONTA
17 Attorney General of California
18 BENJAMIN BARNOUW
19 Supervising Deputy Attorney General
20 KENNETH G. LAKE
21 Deputy Attorney General

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23
24 Benjamin Barnouw
25 Supervising Deputy Attorney General
26 Attorneys for Respondents-Defendants
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1 **[PROPOSED] ORDER**

2 Pursuant to the stipulation by and between Plaintiffs-Respondents Franklin Armory, Inc., and
3 California Rifle & Pistol Association, Incorporated (“Plaintiffs”) and Defendants-Respondents
4 California Department of Justice and Attorney General Rob Bonta (“Defendants”) by and through their
5 respective counsel, by and through their representative and attorneys of record, and good cause
6 appearing therefor:

7 1. The trial setting conference in this matter is continued for 90 days from November 30,
8 2022, to ~~February 28, 2022~~. T @&@FZGGF&@FKIA È È

9 2. The discovery cut-off deadline in this matter is also continued for 90 days from
10 November 30, 2022, to ~~February 28, 2021~~. T @&@FZGGF

11
12 IT IS SO ORDERED.

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14 Dated: 11/23/2021



J. Chalfant

James C. Chalfant / Judge

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The Honorable James C. Chalfant

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA
3 COUNTY OF LOS ANGELES

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

7 On November 19, 2021, I served the foregoing document(s) described as

8 **JOINT STIPULATION AND [PROPOSED] ORDER CONTINUING TRIAL SETTING
9 CONFERENCE AND DISCOVERY CUT-OFF**

10 on the interested parties in this action by placing
11 [] the original
12 [X] a true and correct copy
13 thereof by the following means, addressed as follows:


14 Benjamin Barnouw
15 Supervising Deputy Attorney General
16 Email: Ben.Barnouw@doj.ca.gov
17 Kenneth G. Lake
18 Deputy Attorney General
19 Email: Kenneth.Lake@doj.ca.gov
20 California Department of Justice
21 300 South Spring Street, Suite 1702
22 Los Angeles, CA 90013

23 *Attorney for Respondents-Defendants*

24 X (BY ELECTRONIC MAIL) As follows: I served a true and correct copy by electronic
25 transmission through One Legal. Said transmission was reported and completed without error.

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

28 Executed on November 19, 2021, at Long Beach, California.



Laura Palmerin