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County of Los Angeles
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David W. Slayton,
Executive Officer/Clerk of Court,
By S. Bolden, Deputy Clerk

11 Attorneys for Petitioner - Plaintiff

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

15 FRANKLIN ARMORY, INC., et al.,

16 Petitioners-Plaintiffs,

17 v.

18 CALIFORNIA DEPARTMENT OF
19 JUSTICE, et al.,

20 Respondents-Defendants.

Case No.: 20STCP01747

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

**PLAINTIFF'S OBJECTIONS TO
DEFENDANTS' EVIDENCE IN SUPPORT
OF DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT, OR IN THE
ALTERNATIVE, FOR SUMMARY
ADJUDICATION**

Hearing Date: July 10, 2024
Hearing Time: 8:30 a.m.
Department: 32
Judge: Hon. Daniel S. Murphy

Action Filed: May 27, 2020
FPC Date: August 8, 2024
Trial Date: August 20, 2024

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23 **TO THIS HONORABLE COURT, TO DEFENDANT, AND ITS ATTORNEYS OF**
24 **RECORD:** Pursuant to California Rules of Court, rule 3.1354, Plaintiff Franklin Armory, Inc.,
25 objects to Defendants' evidence in support of their Motion for Summary Judgment, or in the
26 Alternative, for Summary Adjudication.

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Obj. No.	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
1.	<p>Ex. "A," deposition of Jay Jacobson at 39:16-19:</p> <p>"Mr. Graham advised you that Mossberg Cruisers had been processed in the online system, the DES, as shotguns, even though it does not have a stock; is that right?"</p>	<p>Hearsay (Evid. Code § 1200): This statement is hearsay as it is an out-of-court statement offered for the truth of the matter asserted. No applicable exception to the hearsay rule has been demonstrated.</p>	<p>Sustained: _____ Overruled: _____</p>
2.	<p>Ex. "A," deposition of Jay Jacobson at 57:16-18:</p> <p>"It was my understanding that even though it wasn't correct statutorily, that that's what they were doing."</p>	<p>Speculation (Evid. Code § 702(a)): The statement constitutes speculation about the practices of others without a proper foundation of personal knowledge.</p> <p>Compound Question (California Rules of Court, Rule 3.1354): The question leading to this statement is compound, making it unclear and confusing as it addresses multiple types of firearms and concepts without clear delineation.</p> <p>Vague and Ambiguous (Evid. Code § 352): The question leading to this statement is vague and ambiguous as it includes references to different types of firearms without clear delineation.</p>	<p>Sustained: _____ Overruled: _____</p>
3.	<p>Ex. "A," deposition of Jay Jacobson at 61:9-11:</p> <p>"So the dealers you had contact with, they also understood that it was the status quo that stockless firearms would be processed in that manner; right?"</p>	<p>Calls for Speculation (Evid. Code § 702(a)): The question calls for speculation as it asks the witness to speculate on the understanding and knowledge of third parties (the dealers).</p>	<p>Sustained: _____ Overruled: _____</p>

1	4.	Ex. "A," deposition of Jay Jacobson at 117:8-9: "That's the reason you brought this suit; correct?"	Calls for Legal Conclusions (Evid. Code § 310): The question calls for a legal conclusion, as it requires the witness to interpret and apply legal principles regarding contractual obligations.	Sustained: _____ Overruled: _____
2	5.	Ex. "A," deposition of Jay Jacobson at 21:12-15: "Q. Okay. Now, when we talk about long guns, in California that's what -- a gun with a barrel over 16 inches? What are we talking about here? A. I would -- yes. Over 16 inches."	Calls for Legal Conclusions (Evid. Code § 310): The question and the answer call for a legal conclusion, as they require the witness to interpret and apply legal definitions under California law. Calls for Expert Testimony (Evid. Code § 720): The question and the answer call for expert testimony regarding the definition of a "long gun" under California law, which the witness may not be qualified to provide without being designated as an expert.	Sustained: _____ Overruled: _____
3	6.	Ex. "A," deposition of Jay Jacobson at 103:4-24:	Calls for Legal Conclusions (Evid. Code § 310): The question and the answer call for a legal conclusion, as they require the witness to interpret and apply legal definitions under California law. Calls for Expert Testimony (Evid. Code § 720): The question and the answer call for expert testimony regarding the definition of a "long gun," "rifle," and "title 1" under California law, which the witness may not be qualified to provide without being designated as an expert.	Sustained: _____ Overruled: _____
4	7.	Ex. "A," deposition of Jay Jacobson at 97:12-19:	Hearsay (Evid. Code § 1200): The question and the answer	Sustained: _____ Overruled: _____

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	<p>“Q. Well, the action was dismissed in October 2019. It was filed in 2018. Do you recall in the context of the Sacramento Action, during the time it was pending, did anybody ever express to you or mention to you concern about -- that this Title 1 couldn’t be processed in the DES because it wasn’t a rifle?”</p> <p>A. At that time, no. We found out about it later that month.”</p>	<p>involve hearsay, as they refer to out-of-court statements made by others, offered for the truth of the matter asserted.</p>	
<p>8.</p>	<p>Ex. “A,” deposition of Jay Jacobson at 50:19-51:3:</p> <p>“Q. Gotcha. Okay. So let’s shift back if we could to the conversation with Mr. Graham. So he basically told you that even though the Mossberg Cruiser, because it did not have a stock, was not, under the statutory definition of a shotgun, they had previously processed it as a shotgun anyhow; right?”</p> <p>A. Yes, sir.</p> <p>Q. And he told you that they had done that for a long time?</p> <p>A. Yes, sir.”</p>	<p>Hearsay (Evid. Code § 1200): The question and answer involve hearsay, as they refer to out-of-court statements made by others, offered for the truth of the matter asserted.</p>	<p>Sustained: _____ Overruled: _____</p>
<p>9.</p>	<p>Ex. “A,” deposition of Jay Jacobson at 60:21-61:8:</p> <p>“Q. And then just kind of as we’ve now gone through this list of some of these high-volume folks, probably perhaps dealt with more frequently, does that bring to mind, refresh your recollection in any way that it</p>	<p>Hearsay (Evid. Code § 1200): The question and answer involve hearsay, as they refer to out-of-court statements made by others, offered for the truth of the matter asserted.</p>	<p>Sustained: _____ Overruled: _____</p>

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	<p>was talking with any of these dealers where it was conveyed to you that it was more or less the status quo that firearms, stockless firearms -- again, whether it's stockless shotgun or a stockless rifle -- would be processed as a rifle or a shotgun in the online system even though it wasn't fitting the statutory definition?</p> <p>A. Well, really, since Blake Graham had already told me that this was the status quo, it was not an issue I was trying to sleuth out."</p>		
10.	<p>Ex. "B," deposition of Blake Graham at 78:13-20.</p> <p>"Q. With the qualification that you said, you would need to see the Title 1 in person and hold it in order to make a final determination, I believe you testified previously, that you believe, without having seen it, that the Title 1 is not a rifle, correct?</p> <p>A. Again, I haven't handled one. But I think, because it lacks a stock, it's not going to fall under the -traditional rifle category."</p>	<p>Calls for Legal Conclusions (Evid. Code § 310):</p> <p>The question and the answer call for a legal conclusion, as they require the witness to interpret and apply legal definitions regarding what constitutes a "rifle" under the law.</p>	<p>Sustained: _____ Overruled: _____</p>

Dated: _____

By: 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,
5 California. I am over the age eighteen (18) years and am not a party to the within action. My
6 business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

7 On June 26, 2024, I served the foregoing document(s) described as:

8 **PLAINTIFF’S OBJECTIONS TO DEFENDANTS’ EVIDENCE IN SUPPORT OF**
9 **DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT, OR IN THE ALTERNATIVE,**
10 **FOR SUMMARY ADJUDICATION**

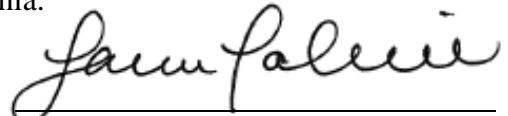
11 on the interested parties in this action by placing
12 [] the original
13 [X] a copy
14 thereof by the following means, addressed as follows:

15 Kenneth G. Lake
16 Deputy Attorney General
17 Email: Kenneth.Lake@doj.ca.gov
18 Andrew Adams
19 Email: Andrew.Adams@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
26 error.

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

Executed on June 26, 2024, at Long Beach, California.



Laura Palmerin