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25 through the California Department  
26 of Justice and Former Attorney General Xavier  
27 Becerra in his personal capacity only

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

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

22 Petitioners-Plaintiffs,

23 v.

24 CALIFORNIA DEPARTMENT OF JUSTICE,  
25 ROBERT A. BONTA, in his official capacity  
26 as Attorney General for the State of California,  
27 and DOES 1-10,

28 Respondents-Defendants.

Case No.: 20STCP01747

[Assigned for all purposes to the Honorable  
Daniel S. Murphy; Department 32]

**FOURTH JOINT STIPULATION TO  
CONTINUE TRIAL DATE AND  
RELATED DEADLINES DUE TO THE  
MEDICAL LEAVE OF DEFENSE  
COUNSEL; DECLARATION OF  
KENNETH G. LAKE IN SUPPORT  
THEREOF; [PROPOSED] ORDER**

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 Franklin Armory, Inc. (“Plaintiff”) and  
3 Defendants State of California, acting by and through the California Department of Justice (“DOJ”) and  
4 Xavier Becerra (“Defendants”) by and through their counsel, is made with reference to the following  
5 facts and recitals:

6 Good cause exists for this stipulation to continue trial as set forth in the Declaration of Kenneth G.  
7 Lake below, which is summarized as follows:

8 First, on December 28, 2023, defense counsel has to undergo a five level neck fusion surgery. His  
9 surgeon has advised that he will have to be out of work for approximately six weeks returning on  
10 February 8, 2024. (Decl. of Lake, ¶ 2.) Under California Rule of Court 3.1332, subdivision (c)(3), the  
11 unavailability of trial counsel because of illness or other excusable circumstances may indicate good  
12 cause to continue trial.

13 Second, Defense counsel Lake’s declaration indicates that the requested continuance of trial is  
14 necessary to allow defendants sufficient time to complete discovery and timely file their motion for  
15 summary judgment in relation to the trial date. Back in October, 2023, Defendants reserved a summary  
16 judgment hearing date of 4/22/24, which was the last date available before the 30 day pretrial hearing  
17 cutoff on 4/26/24 in relation to the current 5/28/24 trial date. Under this scenario, the due date for filing  
18 and serving the summary judgment motion is 2/5/24 which is before Mr. Lake’s return from medical  
19 leave on 2/8/24. Mr. Lake has been the lead attorney on this case since the Fall of 2021 and is the only  
20 attorney in his office in a position to prepare the summary judgment motion. He is also handling the  
21 taking of depositions of Franklin Armory witnesses with two to three remaining to be taken. Thus, a  
22 continuance is necessary to allow time after Mr. Lake returns on 2/8/24 to complete discovery and  
23 prepare the motion for summary judgment. Plaintiff’s counsel has also advised that plaintiff may likely  
24 file a motion for summary judgment as well. (Decl. of Lake, ¶¶ 3-4.)

25 Third, on 12/11/23, Mr. Lake contacted plaintiff’s counsel advising of the current neck surgery  
26 situation and inquiring to see if plaintiff was agreeable to a 60 day continuance of trial which  
27 approximates the time Mr. Lake will be on medical leave for the neck surgery. After the parties engaged  
28

1 in a series of communications, including consideration of the respective trial schedules of counsel for  
2 the parties, plaintiff's counsel advised they are agreeable to stipulate to a trial continuance and that the  
3 preferred new trial date would be for the week of 8/19/24 to which defendants agreed. (Decl. of Lake, ¶  
4 5.)

5 **Based on the foregoing, the parties agree and stipulate as follows:**

6 **WHEREAS**, this is the Parties' fourth stipulation and request for a continuance of this trial.

7 **WHEREAS**, the Parties agree, based on the circumstances presented, that there is good cause for  
8 a continuance of the jury trial and all associated deadlines to the week of August 19, 2024.

9 **WHEREAS**, on September 15, 2023, the Parties submitted a third stipulation and request for a  
10 continuance of this trial which contained a comprehensive Case Status & Procedural History showing  
11 that the Parties have worked together diligently and in good faith over the course of this action to  
12 complete discovery and move the case forward toward dispositive motions and/or trial. For sake of  
13 brevity this case status & procedural history is not repeated here but is incorporated herein by reference.

14 **WHEREAS**, from September 15, 2023, to the present the Parties have continued to work  
15 together diligently and in good faith to move the case forward and complete discovery in a timely  
16 fashion. The parties agree there remain a few issues relative to written discovery that may require a  
17 motion to compel from each side and that a continuance of trial may help facilitate informal resolution  
18 of these issues.

19 **WHEREAS**, after the Court's September 7, 2023, order granted in part and denied in part  
20 Defendants' motion for judgment on the pleadings, causes of action for tortious interference with  
21 contractual relations, tortious interference with prospective economic advantage and negligent  
22 interference with prospective economic advantage remain. Both parties intend to move for summary  
23 judgment and such motions could dispose of some or all of the remaining claims without the need for  
24 trial.

25 **WHEREAS**, the Parties agree that the requested continuance will not prejudice either party and  
26 the parties believe that no further continuances will be necessary.



**DECLARATION OF KENNETH G. LAKE IN SUPPORT OF FOURTH JOINT  
STIPULATION TO CONTINUE TRIAL DATE AND RELATED DEADLINES DUE  
TO THE MEDICAL LEAVE OF DEFENSE COUNSEL**

I, KENNETH G. LAKE, declare:

1. I am an attorney at law duly authorized to practice law in the State of California. I am a Deputy Attorney General assigned to handle this matter on behalf of defendants.

2. Good cause exists for this stipulation to continue trial. I now have to undergo a five level neck fusion surgery on December 28, 2023. This surgery was scheduled for December 18 but had to be rescheduled to the 28th because I tested positive for Covid on December 13, 2023. On December 7, 2023, my surgeon, Dr. Eli Baron with Cedars-Sinai, advised that the surgery would be a fusion at five levels and estimated that I will have to be out of work for six weeks which means I will be out of work until February 8, 2024. The surgery is necessary because I have had and continue to have severe, continuous pain in my neck. MRI, CT and X-ray studies show multiple issues at multiple levels of my neck including severe stenosis, nerve compression, disk degeneration and arthropathy that has resulted in increasing instability in my neck.

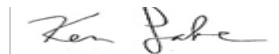
3. The requested continuance of trial is necessary to allow defendants sufficient time to complete discovery and timely file their motion for summary judgment in relation to the trial date. Back in October, 2023, Defendants reserved a summary judgment hearing date of 4/22/24, which was the last date available before the 30 day pretrial hearing cutoff on 4/26/24 in relation to the current 5/28/24 trial date. Under this scenario, the due date for filing and serving the summary judgment motion is 2/5/24 which is before my return to work date on 2/8/24. Thus, a continuance is necessary to allow time after I return to work on 2/8/24 to complete discovery and prepare the motion for summary judgment. Plaintiff's counsel has also advised that plaintiff may likely file a motion for summary judgment as well.

4. I have been the lead attorney on this case since the Fall of 2021 and am the only one in my office with a sufficient working knowledge of this case to prepare the summary judgment motion. I was the only attorney in my office working on this case from February of 2022, until Andrew Adams was brought on in the last year to assist with discovery and has been handling the defending of depositions taken by plaintiff. Mr. Adams was not involved in handling defendants' motion for judgment on the

1 pleadings which I prepared in its entirety. Mr. Adams does not have sufficient knowledge and is not in a  
2 position to prepare a motion for summary judgment while I am on medical leave. I am handling the  
3 taking of depositions of Franklin Armory witnesses. I took the deposition of Franklin Armory's  
4 President on 11/15/23 and plan on taking two to three additional depositions of the Franklin Armory  
5 witnesses including its Director of Sales. In recent weeks, both sides worked together in attempt to  
6 schedule his deposition but were not able to do so due to various scheduling conflicts, the holidays and  
7 my pending surgery.

8         5. On 12/11/23, I sent an email to plaintiff's counsel advising of the current situation with my  
9 neck surgery, as discussed above, and inquiring to see if they would be agreeable to a 60 day  
10 continuance of trial. I requested a 60 day continuance as it approximates the time I will be on medical  
11 leave for my neck surgery. On 12/18/23, after a series of communications with plaintiff's counsel  
12 regarding this matter, plaintiff's counsel advised that they are agreeable to stipulate to the requested  
13 continuance and that they would get back to me as to potential calendar conflicts in the timeframe of an  
14 approximate 60 day continuance which would fall on 7/26/24. I noted that I have a 7-10 day trial on  
15 7/23/24. I also have a 5-7 day trial on 6/27/24. On 12/19/23, plaintiff's counsel advised of their  
16 preferred new trial date of the week of 8/19/24 which is agreeable to defendants.

17         I declare under penalty of perjury under the laws of the State of California that the foregoing is  
18 true and correct. Executed on December 22, 2023.

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23 KENNETH G. LAKE  
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**[PROPOSED] ORDER**

Pursuant to the stipulation by and between Plaintiff Franklin Armory, Inc., (“Plaintiff”) and Defendants State of California, acting by and through the 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 from to May 16, 2024, to August 7, 2024.
2. The Jury Trial is continued from May 28, 2024, to August 19, 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: \_\_\_\_\_

\_\_\_\_\_  
Honorable Daniel S. Murphy  
Judge of the Superior Court

1 **DECLARATION OF SERVICE BY ELECTRONIC MAIL**

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

4 I declare: I am employed in the City of Los Angeles, County of Los Angeles, State  
5 of California. I am over the age of 18 years and not a party to the within action. My business  
6 address is 300 South Spring Street, Room 1700, Los Angeles, California 90013. On December  
7 22, 2023, I served the documents named below on the parties in this action as follows:

8 **FOURTH JOINT STIPULATION TO CONTINUE TRIAL DATE AND RELATED**  
9 **DEADLINES DUE TO THE MEDICAL LEAVE OF DEFENSE COUNSEL;**  
10 **DECLARATION OF KENNETH G. LAKE IN SUPPORT THEREOF; [PROPOSED]**  
11 **ORDER**

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14 Jason A. Davis  
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16 180 E. Ocean Blvd., Suite 200  
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20 [CMichel@michellawyers.com](mailto:CMichel@michellawyers.com)  
21 [Jason@calgunlawyers.com](mailto:Jason@calgunlawyers.com)  
22 [lpalmerin@michellawyers.com](mailto:lpalmerin@michellawyers.com)

23 (BY MAIL) I caused each such envelope, with postage thereon fully prepaid, to be placed in  
24 the United States mail at Los Angeles, California. I am readily familiar with the practice of  
25 the Office of the Attorney General for collection and processing of correspondence for  
26 mailing, said practice being that in the ordinary course of business, mail is deposited in the  
27 United States Postal Service the same day as it is placed for collection.

28 (BY OVERNIGHT DELIVERY) I placed a true copy thereof enclosed in a sealed envelope,  
in the internal mail system of the Office of the Attorney General, for overnight delivery with  
the GOLDEN STATE OVERNIGHT courier service.

(BY FACSIMILE) I caused to be transmitted the documents(s) described herein via fax  
number.

(BY ELECTRONIC MAIL) I caused to be transmitted the documents(s) described herein  
via electronic mail to the email address(es) listed above.

(STATE) I declare under penalty of perjury under the laws of the State of California that the  
above is true and correct.

(FEDERAL) I declare under penalty of perjury under the laws of the State of California and  
the United States of America that the above is true and correct.

Executed on December 22, 2023, at Los Angeles, California.

27 Sandra Dominguez  
28 Declarant

Sandra Dominguez  
Signature