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FILED
Superior Court of California
County of Los Angeles
09/15/2023

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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,
ROBERT A. 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
Daniel S. Murphy; Department 32]

**THIRD JOINT STIPULATION AND
[PROPOSED] ORDER TO CONTINUE
TRIAL DATE AND RELATED
DEADLINES**

Action filed: May 27, 2020

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

2 This Stipulation, entered into between Plaintiff-Respondent Franklin Armory, Inc., (“Plaintiff”)
3 and Defendants-Respondents California Department of Justice (“DOJ”) and Xavier Becerra
4 (“Defendants”) by and through their counsel, is made with reference to the following facts and recitals:

5 **Case Status & Procedural History**

6 WHEREAS, Plaintiffs filed the original complaint on May 27, 2020, raising five causes of
7 action, including both state and federal claims and a writ of mandamus. The matter was initially
8 assigned to the Honorable Judge James C. Chalfant of the Writs & Receivers Department.

9 WHEREAS, Plaintiffs filed their First Amended Complaint on August 19, 2020, raising nine
10 total causes of action, including both state and federal claims and a writ of mandamus.

11 WHEREAS, on October 15, 2020, Judge Chalfant bifurcated the matter, ordering the parties to
12 litigate only Claims 1, 2, and 8—i.e., the claims for declaratory and injunctive relief and a
13 writ of mandamus—during the first phase of the case. (See Min. Order Re: Trial Setting Conf. (Oct. 15,
14 2020) [“Petitioner has decided to pursue the 1st, 2nd, and 8th causes of action with limited discovery
15 declaratory relief, breach of duty to process firearms for DES form, and mandamus APA violations for
16 underground regulation and mandate to update the DES form. All other causes of action are ordered
17 stayed.”].)

18 WHEREAS, Judge Chalfant also continued the trial setting conference to January 26, 2021, and
19 he ordered the Parties to conduct limited discovery about Claims 1, 2, and 8 by the date of that hearing.
20 (*Ibid.* [“Discovery must be complete and the demurrer hearing may have occurred by the next hearing
21 date.”].)

22 WHEREAS, from January 2021 through January 2022, the parties litigated two demurrers to
23 Claims 1, 2, and 8 brought by Defendants, one demurrer and motion to strike the answer brought by
24 Plaintiffs, and one motion to dismiss Claims 1, 2, and 8 on mootness grounds.

25 WHEREAS, on January 27, 2022, the Court granted Defendants’ Motion to Dismiss, holding
26 that Claims 1, 2, and 8 were moot in light of the changes to the DROS Entry System.

27 WHEREAS, this case was then transferred out of the Writs & Receivers Department to
28

1 Department 32 of this Court, and the remaining six causes of action were unstayed. (See Min. Order
2 Reassigning Case to an Ind. Cal. Court (Jan. 28, 2022).)

3 WHEREAS, this Court and the Parties participated in a Case Management Conference on March
4 2, 2022, and the Court scheduled a Final Status Conference for May 25, 2023, and a Jury Trial for June
5 6, 2023.

6 WHEREAS, the Parties engaged in and completed substantial discovery during the first phase of
7 this case, but that discovery was limited by court order to matters relevant to Claims 1, 2, and 8 only.

8 WHEREAS, on November 11, 2022, Plaintiff Franklin Armory propounded Special
9 Interrogatories, Set Two, Requests for Admission, Set Three, and Requests for Production of
10 Documents, Set Three, on Defendant DOJ.

11 WHEREAS, counsel for Defendants had a three-week trial beginning on November 28, 2022,
12 and was not available to respond to written discovery or defend or take depositions during that time and
13 there was no other attorney assigned to the case to cover these matters, so the parties agreed to an
14 extension on responses.

15 WHEREAS, the Court granted the parties' first Joint Stipulation and Proposed Order to Continue
16 the Jury Trial, continuing the Final Status Conference to September 28, 2023, and the Jury Trial to
17 October 10, 2023.

18 WHEREAS, on February 2, 2023, Defendant DOJ served responses to Plaintiff Franklin
19 Armory's Special Interrogatories, Set Two, Requests for Admission, Set Three, and Requests for
20 Production of Documents, Set Three, and the parties began a lengthy, but fruitful, process of meeting
21 and conferring about the sufficiency of Defendant DOJ's discovery responses to Special Interrogatories,
22 Set Two, Requests for Admission, Set Three, and Requests for Production of Documents, Set Three.

23 WHEREAS, by agreement of the Parties, Defendant DOJ served supplemental responses on May
24 5, 2023, and the parties engaged in extensive meet-and-confer efforts over the sufficiency of the
25 supplemental responses; the Parties later agreed to extend the deadline to file any motion to compel until
26 after completing depositions, which the Parties anticipate will further narrow the written discovery left
27 to be completed or obviate the need for further supplemental responses.

1 WHEREAS, in light of the Parties' continued discovery efforts and Defendants' anticipated
2 motion for judgment on the pleadings, the Court granted the parties' Second Joint Stipulation and
3 Proposed Order to Continue the Jury Trial on May 30, 2023, continuing the Final Status Conference to
4 January 18, 2024, and the Jury Trial to January 30, 2024.

5 WHEREAS, the Parties worked together diligently and in good faith over the summer months to
6 resolve various discovery issues and respond to outstanding discovery requests, including Defendants'
7 requests for supplemental responses served on or about May 5, 2023, and Defendants' Form
8 Interrogatories, Set 2, and Requests for Production of Documents, Set 3, which were apparently served
9 on or about May 11, 2023.

10 WHEREAS, by agreement of the Parties, Plaintiffs responded to Defendants' requests for
11 supplemental responses on August 17, 2023, and they are scheduled to respond to Defendants' Form
12 Interrogatories, Set 2, and Requests for Production of Documents, Set 3, on September 18, 2023, by
13 12:00 PM. The Parties recently identified areas of disagreement regarding Plaintiffs' anticipated
14 responses to Defendants' Form Interrogatories, Set 2, and Requests for Production of Documents, Set 3,
15 and the Parties require more time to continue working together in good faith to resolve said
16 disagreements.

17 WHEREAS, the Parties also worked together diligently and in good faith over the summer to
18 schedule and take the depositions of several Department of Justice (DOJ) employees, including two
19 Persons Most Knowledgeable, and other witnesses for Plaintiffs; unfortunately, the availability of
20 counsel and the deponents was limited due to vacations, work commitments, and other deadlines. Three
21 depositions have taken place and all remaining depositions are scheduled to take place throughout
22 September 2023, but a review of pending written discovery responses and upcoming depositions may
23 reveal the need to schedule and take additional witness depositions.

24 WHEREAS, throughout the summer, Plaintiffs attempted to identify and locate Ms. Jennifer
25 Kim, a witness who works for the California Assembly, to serve a subpoena to take her deposition on
26 September 12, 2023; service of process issues prevented the taking of the deposition on the date noticed
27 and, upon receipt of the subpoena, an attorney for the Office of Legislative Counsel telephone Plaintiffs'
28

1 counsel and indicated that they would likely object to the taking of Ms. Kim’s deposition, which will
2 likely require additional motion practice.

3 WHEREAS, Defendants filed and served a motion for judgment on the pleadings on August 14,
4 2023; that motion was heard on September 6, 2023, and the Court issued a final order granting the
5 motion in part, and denying the motion in part, on September 7, 2023. In light of the Court’s recent order
6 on Defendants’ motion for judgment on the pleadings, it has only recently become apparent which issues
7 remain for summary judgment and trial, and the Parties require more time to complete discovery and
8 prepare their cases in line with the Court’s ruling and issues raised during the motion hearing.

9 WHEREAS, because Defendants’ motion for judgment on the pleadings did not fully adjudicate
10 all the remaining claims, either or both parties are likely to move for summary judgment; such motion
11 could dispose of some or all of the remaining claims without the need for trial.

12 WHEREAS, based on the current scheduling order and the Court’s motions calendar in
13 December 2023, any motion for summary judgment is due on or before September 29, 2023. The Parties
14 require more time to resolve any last disputes over the parties’ written discovery, take the currently
15 scheduled depositions and any other depositions that may be identified, prepare and litigate their
16 motion(s) for summary judgment, and, if necessary, prepare for trial.

17 **Good Cause for a Continuance**

18 WHEREAS, this is the Parties’ third stipulation and request for a continuance of this trial.

19 WHEREAS, the Parties agree there is good cause for a 120-day continuance of the jury trial and
20 all associated deadlines.

21 WHEREAS, the Parties agree that a continuance of the trial and all related deadlines will allow
22 the Parties to continue to participate in meaningful discovery and prepare potentially dispositive motions
23 without the need to simultaneously engage in costly trial preparation.

24 WHEREAS, the Parties bring this stipulation and request for a continuance for the reasons of
25 good cause stated here and not for any improper purpose.

26 WHEREAS, the Parties agree that the requested continuance will not prejudice either party but
27 will instead serve the purposes of conserving the Parties’ and this Court’s resources.

1 WHEREAS, the Parties believe that no further continuances will be necessary.

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

4 1. The Final Status Conference is continued for 120 days from January 18, 2024, to May 17,
5 2024, or until such time as this Court deems appropriate.

6 2. The Jury Trial is continued for 120 days from January 30, 2024, to May 29, 2024, or until
7 such time as this Court deems appropriate.

8 3. All discovery, motion cut-off dates, and other pretrial deadlines will be based on the new
9 trial date.

10
11 Date: September 15, 2023

MICHEL & ASSOCIATES, P.C.



Anna M. Barvir

Attorneys for Petitioners-Plaintiffs

14 Date: September 15, 2023

ROB BONTA

Attorney General of California

DONNA M. DEAN

Supervising Deputy Attorney General



KENNETH G. LAKE

Deputy Attorney General

Attorneys for Respondents-Defendants

~~[PROPOSED]~~ ORDER

Pursuant to the stipulation by and between Plaintiff-Respondent Franklin Armory, Inc., (“Plaintiff”) and Defendants-Respondents California Department of Justice and Xavier Becerra (“Defendants”), by and through their respective counsel, and good cause appearing therefor:

1. The Final Status Conference is continued for 120 days from January 18, 2024, to ~~May 17,~~ 2024.

2. The Jury Trial is continued for 120 days from January 30, 2024, to ~~May 29,~~ 2024.

3. All discovery, motion cut-off dates, and other pretrial deadlines will be based on the new trial date.

IT IS SO ORDERED.

Dated: 09/15/2023



Daniel S. Murphy / Judge

The Honorable Daniel S. Murphy
Judge of the Superior Court

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 September 15, 2023, I served the foregoing document(s) described as

8 **THIRD JOINT STIPULATION AND [PROPOSED] ORDER TO CONTINUE TRIAL DATE
9 AND RELATED DEADLINES**

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 Kenneth G. Lake

15 Deputy Attorney General

16 Email: Kenneth.Lake@doj.ca.gov

17 Andrew Adams

18 Email: Andrew.Adams@doj.ca.gov

19 California Department of Justice

20 300 South Spring Street, Suite 1702

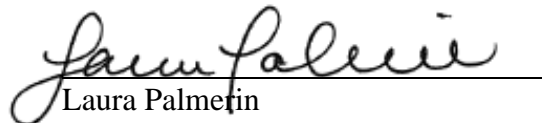
21 Los Angeles, CA 90013

22 *Attorney for Respondents-Defendants*

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

25 I declare under penalty of perjury under the laws of the State of California that the foregoing is
26 true and correct.

27 Executed on September 15, 2023, at Long Beach, California.

28 
Laura Palmerin