

1 ROB BONTA
 Attorney General of California
 2 ANTHONY R. HAKL
 Supervising Deputy Attorney General
 3 CHARLES J. SAROSY
 Deputy Attorney General
 4 State Bar No. 302439
 300 South Spring Street, Suite 1702
 5 Los Angeles, CA 90013-1230
 Telephone: (213) 269-6356
 6 Fax: (916) 731-2119
 E-mail: Charles.Sarosy@doj.ca.gov
 7 *Attorneys for Defendants Governor Gavin
 Newsom, Attorney General Rob Bonta,
 8 Secretary Karen Ross, and 22nd District
 Agricultural Association*

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

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

17 Plaintiffs,

18 v.

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

23 Defendants.

3:21-cv-01718 AJB-DDL

**REQUEST FOR JUDICIAL
 NOTICE IN SUPPORT OF STATE
 DEFENDANTS' MOTION TO
 DISMISS THE FIRST AMENDED
 COMPLAINT**

Date: February 23, 2023
 Time: 2:00 p.m.
 Courtroom: 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,
2 Attorney General Rob Bonta, Secretary of California Department of Food &
3 Agriculture Karen Ross, and the 22nd District Agricultural Association
4 (collectively, “State Defendants”), respectfully request the Court to take judicial
5 notice of the following documents in support of Defendants’ motion to dismiss:

6 1. December 30, 2021 letter from the California Department of General
7 Services’ Government Claims Program regarding “Claim 21006314 for LAX Firing
8 Range Inc, Daniel Kash against Governor’s Office, Department of Justice,
9 Department of Food and Agriculture, 22nd District Agricultural Association.” A
10 true and correct copy of this document is attached hereto as **Exhibit A. Exhibit A**
11 is a public record of the California Department of General Services.

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

18 3. December 30, 2021 letter from the California Department of General
19 Services’ Government Claims Program regarding “Claim 21006316 for California
20 Rifle & Pistol Association Incorporated, Richard Minnich against Governor’s
21 Office, Department of Justice, Department of Food and Agriculture, 22nd District
22 Agricultural Association.” A true and correct copy of this document is attached
23 hereto as **Exhibit C. Exhibit C** is a public record of the California Department of
24 General Services.

25 4. December 30, 2021 letter from the California Department of General
26 Services’ Government Claims Program regarding “Claim 21006329 for Miwall
27 Corporation, Lawrence Walsh against Governor’s Office, Department of Justice,
28 Department of Food and Agriculture, 22nd District Agricultural Association.” A

1 true and correct copy of this document is attached hereto as **Exhibit D. Exhibit D**
2 is a public record of the California Department of General Services.

3 5. December 30, 2021 letter from the California Department of General
4 Services' Government Claims Program regarding "Claim 21006331 for Second
5 Amendment Foundation against Governor's Office, Department of Justice,
6 Department of Food and Agriculture, 22nd District Agricultural Association." A
7 true and correct copy of this document is attached hereto as **Exhibit E. Exhibit E**
8 is a public record of the California Department of General Services.

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

18 As to **Exhibits A through E**, "courts routinely take judicial notice of letters
19 published by the government." *Smith v. Los Angeles Unified Sch. Dist.*, 830 F.3d
20 843, 851 n.10 (9th Cir. 2016) (taking judicial notice of letters created and sent by
21 the school district's executive director); *see also Interstate Nat. Gas Co. v. S. Cal.*
22 *Gas Co.*, 209 F.2d 380, 385 (9th Cir. 1953) (courts "may take judicial notice of
23 records and reports of administrative bodies"). The accuracy of these letters cannot
24 reasonably be questioned, and judicial notice of the letters is therefore appropriate.
25 **Exhibits A through E** were also incorporated by reference into the First Amended
26 Complaint ("FAC") because they concern Plaintiffs' government tort claims, which
27 Plaintiffs refer to extensively in the FAC in allegations and by attaching a copy of
28 the government tort claims as an exhibit to the FAC. (FAC ¶¶ 178-181, 260-261,

1 270-271, 279-280; *id.*, Exh. 13.) Moreover, because Plaintiffs must plausibly
2 allege compliance with the Government Claims Act in order to file their state-law
3 tort claims (the eighth through tenth claims) in the first place, **Exhibits A through**
4 **E** form the basis of such claims because obtaining **Exhibits A through E** is a
5 prerequisite to filing a tort claim against a government entity. (Cal. Gov't Code
6 §§ 810 et seq., 900.2(b), 945.4; *see Khoja*, 899 F.3d at 1002.)
7

8 Dated: October 31, 2022

Respectfully submitted,

9 ROB BONTA
10 Attorney General of California
11 ANTHONY R. HAKL
Supervising Deputy Attorney General

12
13 */s/ Charles J. Sarosy* _____
14 CHARLES J. SAROSY
15 Deputy Attorney General
16 *Attorneys for Defendants Governor*
Gavin Newsom, Attorney General Rob
Bonta, Secretary Karen Ross, and
22nd District Agricultural Association

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EXHIBIT A



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", is written over a 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: 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

EXHIBIT B



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,

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

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

EXHIBIT C



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 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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Anna M Barvir
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Long Beach, CA 90802

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Eric Rivera

EXHIBIT D



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", is written over a 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: 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:

Michel & Associates PC
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

EXHIBIT E



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", is written over a 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: 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.

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Eric Rivera