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 Newsom, Attorney General Rob Bonta,
 8 Secretary Karen Ross, and 22 District
 Agricultural Association*
 9

10 IN THE UNITED STATES DISTRICT COURT
 11 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

14 **B&L PRODUCTIONS, INC., d/b/a
 CROSSROADS OF THE WEST, et
 15 al.,**

16 Plaintiffs,

17 v.

18 **GAVIN NEWSOM, in his official
 19 capacity as Governor of the State of
 California and in his personal
 20 capacity et al.**

21 Defendants

3:21-cv-01718 AJB-KSC

**REQUEST FOR JUDICIAL
 NOTICE IN SUPPORT OF
 MOTION TO DISMISS**

Date: April 7, 2022
 Time: 2:00 p.m.
 Dept: 4A
 Judge: The Honorable Anthony J.
 Battaglia
 Trial Date: None
 Action Filed: 10/4/2021

1 Under Federal Rule of Evidence 201, Defendants Governor Gavin Newsom, in
2 his official and individual capacity; Attorney General Rob Bonta, in his official and
3 individual capacity; Karen Ross, Secretary of California Department of Food &
4 Agriculture, in her official and individual capacity; and the 22nd District
5 Agricultural Association (collectively, “State Defendants”), respectfully request the
6 Court to take judicial notice of the following documents in support of State
7 Defendants’ motion to dismiss:

8 1. April 30, 2020 Dismissal with Prejudice Order (ECF No. 45) in *B&L*
9 *Productions, Inc., et al. v. 22nd District Agricultural Association, et al.*, Case No.
10 3:19-cv-134-CAB-AHG. A true and correct copy of this document is attached
11 hereto as **Exhibit A**. **Exhibit A** is an order signed by the Honorable Cathy Ann
12 Bencivengo in a case previously before the Southern District of California. It is
13 thus a public record.

14 2. December 30, 2021 letter from the California Department of General
15 Services’ Government Claims Program regarding “Claim 21006314 for LAX Firing
16 Range Inc, Daniel Kash against Governor’s Office, Department of Justice,
17 Department of Food and Agriculture, 22nd District Agricultural Association.” A
18 true and correct copy of this document is attached hereto as **Exhibit B**. **Exhibit B**
19 is a public record of the California Department of General Services.

20 3. December 30, 2021 letter from the California Department of General
21 Services’ Government Claims Program regarding “Claim 21006315 for B&L
22 Productions Inc, Tracy Olcott against Governor’s Office, Department of Justice,
23 Department of Food and Agriculture, 22nd District Agricultural Association.” A
24 true and correct copy of this document is attached hereto as **Exhibit C**. **Exhibit C**
25 is a public record of the California Department of General Services.

26 4. December 30, 2021 letter from the California Department of General
27 Services’ Government Claims Program regarding “Claim 21006316 for California
28 Rifle & Pistol Association Incorporated, Richard Minnich against Governor’s

1 Office, Department of Justice, Department of Food and Agriculture, 22nd District
2 Agricultural Association.” A true and correct copy of this document is attached
3 hereto as **Exhibit D**. **Exhibit D** is a public record of the California Department of
4 General Services.

5 5. December 30, 2021 letter from the California Department of General
6 Services’ Government Claims Program regarding “Claim 21006329 for Miwall
7 Corporation, Lawrence Walsh against Governor’s Office, Department of Justice,
8 Department of Food and Agriculture, 22nd District Agricultural Association.” A
9 true and correct copy of this document is attached hereto as **Exhibit E**. **Exhibit E**
10 is a public record of the California Department of General Services.

11 6. December 30, 2021 letter from the California Department of General
12 Services’ Government Claims Program regarding “Claim 21006331 for Second
13 Amendment Foundation against Governor’s Office, Department of Justice,
14 Department of Food and Agriculture, 22nd District Agricultural Association.” A
15 true and correct copy of this document is attached hereto as **Exhibit F**. **Exhibit F**
16 is a public record of the California Department of General Services.

17 The Court may take judicial notice of any fact that is “not subject to
18 reasonable dispute because it: (1) is generally known within the trial court’s
19 territorial jurisdiction; or (2) can be accurately and readily determined from sources
20 whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(1)-(2). A
21 court shall take judicial notice of such a fact if requested by a party and supplied
22 with the necessary information. *Id.* 201(c)(2). Courts “may take judicial notice of
23 matters of public record without converting a motion to dismiss into a motion for
24 summary judgment.” *Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 999 (9th
25 Cir. 2018) (quoting *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001)).

26 There can be no dispute as to the accuracy of **Exhibit A**, an order issued by
27 another judge in the Southern District of California, nor does the order contain any
28 disputed facts. *See Gerritsen v. Warner Bros. Ent. Inc.*, 112 F. Supp. 3d 1011, 1034

1 (C.D. Cal. 2015) (“It is well established that a court can take judicial notice of its
2 own files and records under Rule 201 of the Federal Rules of Evidence.”). **Exhibit**
3 **A** was also incorporated by reference into the Complaint because it approved the
4 joint motion to dismiss the claims in *B&L Productions, Inc., et al. v. 22nd District*
5 *Agricultural Association, et al.*, Case No. 3:19-cv-134-CAB-AHG, which was
6 described extensively in the Complaint’s allegations and was attached as an exhibit.
7 Compl. ¶¶ 27, 100-101; *id.*, Exh. 5; *see Khoja*, 899 F.3d at 1002 (describing the
8 incorporation-by-reference doctrine as one that “prevents plaintiffs from selecting
9 only portions of documents that support their claims, while omitting portions of
10 those very documents that weaken—or doom—their claims”).

11 As to **Exhibits B through F**, “courts routinely take judicial notice of letters
12 published by the government.” *Smith v. Los Angeles Unified Sch. Dist.*, 830 F.3d
13 843, 851 n.10 (9th Cir. 2016) (taking judicial notice of letters created and sent by
14 the school district’s executive director); *see also Interstate Nat. Gas Co. v. S. Cal.*
15 *Gas Co.*, 209 F.2d 380, 385 (9th Cir. 1953) (courts “may take judicial notice of
16 records and reports of administrative bodies”). The accuracy of these letters cannot
17 reasonably be questioned, and judicial notice of the letters is therefore appropriate.
18 **Exhibits B through F** were also incorporated by reference into the Complaint
19 because they concern Plaintiffs’ government tort claims, which Plaintiffs refer to
20 extensively in the Complaint in allegations and by attaching a copy of the
21 government tort claims as an exhibit to the Complaint. Compl. ¶¶ 151-154, 228-
22 229, 238-239, 247-248; *id.*, Exh. 13. Moreover, because Plaintiffs must plausibly
23 allege compliance with the Government Claims Act in order to file their state-law
24 tort claims (the seventh through ninth claims) in the first place, **Exhibits B through**
25 **F** form the basis of such claims because obtaining **Exhibits B through F** is a
26 prerequisite to filing a tort claim against a government entity. Cal. Gov’t Code
27 §§ 810 et seq., 900.2(b), 945.4; *see Khoja*, 899 F.3d at 1002.

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Dated: January 24, 2022

Respectfully submitted,
ROB BONTA
Attorney General of California
ANTHONY R. HAKL
Supervising Deputy Attorney General

/s/ Charles J. Sarosy

CHARLES J. SAROSY
Deputy Attorney General
*Attorneys for Defendants Governor
Gavin Newsom, Attorney General Rob
Bonta, Secretary Karen Ross, and
22nd District Agricultural Association*

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

B & L PRODUCTIONS, INC. d/b/a
CROSSROADS OF THE WEST et al.,
Plaintiffs,
v.
22ND DISTRICT AGRICULTURAL
ASSOCIATION et al.,
Defendants.

Case No.: 3:19-CV-134-CAB-AHG


DISMISSAL WITH PREJUDICE

[Doc. No. 44.]

Upon consideration of the parties' joint motion to dismiss this case with prejudice, and good cause appearing, it is hereby **ORDERED** that the motion is **GRANTED**. This case is **DISMISSED WITH PREJUDICE**, with each side to bear their own costs. The Court declines to retain jurisdiction to enforce the terms of the settlement agreement.

It is **SO ORDERED**.

Dated: April 30, 2020



Hon. Cathy Ann Bencivengo
United States District Judge



Governor Gavin Newsom

12/30/2021

Michel & Associates PC
Anna M Barvir
180 E Ocean Blvd Ste. 200
Long Beach, CA 90802

RE: Claim 21006314 for LAX Firing Range Inc, Daniel Kash against Governor's Office, Department of Justice, Department of Food and Agriculture, 22nd District Agricultural Association

Dear Anna Barvir,

Government Claims Program (GCP) staff completed its investigation of your claim and rejected it for the following reasons.

The claim involves complex issues that are beyond the scope of analysis and legal interpretation typically undertaken by the GCP. Claims involving complex issues are best determined by the courts. Therefore, staff did not make a determination regarding the merit of the claim, and it is being rejected so you can initiate court action if you choose to pursue this matter further.

If you choose to pursue court action in this matter, it is not necessary or proper to include the GCP in your lawsuit unless the GCP was identified as a defendant in your original claim. Please consult Government Code section 955.4 regarding proper service of the summons.

Additionally, the GCP has no jurisdiction to consider claims presented more than one year after accrual of the cause of action, pursuant to Government Code section 911.2.

If you have questions about this matter, please feel free to contact GCP by phone, mail, or email using the contact information below. Please remember to reference the assigned claim number (21006314) in your communication.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eric Rivera".

Eric Rivera, Program Analyst
Government Claims Program
gcinfo@dgs.ca.gov

WARNING: Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6. You may seek the advice of an



Governor Gavin Newsom

attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

DECLARATION OF SERVICE BY U.S. MAIL

Name of Claimant: LAX Firing Range Inc, Daniel Kash
GCP File no.: 21006314

I am employed by the Government Claims Program. I am 18 years of age or older. I am familiar with the business practice at the Government Claims Program 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 Government Claims Program is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business. On 12/30/2021, I served the attached letter by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Government Claims Program, located at 707 Third Street, West Sacramento, CA 95605, addressed as follows:

Michel & Associates PC
Anna M Barvir
180 E Ocean Blvd Ste. 200
Long Beach, CA 90802

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on 12/30/2021, at West Sacramento, California.

A handwritten signature in blue ink, appearing to read "Eric Rivera", is written over a horizontal line.

Eric Rivera



Governor Gavin Newsom

12/30/2021

Michel & Associates PC
Anna M Barvir
180 E Ocean Blvd Ste. 200
Long Beach, CA 90802

RE: Claim 21006315 for B&L Productions Inc, Tracy Olcott against Governor's Office, Department of Justice, Department of Food and Agriculture, 22nd District Agricultural Association

Dear Anna Barvir,

Government Claims Program (GCP) staff completed its investigation of your claim and rejected it for the following reasons.

The claim involves complex issues that are beyond the scope of analysis and legal interpretation typically undertaken by the GCP. Claims involving complex issues are best determined by the courts. Therefore, staff did not make a determination regarding the merit of the claim, and it is being rejected so you can initiate court action if you choose to pursue this matter further.

If you choose to pursue court action in this matter, it is not necessary or proper to include the GCP in your lawsuit unless the GCP was identified as a defendant in your original claim. Please consult Government Code section 955.4 regarding proper service of the summons.

Additionally, the GCP has no jurisdiction to consider claims presented more than one year after accrual of the cause of action, pursuant to Government Code section 911.2.

If you have questions about this matter, please feel free to contact GCP by phone, mail, or email using the contact information below. Please remember to reference the assigned claim number (21006315) in your communication.

Sincerely,

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Eric Rivera, Program Analyst
Government Claims Program
gcinfo@dgs.ca.gov

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Governor Gavin Newsom

attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

DECLARATION OF SERVICE BY U.S. MAIL

Name of Claimant: B&L Productions Inc, Tracy Olcott
GCP File no.: 21006315

I am employed by the Government Claims Program. I am 18 years of age or older. I am familiar with the business practice at the Government Claims Program 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 Government Claims Program is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business. On 12/30/2021, I served the attached letter by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Government Claims Program, located at 707 Third Street, West Sacramento, CA 95605, addressed as follows:

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Eric Rivera



Governor Gavin Newsom

12/30/2021

Michel & Associates PC
Anna M Barvir
180 E Ocean Blvd Ste. 200
Long Beach, CA 90802

RE: Claim 21006316 for California Rifle & Pistol Association Incorporated, Richard Minnich against Governor's Office, Department of Justice, Department of Food and Agriculture, 22nd District Agricultural Association

Dear Anna Barvir,

Government Claims Program (GCP) staff completed its investigation of your claim and rejected it for the following reasons.

The claim involves complex issues that are beyond the scope of analysis and legal interpretation typically undertaken by the GCP. Claims involving complex issues are best determined by the courts. Therefore, staff did not make a determination regarding the merit of the claim, and it is being rejected so you can initiate court action if you choose to pursue this matter further.

If you choose to pursue court action in this matter, it is not necessary or proper to include the GCP in your lawsuit unless the GCP was identified as a defendant in your original claim. Please consult Government Code section 955.4 regarding proper service of the summons.

Additionally, the GCP has no jurisdiction to consider claims presented more than one year after accrual of the cause of action, pursuant to Government Code section 911.2.

If you have questions about this matter, please feel free to contact GCP by phone, mail, or email using the contact information below. Please remember to reference the assigned claim number (21006316) in your communication.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Eric Rivera', is written over a light blue horizontal line.

Eric Rivera, Program Analyst
Government Claims Program
gcinfo@dgs.ca.gov

WARNING: Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6. You may seek the advice of an



Governor Gavin Newsom

attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

DECLARATION OF SERVICE BY U.S. MAIL

Name of Claimant: California Rifle & Pistol Association Incorporated, Richard Minnich
GCP File no.: 21006316

I am employed by the Government Claims Program. I am 18 years of age or older. I am familiar with the business practice at the Government Claims Program 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 Government Claims Program is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business. On 12/30/2021, I served the attached letter by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Government Claims Program, located at 707 Third Street, West Sacramento, CA 95605, addressed as follows:

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Eric Rivera



Governor Gavin Newsom

12/30/2021

Michel & Associates PC
Anna M Barvir
180 E Ocean Blvd Ste. 200
Long Beach, CA 90802

RE: Claim 21006329 for Miwall Corporation, Lawrence Walsh against Governor's Office, Department of Justice, Department of Food and Agriculture, 22nd District Agricultural Association

Dear Anna Barvir,

Government Claims Program (GCP) staff completed its investigation of your claim and rejected it for the following reasons.

The claim involves complex issues that are beyond the scope of analysis and legal interpretation typically undertaken by the GCP. Claims involving complex issues are best determined by the courts. Therefore, staff did not make a determination regarding the merit of the claim, and it is being rejected so you can initiate court action if you choose to pursue this matter further.

If you choose to pursue court action in this matter, it is not necessary or proper to include the GCP in your lawsuit unless the GCP was identified as a defendant in your original claim. Please consult Government Code section 955.4 regarding proper service of the summons.

Additionally, the GCP has no jurisdiction to consider claims presented more than one year after accrual of the cause of action, pursuant to Government Code section 911.2.

If you have questions about this matter, please feel free to contact GCP by phone, mail, or email using the contact information below. Please remember to reference the assigned claim number (21006329) in your communication.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eric Rivera".

Eric Rivera, Program Analyst
Government Claims Program
gcinfo@dgs.ca.gov

WARNING: Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6. You may seek the advice of an



Governor Gavin Newsom

attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

DECLARATION OF SERVICE BY U.S. MAIL

Name of Claimant: Miwall Corporation, Lawrence Walsh
GCP File no.: 21006329

I am employed by the Government Claims Program. I am 18 years of age or older. I am familiar with the business practice at the Government Claims Program 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 Government Claims Program is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business. On 12/30/2021, I served the attached letter by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Government Claims Program, located at 707 Third Street, West Sacramento, CA 95605, addressed as follows:

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Anna M Barvir
180 E Ocean Blvd Ste. 200
Long Beach, CA 90802

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A handwritten signature in blue ink, appearing to read "Eric Rivera", is written over a horizontal line.

Eric Rivera



Governor Gavin Newsom

12/30/2021

Donald Kilmer
Attorney at Law
14085 Silver Ridge Road
Caldwell, ID 83607

RE: Claim 21006331 for Second Amendment Foundation against Governor's Office, Department of Justice, Department of Food and Agriculture, 22nd District Agricultural Association

Dear Donald Kilmer,

Government Claims Program (GCP) staff completed its investigation of your claim and rejected it for the following reasons.

The claim involves complex issues that are beyond the scope of analysis and legal interpretation typically undertaken by the GCP. Claims involving complex issues are best determined by the courts. Therefore, staff did not make a determination regarding the merit of the claim, and it is being rejected so you can initiate court action if you choose to pursue this matter further.

If you choose to pursue court action in this matter, it is not necessary or proper to include the GCP in your lawsuit unless the GCP was identified as a defendant in your original claim. Please consult Government Code section 955.4 regarding proper service of the summons.

Additionally, the GCP has no jurisdiction to consider claims presented more than one year after accrual of the cause of action, pursuant to Government Code section 911.2.

If you have questions about this matter, please feel free to contact GCP by phone, mail, or email using the contact information below. Please remember to reference the assigned claim number (21006331) in your communication.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eric Rivera".

Eric Rivera, Program Analyst
Government Claims Program
gcinfo@dgs.ca.gov

WARNING: Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6. You may seek the advice of an



Governor Gavin Newsom

attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

DECLARATION OF SERVICE BY U.S. MAIL

Name of Claimant: Second Amendment Foundation
GCP File no.: 21006331

I am employed by the Government Claims Program. I am 18 years of age or older. I am familiar with the business practice at the Government Claims Program 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 Government Claims Program is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business. On 12/30/2021, I served the attached letter by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Government Claims Program, located at 707 Third Street, West Sacramento, CA 95605, addressed as follows:

Donald Kilmer
Attorney at Law
14085 Silver Ridge Road
Caldwell, ID 83607

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on 12/30/2021, at West Sacramento, California.

A handwritten signature in blue ink, appearing to read "Eric Rivera", written over a horizontal line.

Eric Rivera