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Electronically FILED by
Superior Court of California,
County of Los Angeles
6/26/2024 11:58 PM
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7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**

10 FRANKLIN ARMORY, INC., et al.,
11
12 Petitioners-Plaintiffs,

13 v.

14 CALIFORNIA DEPARTMENT OF JUSTICE,
15 et al.,
16 Respondents-Defendants.

Case No.: 20STCP01747

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

**SEPARATE STATEMENT OF
UNDISPUTED MATERIAL FACTS IN
OPPOSITION TO DEFENDANTS’
MOTION 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

In accordance with California Rule of Court 3.1350 and California Code of Civil Procedure section 437c, Petitioner-Plaintiff Franklin Armory, Inc., submits the following Response to Defendants' Separate Statement of Undisputed Material Facts in support of their Motion for Summary Adjudication.

ISSUE NO. 1 - DEFENDANTS ARE ENTITLED TO SUMMARY JUDGMENT
AS TO THE THIRD ALLEGED CAUSE OF ACTION FOR TORTIOUS
INTERFERENCE WITH CONTRACTUAL RELATIONS

Moving Party's Undisputed Material Facts and Alleged Supporting Evidence	Opposing Party's Response and Supporting Evidence
<p>1. The Second Amended Complaint (SAC) alleges that on October 24, 2019, plaintiff sent a letter to former Attorney General Becerra, asserting that a defect in the Department of Justice (Department) online system for processing transfers of firearms rendered dealers unable to transfer its recently announced Title 1 firearm to its customers.</p> <p>(SAC, ¶ 69, Ex. C.)</p>	<p>1. Undisputed.</p>
<p>2. Jay Jacobson, President and an owner of Franklin Armory, testified that the Title 1 was designed with a 16 inch barrel and a padded buffer tube instead of a stock and without a stock, it would not be intended to be fired from the shoulder and thus not a rifle.</p> <p>(Jacobson Dep. p. 9:23-10:4, 21:12-15, 103:4-24, Ex. A to Lake Dec.)</p>	<p>2. Undisputed.</p>
<p>3. The Title 1 was a long gun. "Long gun" means any firearm that is not a handgun or a machine gun.</p> <p>(SAC, ¶¶ 23-24, Pen. Code, § 16865.)</p>	<p>3. Disputed as to accuracy insofar that the Franklin Armory, Inc. ("FAI") model Title 1 "is" a long gun, not "was" a long gun. Otherwise, undisputed.</p>
<p>4. On August 6, 2020, the legislature passed SB 118 which included amending the Penal Code Section 30515 definition of an assault weapon to add a "centerfire firearm that is not a rifle, pistol, or shotgun" that includes components in three categories. (Pen. Code, § 30515 (a)(9)-(11).) With this change in definition, the Title 1 was rendered a banned assault weapon.</p> <p>(SAC, ¶ 112, Mendoza Dec. i-1 11.)</p>	<p>4. Undisputed that on August 6, 2020, the legislature passed Senate Bill 118, which included amending the Penal Code section 30515 definition of an assault weapon to add a "centerfire firearm that is not a rifle, pistol, or shotgun" that includes components in three categories. Otherwise, disputed.</p> <p>With the change in definition pursuant to Penal Code section 30515, the FAI Title 1 model firearm was classified as an "assault weapon" under California law, the sale and transfer of such are regulated in the same manner as other "assault</p>

<p>1</p> <p>2</p> <p>3</p> <p>4</p>	<p>weapons” under a more restrictive regulatory scheme but not “banned.”</p> <p>(Pen. Code, § 30515 (a)(9)-(11); Req. Jud. Ntc., Ex. 1 [Sen. B. 118, 2019-2020 Reg. Sess. (Cal. 2020)], pp. 60-64, Ex. 3 [Sen. B. 118, 2019-2020 Reg. Sess. (Cal. 2020) Bill History.]</p>
<p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>5. The online system for the submission of information concerning the sale and transfer of firearms is known as the Dealer Record of Sale Entry System (DES) The DES is a web-based application used by California firearms dealers to submit firearm background checks to the Department to determine if an individual is eligible to purchase, loan, or transfer a handgun, long gun, and ammunition.</p> <p>(Cal. Code Regs., tit. 11, § 4200; citing Pen. Code, § 28205, Mendoza Dec., ¶ 3.)</p>	<p>5. Undisputed.</p>
<p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>6. The alleged defect in the DES was that the gun type drop-down menu for long guns that a dealer would select from while processing a transfer included only options for rifle, shotgun, or rifle/shotgun combination. Plaintiff alleges that since the Title 1 was not a “rifle” under the statutory definition, a dealer could not process a Title 1 for transfer unless the DES was modified to add an “other” option to this drop-down menu.</p> <p>(SAC, ¶¶ 58 69, Ex C)j. jacob</p>	<p>6. Disputed.</p> <p>The alleged defect within the DES is that its design failed to permit the transfer of the FAI model Title 1 firearm. This design flaw was made apparent because the gun-type drop-down menu for long guns from which a dealer would select while processing a transfer was limited to include only options for rifle, shotgun, or rifle/shotgun combination, and not other types of firearms such as the FAI model Title 1 firearm.</p> <p>Plaintiff does not allege that since the Title 1 was not a “rifle” under the statutory definition, a dealer could not process a Title 1 for transfer unless the DES was modified to add an “other” option to this drop-down menu. Modifying the DES to add an “other” option was but one way the Defendants could correct the issue to allow the DES to facilitate the transfer of the FAI model Title 1.</p> <p>(SAC, ¶¶ 58 69, Ex C; Davis Decl., Ex. 4 [J. Davis Letter to Attorney General X. Becerra (Oct. 24, 2019)], p. 3.)</p>
<p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>7. The SAC does not identify any statute or other authority that requires that a firearm being processed for transfer in the DES fit the statutory definition of “rifle” in order to be processed as such.</p> <p>(SAC.)</p>	<p>7. Disputed.</p> <p>Under California Code of Regulations, title 11, § 4210, subdivision (b)(1)(6), firearm dealers are prohibited from entering inaccurate information within the system. Because dealers cannot accurately submit the required information through the DES for “long guns” that “firearms</p>

<p>1</p> <p>2</p> <p>3</p> <p>4</p>	<p>with an undefined subtype,” they are prohibited from processing and accepting applications from purchasers of said firearms. (Pen. Code, § 28215, subd. (c).)</p> <p>(SAC at ¶¶ 61-62.)</p>
<p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p>	<p>8. Disputed.</p> <p>Jay Jacobson testified that he “did not believe there is” any mention of any issue with the DES in any of the complaints for the Sacramento action, which sought only declaratory relief establishing that the Title 1 was not an “assault weapon” under California law, as it was unknown to Jay Jacobson until a month after the Sacramento matter was dismissed.</p> <p>(Lake Decl, Ex. A [J. Jacobson Dep. (Nov. 14, 2023)], pp. 85:25-86:19, 87:8-88:7, 94:5-95:7, 96:10-19, 97:6-19.)</p>
<p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p>	<p>9. Disputed.</p> <p>Jay Jacobson testified that he was informed by Blake Graham that Mossberg Cruisers had been processed through the DES as shotguns, even though Mossberg Cruisers do not have a stock. He further testified that it would be fair to say, based on anecdotal information he had received from some dealers, that some lower receivers, barreled receivers, and pistol grip shotguns had been processed through the DES as either rifles or shotguns.</p> <p>This was limited, however, to only certain firearms using a specific method involving the use of the “Comment” section within the DES. The DOJ remained silent as to its position on whether the FAI Title 1 model firearms could be sold in California and how, in spite of Plaintiff’s <i>repeated</i> requests for guidance.</p> <p>(Lake Decl., Ex. A [J. Jacobson Dep. (Nov. 14, 2023)], pp. 40:16-25, 50:19-51:1, 57:6-58:10, 56:8-25, 60:21-61:8; Barvir Decl., Ex. 16 [J. Jacobson Dep. (Nov. 14, 2023), pp. 40:16-25, 45:8-25 50:19-51:1, 57:6-58:10, 56:8-25, 60:21-61:8; Jacobson Decl., ¶¶ 8-9 & Ex. 8 [Emails between Jay Jacobson and firearms.bureau@doj.ca.gov (Oct. 8, 2019 – Oct. 21, 2019)]; Davis Decl., Ex. 4 [Letter from Jason A. Davis to Xavier Becerra (Oct. 24, 2019)]; David Decl., Ex. 5 [Emails between Jason A. Davis and Robert Wilson & P. Patty Li (Nov. 15,</p>

<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p>	<p>2019-Nov. 26, 2019)]; Davis Decl., Ex. 6 [Email from Jason A. Davis, Counsel for Franklin Armory, Inc., to Luis Lopez, Robert Wilson, and Xavier Becerra, California Department of Justice (March 30, 2020)]; Barvir Decl., Ex. 11 [Mendoza Dep. (June 7, 2024)], p. 141:1-25; Barvir Decl., Ex. 16 [J. Jacobson Dep. (Nov. 14, 2023)], p. 176:4-21; Mendoza Decl., ¶10.)</p>
<p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>10. Mr. Jacobson testified that the process for a California resident to purchase a Franklin Armory firearm would first require the person to purchase the firearm paying the full price. Franklin Armory would then obtain an online verification number from the Department which would be provided to the California licensed dealer when shipping the firearm to them. The purchaser then would go into the dealer and provide background information for the background check that would then be transmitted to the Department.</p> <p>(Jacobson Dep. p. 154:24-156:18; see also SAC, ¶¶ 3, 35; Pen. Code, §§ 28050, subd. (b), 27555, subd. (a)(1).), Cal. Code Reg., tit. 11, § 4210, subd. (a)(6).)</p>	<p>10. Undisputed as to FAI products that are ordered online. Otherwise, disputed.</p> <p>If purchased in-store, no law requires the purchases to be paid in full before beginning the background check; the balance may be paid upon pickup following the 10-day waiting period mandated by Penal Code § 26815.</p>
<p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>11. Plaintiff does not allege that anyone ever purchased a Title 1 firearm and attempted to process a transfer of the Title 1 in the DES through a licensed firearms dealer. Plaintiff alleges that individuals “placed deposits” for the Title 1 firearm.</p> <p>(SAC, ¶ 113.)</p>	<p>11. Undisputed.</p>
<p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>12. Mr. Jacobson testified that the online deposits were for \$5.00 and that the \$5.00 deposit was refundable and there was no requirement for any person placing a deposit to complete a purchase. When a person was going through the online deposit process, the purchase price of the Title 1 firearm did not appear on the screen. The price of the Title 1 was \$944.99. Mr. Jacobson testified that plaintiff solicited submission of the deposits for the Title I without the intent of actually shipping them at that point in time. Plaintiff stopped taking deposits on approximately August 6, 2020.</p> <p>(Jacobson Dep. p. 116: 1-117: 17, 122:6- 123: 12, 124:11-20, 147:17-23, 130:12-131:1.)</p>	<p>12. Undisputed that Jay Jacobson testified that FAI did accept refundable \$5.00 deposits online. Otherwise, disputed.</p> <p>Deposit amounts for the FAI Title 1 model firearm were between \$5 dollars and the full purchase price.</p> <p>(Jacobson Decl., ¶ 10 & Ex.10.)</p> <p>When asked whether the full purchase price appeared on the screen, Mr. Jacobson confirmed that the full purchase price <i>did</i> appear on the screen when a customer went to FAI’s website to make a deposit for the purchase of a FAI Title 1 model firearm.</p> <p>Mr. Jacobson testified only that, “off the top of his head,” he believed the full purchase price of</p>

<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p>	<p>the FAI Title 1 model firearm was \$944.99.</p> <p>Mr. Jacobson testified that the list of deposits “demonstrates . . . that we had these orders that we were going to ship.” But he testified that they were then “unable to ship” the Title 1 firearms for which deposits were placed due to the DOJ’s refusal to correct the DES defect that prohibited the processing of transfers for the FAI Title 1 model firearm.</p> <p>(Barvir Decl., Ex. 16 [Jacobson Dep. (Nov. 14, 2023), p. 116: 1-117: 17, 122:6- 123: 12, 124:11-20, 147:17-23, 130:12-131:1; see also Jacobson Decl., ¶¶ 10-11 & Ex. 10)</p> <p>Objection was entered to this line of questioning as it called for a legal conclusion.</p> <p>(Barvir Decl., Ex. 16 [J. Jacobson Dep. (Nov. 14, 2023), p. 117:6-9.)</p>
<p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p>	<p>13. The issue regarding the Title 1 was first brought to the attention of Bureau Director Allison Mendoza in the latter part of 2019. Prior to becoming Director in March, 2023, Director Mendoza served as Assistant Bureau Chief from 2015 until March, 2023. (At some point, the title of this position changed to Assistant Bureau Director.) As the Assistant Bureau Chief/Director, she was responsible for managing all activities under the Bureau’s Regulatory ranch including management and oversight of the DES. It is Director Mendoza’s understanding that the three options in the “Gun Type” drop-down menu in the DES “Dealer Long Gun Sale” transaction type (rifle, rifle/shotgun combination, or shotgun) had remained the same since she became Assistant Bureau Chief in 2015.</p> <p>(Mendoza Dec., ¶¶ 1-3, 6-7.)</p>
<p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p>	<p>13. Undisputed.</p> <p>14. Director Mendoza states that at some point after the latter part of 2019, the Bureau initiated a review to evaluate the resources required for a potential DES enhancement to add an “other” option in the “Gun Type” dropdown menu in the “Dealer Long Gun Sale” transaction type. This review required the leadership of the Bureau, in collaboration with the Department’s Application Development Bureau (ADB) and the Department’s attorneys, to engage in a balancing of multiple factors and a weighing of competing priorities among the multiple proposed DES enhancement requests pending at that time. The</p> <p>14. Undisputed that Director Mendoza gave this testimony, otherwise disputed.</p> <p>Director Mendoza testified at her deposition that she didn’t recall a decision that the change would not be made in 2020, and that she was not familiar with what specific level of priority was given to the project to add an “other” option to the dropdown menu.</p> <p>(Barvir Decl., Ex. 11 [Medoza Dep. (June 7, 2024)], pp. 107:2-108:21; 109:9-13.)</p>

<p>1 Department also evaluated and weighed the 2 allocation of available resources to such an 3 enhancement, such as the number of personnel 4 required, budgeting of the enhancement, and the 5 time it would take to complete said enhancement. 6 The onset of the COVID-19 pandemic in March 7 2020 presented additional difficulties in being 8 able to staff such a DES enhancement. 9 10 (Mendoza Dec., ¶¶ 4-5, 8.)</p>	
<p>11 15. ADB undertook a review of what would be 12 required to add the “other” option and reported 13 back that it would take many months to 14 implement this enhancement, and would require 15 well over a dozen personnel, many of whom 16 would have to be diverted from other projects. 17 Implementing this DES enhancement would have 18 required changes to many other applications and 19 databases in addition to the DES. 20 21 (Mendoza Dec., ¶¶ 5, 9.)</p>	<p>15. Undisputed that Director Mendoza gave this 16 testimony, otherwise disputed. At her deposition, 17 Director Mendoza could recall no details about 18 this supposed ADB review, including simple 19 distinctions such as whether it was in writing or 20 verbal. 21 22 Cheryle-Massaro-Florez testified that the priority 23 given to the project was “highly critical.” 24 25 Finally, in a letter dated January 8, 2020, sent to 26 Plaintiffs’ counsel Jason Davis, the Department of 27 Justice informed Plaintiffs that it is “currently 28 implementing the modifications necessary to enable DES to process sales of the new Title 1 firearm. (Barvir Decl., Ex. 11 [Mendoza Dep. (June 7, 2024)], pp. 138:4-22); Barvir Decl., Ex. 17 [Massaro-Florez Dep. 2 (Sept. 8, 2023)], pp. 36:2-13; Davis Decl., Ex. 7 [Letter from P. Patty Li to Jason A. Davis (Jan. 8, 2020)].)</p>
<p>18 16. ADB additionally explored the possibility of 19 doing a DES enhancement that was reduced in 20 scope, temporary, and applicable to only the Title 21 1 firearm. Under this proposal, a permanent 22 enhancement would be implemented at a later 23 date. ADB estimated such an enhancement would 24 take a few months. ADB also advised that this 25 proposal would present operational difficulties in 26 properly recording the sales and transfers of the 27 Title 1 firearm in the DES until a permanent 28 enhancement was implemented. Such operational difficulties would have raised significant public safety concerns. These factors, including the public safety concerns, were discussed within the Department, which ultimately decided to not immediately proceed with the temporary DES enhancement. (Mendoza Dec., ¶¶ 5, 10.)</p>	<p>16. Undisputed that Director Mendoza gave this testimony, otherwise disputed. At her deposition, Director Mendoza could recall no details about this supposed ADB review, including simple distinctions such as whether it was in writing or verbal. The same applied to her recollection of any supposed public safety concerns. In a letter dated January 8, 2020 sent to Plaintiffs’ counsel Jason Davis, the Department of Justice informed Plaintiffs that it is “currently implementing the modifications necessary to enable DES to process sales of the new Title 1 firearm. While she mentioned competing priorities as well, she also said the work would be done in “several months.” (Barvir Decl., Ex. 11 [Mendoza Dep. (June 7, 2024)], pp. 138:4-22; 145:15-146:1.); Davis Decl., Ex. 7 [Letter from P. Patty Li to Jason A.</p>

	Davis (Jan. 8, 2020)].)
<p>17. Director Mendoza states that, after SB 118 was signed into law on August 6, 2020, which rendered the Title 1 Firearm a prohibited assault weapon, the Department decided, after weighing competing priorities among the multiple proposed DES enhancements pending at that time in the middle of the COVID-19 pandemic, to implement at a later date the DES enhancement that added an “other” option in the “Gun Type” drop-down menu. This enhancement was completed on October 1, 2021.</p> <p>(Mendoza Dec., ¶ 11)</p>	<p>17. Undisputed that Director Mendoza gave this testimony, otherwise disputed. At her deposition, Director Mendoza blamed “resource needs”, “funding”, and “COVID” for why the “other” option was not added in 2020, before SB 118 was enacted.</p> <p>In a letter dated January 8, 2020, sent to Plaintiffs’ counsel Jason Davis, the Department of Justice informed Plaintiffs that it is “currently implementing the modifications necessary to enable DES to process sales of the new Title 1 firearm.</p> <p>(Barvir Decl., Ex. 11 [Mendoza Dep. (June 7, 2024)], p. 107:2-10); Davis Decl., Ex. 7 [Letter from P. Patty Li to Jason A. Davis (Jan. 8, 2020)].)</p>
<p>18. Cheryle Massaro-Florez, an Information Technology Supervisor II who works in the Bureaus’ firearms software developments unit, oversaw the enhancement project to add the “other” option in the DES testified that the project took approximately three months ending on October 1, 2021. Her entire staff of at least 12 people worked on this project along with staff from the firearms application support unit and the Bureau. The project was done in four phases including analysis, build, system integration and testing. The project required not only modifications in the DES but several other applications and databases.</p> <p>(Massaro-Florez Dep. 1 (12/28/21), Ex. to Lake Dec., pp. 18:12-21, 19:2-12, 30:19- 31:10, 36:18-37:25, 57:14-60:11, 61:13-62:5, 68:25-69:10, 91:3-92:21, 94:6-24.)</p>	<p>18. Disputed.</p> <p>Cheryle Massaro-Florez testified that she is an Informational Technology Supervisor who works in the Bureau of Firearms’ firearm software development unit. She also testified that, within her unit, she oversaw two separate projects to make “enhancements” to the DES to add the “other” option to dropdown list.</p> <p>She testified that the <i>first</i> enhancement was completed up to the point of beta testing and going live, but this initial enhancement was terminated for a reason unknown to her before going live. She testified that <i>second</i> enhancement took about three months to complete, ending on October 1, 2021.</p> <p>(Lake Decl., Ex. C [Massaro-Florez Dep. 1 (Dec. 28, 2021)], pp. 18:12-21, 19:2-12, 30:19-31:10, 36:18-37:25, 57:14-60:11, 61:13-62:5, 68:25-69:10, 91:3-92:21, 94:6-24, 103:5-106:6; Barvir Decl, Ex. 18 [Massaro-Florez Dep. 2 (Sept. 8, 2023)], pp. 38:13-40:19, 41:18-19, 64:24-66:15; see also Barvir Decl., Ex. 14 [Leyva Dep. 2 (Jan. 11, 2024)], pp. 27:1-13, 28:17-31:13.)</p>

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1 ISSUE NO. 2 - DEFENDANTS ARE ENTITLED TO SUMMARY JUDGMENT
 2 AS TO THE FOURTH ALLEGED CAUSE OF ACTION FOR TORTIOUS
 3 INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE

4 5 6	19. Defendants hereby incorporate by reference as though fully set forth hereat undisputed material facts nos. 1-18	19. Plaintiff hereby incorporates by reference as though fully set forth Plaintiff's Response and Supporting Evidence re: Defendants' Material Facts Nos. 1-18.
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7 ISSUE NO. 3 - DEFENDANTS ARE ENTITLED TO SUMMARY JUDGMENT
 8 AS TO THE FIFTH ALLEGED CAUSE OF ACTION FOR NEGLIGENT
 9 INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE

10 11 12	20. Defendants hereby incorporate by reference as though fully set forth hereat undisputed material facts nos. 1-18	20. Plaintiff hereby incorporates by reference as though fully set forth Plaintiff's Response and Supporting Evidence re: Defendants' Material Facts Nos. 1-18.
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 14 Under Code of Civil Procedure section 437c, subdivision (b), and California Rules of Court,
 15 rule 3.1350, Plaintiff Franklin Armory, Inc., submits the following Additional Undisputed Material
 16 Facts in Support of their Opposition to Defendants' Motion for Summary Adjudication.

17 18	Opposing Party Additional Undisputed Material Facts and Supporting Evidence	Moving Party's Response and Supporting Evidence
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19 **Third Cause of Action: Tortious Interference with Contractual Relations**

20 21 22 23 24	21. Plaintiff Franklin Armory, Inc. ("FAI") is a federally licensed firearms manufacturer incorporated under the laws of Nevada with its principal place of business in Minden, Nevada and a manufacturing facility in Minden, Nevada. (Verified SAC, ¶ 1; Jacobson Decl., ¶ 1.)	
25 26 27	22. FAI manufactures a series of firearms that are designated by FAI with the model name "Title 1." (Verified SAC, ¶ 2; Jacobson Decl., ¶ 2.)	
28	23. Under California law, the term "firearm" is defined in several ways, generally including	

<p>1 “a device, designed to be used as a weapon, 2 from which is expelled through a barrel, a 3 projectile by the force of an explosion or other 4 form of combustion.”</p> <p>(Pen. Code, § 16520; Verified SAC ¶ 22.)</p>	
<p>5 24. The State of California further divides the 6 term “firearm” into two types for transfer 7 regulation: long guns and handguns. Long 8 guns are those firearms that do not qualify as 9 handguns. For purposes of Penal Code section 10 26860, “long gun” means any firearm that is 11 not a handgun or a machinegun.</p> <p>(Pen. Code, § 16865.)</p>	
<p>12 25. The FAI Title 1 model firearm is, under 13 California’s statutory definition, a “long gun.”</p> <p>(Verified SAC, ¶¶ 23-24; Pen. Code, § 14 16865.)</p>	
<p>15 26. Under the firearm classification “long gun,” 16 there are statutorily defined firearm subtypes, 17 including but not limited to “rifles” and 18 “shotguns.”</p> <p>(Pen. Code, § 17090 [defining “rifle”]; Pen. 19 Code, § 17191 [defining “shotgun”].)</p>	
<p>20 27. The FAI Title 1 is a firearm lacking a 21 statutorily defined subtype, as its overall 22 design renders the device a “firearm,” but not 23 a “handgun,” “rifle,” or “shotgun.”</p> <p>(Pen. Code, §§ 16865, 16640, 16530, 17090, 24 17191; Verified SAC, ¶ 27; Davis Decl., Ex. 4 25 [Letter from Jason A. Davis to Xavier Becerra 26 (Oct. 24, 2019)], p. 3; Jacobson Decl., ¶ 2.)</p>	
<p>27 28. With limited exception, nearly all firearm 28 transfers within California must be processed through a dealer licensed by the United States, California, and the local authorities to engage in the retail sale of firearms. Upon presentation of identification by a firearm purchaser, a licensed California firearms dealer <i>shall</i> transmit the information to the Department of Justice</p>	

1	(Pen. Code, §§ 26700, 27545, 2824, subd. (d).)	
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3	29. Under California law, every licensed firearms dealer shall keep a register or record of electronic or telephonic transfer in which shall be entered certain information relating to the transfer of firearms. And “[t]he Department of Justice shall prescribe the <i>form</i> of the register and the record of electronic transfer pursuant to Section 28105.”	
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7	(Pen. Code, §§ 28100, 28155.)	
8	30. California law requires the Attorney General to permanently keep and properly file and maintain <i>all</i> information reported to the DOJ pursuant to any law as to <i>firearms</i> and maintain a registry thereof.	
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11	Information that must be included in the registry includes the “manufacturer’s name if stamped on the firearm, model name or number if stamped on the firearm, and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, <i>type of firearm</i> , if the firearm is new or used, barrel length, and color of the firearm, or, if the firearm is not a handgun and does not have a serial number or any identification number or mark assigned to it, that shall be noted.”	
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18	(Pen. Code, § 11106, subs. (b)(1)(A), (b)(1)(D).)	
19	31. California law mandates that, for <i>all</i> firearms, the register or the record of electronic transfer <i>shall</i> contain certain information, including but not limited to the type of firearm.	
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21		
22	(Penal Code § 28160, subd. (a).)	
23	32. California law mandates that the DOJ <i>shall</i> determine the <i>method</i> by which a dealer <i>submits</i> the firearm purchaser <i>information</i> to the DOJ.	
24		
25	(Pen. Code, § 28205, subd. (a).)	
26	33. California law mandates that electronic transfer of the required information be the sole means of transmission, though the DOJ is authorized to make limited exceptions.	
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1	(Pen. Code, § 28205, subd. (c).)	
2	34. The method established by the DOJ under	
3	Penal Code section 28205, subdivision (c), for	
4	the submission of purchaser information	
5	required by Penal Code section 28160,	
6	subdivision (a), is known as the Dealers Record of Sale Entry System or the DES. (Pen. Code, § 28205, subd. (c).); (Pen. Code, § 28155); Verified SAC ¶ 54.	
7	35. The DES is a web-based application designed,	
8	developed and maintained by the DOJ and	
9	used by firearm dealers to report the required	
10	information. (Barvir Decl., Ex. 11 [Mendoza Dep. (Jun 7, 2024)], p. 24:16-25; Barvir Decl., Ex. 13 [Graham Dep. (Mar. 26, 2024)], p. 34:16-23; 35:17-36:6; Barvir Decl., Ex. 14 [Leyva Dep. 2 (Jan. 11, 2024)], p. 20:19-21:3; Barvir Decl., Ex. 17 [Massaro-Florez Dep. 1 (Dec. 28, 2021)], p. 33:11-18.)	
14	36. By law, firearm dealers are prohibited from	
15	entering inaccurate information within the	
16	DES. (Cal. Code Regs., title 11, § 4210, subd. (b)(1)(6).)	
17	37. By design, when the DES user is entering the	
18	designated information into the DES, they	
19	must enter information related to the gun type	
20	(i.e., “long gun” or “handgun”). Upon	
21	selecting “long gun,” the DES is designed to	
22	and functions to populate a subset of fields.	
23	Before October 1, 2021, if a DES user	
24	selected “long gun,” the DES populated a list	
25	of just three options: “rifle,” “rifle/shotgun,”	
26	“shotgun.” Before the DES user was	
27	permitted to proceed with the completion of	
28	the form and submission of the required	
	information to the DOJ, the DES required the	
	user select one of those three options. Unlike	
	the subset of fields within the DES that	
	populate for “Color,” “Purchaser Place of	
	Birth,” and Seller Place of Birth,” each of	
	which contains a catch-all option for “Other,”	
	before October 1, 2021, the subset of fields	
	that populated when the DES user selected	
	“long gun” as the “gun type,” did not include	
	the option to select “Other.” Thus, the DES	
	system prevented licensed firearm dealers	

<p>1 from proceeding with the submission of 2 information to the DOJ for the sale, transfer, 3 or loan for certain firearms, including the FAI 4 Title I model firearm.</p> <p>(Davis Decl., Ex. 4 [J. Davis Letter to 5 Attorney General X. Becerra (Oct. 24, 2019)], 6 pp. 2-3; Davis Decl., Ex. 6 [Emails between 7 Jason A. Davis, Counsel for Franklin Armory, 8 Inc., and Robert Wilson & P. Patty Li (Nov. 9 15, 2019-Nov. 26, 2019)]; Davis Decl., Ex. 7 10 [Letter from P. Patty Li to Jason A. Davis 11 (Jan. 8, 2020)].)</p>	
<p>12 38. Without an alternative procedure for 13 submission of the purchaser and firearm 14 information established by DOJ pursuant to 15 Penal Code section 28205, subdivision (c), the 16 DES is the only method of submitting the 17 necessary information to permit the lawful 18 transfer of the undefined “firearm” subtypes.</p> <p>The DOJ has authorized DES users to process 19 certain firearms without a defined firearm 20 subtype through the DES using the “Comment” section within the DES. The DOJ remained silent as to its position on whether the FAI Title 1 model firearms could be sold in California and how, in spite of Plaintiff’s repeated requests for guidance.</p> <p>(Lake Decl., Ex. A [J. Jacobson Dep. (Nov. 14, 2023)], pp. 40:16-25, 50:19-51:1, 57:6- 58:10, 56:8-25, 60:21-61:8; Barvir Decl., Ex. 16 [J. Jacobson Dep. (Nov. 14, 2023), pp. 40:16-25, 45:8-25 50:19-51:1, 57:6-58:10, 56:8-25, 60:21-61:8; Barvir Decl., Ex. 11 [Mendoza Dep. (June 7, 2024), p. 141:1-25; Mendoza Decl., ¶10.]</p>	
<p>21 39. Before October 1, 2021, dealers could not 22 accurately submit the required information 23 through the DES for “long guns” without 24 statutorily defined “firearm” subtypes, so they 25 were effectively barred from accepting and 26 processing applications from purchasers of 27 such firearms, including FAI’s Title 1 model 28 firearm.</p> <p>(Pen. Code, § 28215, subd. (c); Davis Decl., Ex. 4 [J. Davis Letter to Attorney General X. Becerra (Oct. 24, 2019)]; Davis Decl., Ex. 6 [Emails between Jason A. Davis, Counsel for Franklin Armory, Inc., and Robert Wilson & P. Patty Li (Nov. 15, 2019-Nov. 26, 2019)];</p>	

<p>1 Davis Decl., Ex. 7 [Letter from P. Patty Li to 2 Jason A. Davis (Jan. 8, 2020)]; Jacobson 3 Decl., ¶¶ 4-5, 11 & Ex. 8; Barvir Decl., Ex. 12 4 [Gockel Dep. (April 22, 2023), pp. 74:12-25; 80:12-81:8; Barvir Decl., Ex. 16 [J. Jacobson 5 Dep. (Nov. 14, 2023), pp. 118:2-11; 150:3-7; 6 159:11-16; .)</p>	
<p>5 40. While state law mandates that the “type” of 6 firearm (e.g., “long gun” or “handgun”) must 7 be included in the register or the record of 8 electronic transfer, no state statute mandates 9 that the firearm “subtype” (e.g., rifle, shotgun, 10 rifle/shotgun combination) be included. So the 11 DOJ could have chosen to remove the 12 technological barrier within the DES that 13 prevented licensed firearm dealers from 14 processing the transfer of FAI’s Title 1 model 15 firearms by enhancing the DES to allow the 16 user to proceed without selecting a firearm 17 subtype. 18 19 (Pen. Code, §§ 28160, subd. (a), 28200- 20 28255.)</p>	
<p>14 41. DOJ could have chosen to remove the 15 technological barrier within the DES that 16 prevented licensed firearm dealers from 17 processing the transfer of FAI’s Title 1 model 18 firearms by authorizing an “alternative 19 means” of submitting the required information 20 pursuant to the authority granted to the DOJ 21 under Penal Code section 28205, subd. (c), 22 including but not limited to instructing DES 23 users to proceed by selecting preauthorized 24 designated options and identifying the firearm 25 as an “other” in one of the “comment” fields 26 within the DES. The DOJ opted not to pursue 27 that “fix.” 28 29 (Pen. Code, § 28205, subd. (c); Lake Decl., 30 Ex. A [J. Jacobson Dep. (Nov. 14, 2023)], pp. 31 40:16-25, 50:19-51:1, 57:6-58:10, 56:8-25, 32 60:21-61:8; Barvir Decl., Ex. 16 [J. Jacobson 33 Dep. (Nov. 14, 2023), pp. 40:16-25, 45:8-25 34 50:19-51:1, 57:6-58:10, 56:8-25, 60:21-61:8; 35 Barvir Decl., Ex. 11 [Mendoza Dep. (June 7, 36 2024), p. 141:1-25; Mendoza Decl., ¶10.)</p>	
<p>26 42. FAI was notified by licensed California 27 firearms dealers (“FFLs”) that they would not 28 be able to process the transfer of FAI’s Title 1 model firearm through the DES because they could not accurately submit the required information for “long guns” without</p>	

1	statutorily defined subtypes.”	
2	(Davis Decl., Ex. 4 [Letter from Jason A.	
3	Davis to Xavier Becerra (Oct. 24, 2019)], p.	
4	3; Barvir Decl., Ex. 16 [J. Jacobson Dep.	
	(Nov. 14, 2023)], pp. 175:7-12; 176:4-21;	
	177:2-8.)	
5	43. The DOJ was aware that licensed firearm	
6	dealers (“FFLs”) had expressed concerns	
7	about attempting to transfer FAI’s Title 1	
	model firearm “due to liability issues.”	
8	(Barvir Decl., Ex. 15 [J. Kim Dep. (Jan. 3,	
9	2024)], pp. 20:17-22:12, 29:2-21, 31:15-	
10	33:11, 42:20-43:18, 47:16-48:11, 49:2-50:15	
11	& Exs. 2 & 4 [Email from Jennifer Kim to	
	Jason Sisney (June 24, 2020); see also Davis	
	Decl., Ex. 4 [Letter from Jason A. Davis to	
	Xavier Becerra (Oct. 24, 2019)], p. 3.)	
12	44. On or about October 24, 2019, counsel for	
13	FAI sent a letter to then-Attorney General	
14	Xavier Becerra, formally notifying him and	
15	the DOJ of the defect in the DES and the	
	inability of FAI to transmit its Title I model	
	firearms to their customers because of that	
	defect.	
16	(Davis Decl., Ex. 4 [Letter from Jason A.	
17	Davis to Xavier Becerra (Oct. 24, 2019)];	
	Verified SAC ¶ 66 & Ex. A.)	
18	45. On or about October 24, 2019, counsel for	
19	FAI sent a letter to then-Attorney General	
20	Xavier Becerra, formally notifying him and	
21	the DOJ that FAI had publicly announced the	
22	release of the Title 1 on or about October 15,	
23	2019, generating a “substantial amount of	
	interest.” Counsel also informed Mr. Becerra	
	that FAI was taking orders for the Title 1	
	model firearm daily, but FAI was unable to	
	fulfill those orders due to the DES	
	technological defect.	
24	(Davis Decl., Ex. 4 [Letter from Jason A.	
25	Davis to Xavier Becerra (Oct. 24, 2019)], p. 3;	
	Verified SAC, Ex. A.)	
26	46. When FAI’s customers were placing orders to	
27	purchase FAI Title 1 model firearms, the	
	advertised full purchase price was \$944.99.	
28	But because FAI knew that the DES defect	
	prevented transfers of the Title 1, FAI offered	

<p>1 customers the opportunity to submit a 2 refundable deposit toward the purchase of a 3 Title 1 to be completed once the DES defect 4 was corrected. Payment of the deposit essentially saved a “spot in line” for the deposit payors.</p> <p>5 (Jacobson Decl, ¶ 10, Ex. 9; Barvir Decl., 6 Barvir Decl., Ex. 12 [Gockel Dep. (April 22, 2024)], pp. 48:19-49:7; Ex. 16 [J. Jacobson 7 Dep. (Nov. 14, 2023), pp. 116:1-14; 124:17- 20; 131:16-22.)</p>	
<p>8 47. FAI ultimately collected nearly 35,000 9 deposits from its thousands of customers, including licensed firearms dealers, for the 10 purchase of Title 1 model firearms. Those deposits ranged in amount from \$5 to the full 11 purchase price of the Title 1 model firearm.</p> <p>12 (Jacobson Decl., ¶ 10; see, e.g., Opdahl-Lopez Decl.)</p>	
<p>13 48. Assuming the centerfire Title 1 model firearm 14 could ever be lawfully transferred in California, FAI was committed at the time it 15 accepted deposits from customers to fulfill all orders for which people paid deposits. And 16 FAI remains committed to fulfilling those orders to this day.</p> <p>17 (Jacobson Decl., ¶ 11 & Ex. 10; Barvir Decl., 18 Ex. 16 [J. Jacobson Dep. (Nov. 14, 2023)], pp. 116:1-14; 124:17-20; 131:16-22.)</p>	
<p>19 49. The DOJ was able to modify the DES to 20 correct a similar deficiency reported concurrently by FAI’s counsel in the same 21 letter dated October 24, 2019, within about a month. Namely, the DES omitted the “United 22 Arab Emirates” from the list of countries available within the DES dropdown list for 23 the countries for place of birth was confirmed to have been corrected by the DOJ by 24 November 26, 2019.</p> <p>25 (Davis Decl., Ex. 4 [Letter from Jason A. 26 Davis to Xavier Becerra (Oct. 24, 2019)]; Ex. 5 [Emails between Jason A. Davis and Robert 27 Wilson & P. Patty Li (Nov. 15, 2019-Nov. 26, 2019)].)</p>	
<p>28 50. On January 8, 2020, in response to FAI’s October 24, 2019, letter, Attorney General</p>	

1 Becerra, through Deputy Attorney General P.
2 Patty Li, wrote to counsel for FAI, confirming
3 receipt of FAI’s letter and informing FAI that
4 DOJ was working to fix the DES deficiency
5 the letter described.
6 (Davis Decl., Ex. 7 [Letter from P. Patty Li,
7 Deputy Attorney General, California
8 Department of Justice, to Jason A. Davis,
9 Counsel for Franklin Armory, Inc. (Jan. 8,
10 2020)].)

7 51. Cheryle Massaro-Florez, an Informational
8 Technology Supervisor who works in the
9 Bureau of Firearms’ firearm software
10 development unit, testified that she oversaw
11 two separate projects to make
12 “enhancements” to the DES to add an “Other”
13 option to the dropdown list for “long gun”
14 firearm subtypes. She testified that the first
15 enhancement was completed up to beta
16 testing, but just before going live, that first
17 enhancement was terminated for a reason
18 unknown to her. She testified that the second
19 enhancement took about three months to
20 complete, ending on October 1, 2021.
21 (Lake Decl., Ex. C [Massaro-Florez Dep. 1
22 (Dec. 28, 2021)], pp. 18:12-21, 19:2-12,
23 30:19-31:10, 36:18-37:25, 57:14-60:11,
24 61:13-62:5, 68:25-69:10, 91:3-92:21, 94:6-24,
25 103:5-106:6; Barvir Decl, Ex. 18 [Massaro-
26 Florez Dep. 2 (Sept. 8, 2023)], pp. 38:13-
27 40:19, 41:18-19, 64:24-66:15 & Ex. 9; see
28 also Barvir Decl., Ex. 11 [Mendoza Dep.
(June 7, 2024)], Ex. 45.)

20 52. Just months after Deputy Attorney General Li
21 confirmed that the DOJ was working on a fix
22 to the DES, on May 14, 2020, the DOJ
23 submitted Budget Change Proposal (prepared
24 by then BOF Assistant Director Allison
25 Mendoza) to the Department of Finance,
26 requesting “\$128,000 Dealers’ Record of Sale
27 Special Account in 2020-21, \$862,000 in
28 2021-22, and \$14,000 annually thereafter to
regulate assault weapons that are currently not
defined as a rifle, pistol, or shotgun.” The
proposal was “intend[ed] to fix current
loopholes in statute that allow[ed]
manufacturers to make weapons that
circumvent the intention of assault weapon
laws.”
(Barvir Decl., Ex. 11 [Mendoza Dep. (June 7,

1	2020), Ex. 42 [May 14, 2020 Budget Change Proposal].)	
2		
3	53. As part of the Budget Change Proposal, the DOJ also requested “[budget] trailer bill language necessary to implement this proposal.” Attached to the proposal, as Attachment 1, was “Proposed Trailer Bill Language: Other Firearm Registration.” That proposed language would ultimately be adopted via Senate Bill 118 (“SB 118”).	
4		
5		
6		
7	(Barvir Decl., Ex. 11 [Mendoza Dep. (June 7, 2024), Ex. 42 [May 14, 2020 Budget Change Proposal]; Barvir Decl., Ex. 15 [J. Kim Dep. (Jan. 3, 2024)], pp. 20:17-22:12, 25:17-28:6, 29:2-21, 35:22-39:11, 49:2-50:15, 69:19-71:18 & Exs. 2 & 4; Req. Jud. Ntc., Ex. 1 [SB 118], Ex. 2 [AB 88].)	
8		
9		
10		
11	54. SB 118 was adopted by Legislature on August 4, 2020, and it was approved by the Governor on August 6, 2020.	
12		
13	(Req. Jud. Ntc., Ex. 3.)	
14	55. SB 118 amended the Penal Code section 30515 definition of an “assault weapon” to include, for the first time, a “centerfire firearm that is not a rifle, pistol, or shotgun” that includes components in three categories.	
15		
16		
17	(Pen. Code, § 30515, subd. (a)(9)-(11); Req. Jud. Ntc., Ex. 1 [SB 118], Ex. 2 [AB 88].)	
18		
19	56. Because SB 118 was adopted as a “budget trailer bill,” the change in law took effect immediately upon signature by the Governor without the 2/3 vote of the Legislature required to adopt “policy bills” as “urgency legislation” and without the need to make a special finding of urgency.	
20		
21		
22		
23	(Barvir Decl., Ex. 15 [J. Kim Dep. (Jan 3, 2024)], p. 50:14-58:9, 75:23-77:2; Cal. Const., art. IV, § 8, subd. (b).)	
24		
25	57. Allison Mendoza, the current Director of the California Department of Justice, Bureau Firearms, testified that she could not think of another piece of firearm-related legislation that was adopted via the “budget trailer bill” process and that it was not a common practice.	
26		
27		
28		

<p>1 (Req. J. Ntc., Ex. 1 [SB 118], Ex. 2 [AB 88].); 2 Barvir Decl., Ex. 11 [Mendoza Dep. (June 7, 2020), pp. 43:10-13.]</p>	
<p>3 58. SB 118 was designed to target the FAI Title 1 4 model firearm and prevent its sale. 5 Department of Finance staffers’ 6 communications about the bill expressly 7 identified both FAI and the Title 1, and they 8 identified no other manufacturer or firearm by 9 name. 10 (Barvir Decl., Ex. 15 [J. Kim Dep. (Jan. 3, 11 2024)], pp. 58:10-60:25, 62:25-10, 66:25- 12 68:24, 71:9-72:20, 75:1-77:25 & Exs. 2 & 4; 13 Req. Jud. Ntc., Ex. 1 [SB 118].)</p>	
<p>14 59. It was not until October 1, 2021, that the DOJ 15 finally completed the “enhancement” to the 16 DES adding the option to select “Other” from 17 the dropdown list for “long gun” subtypes, 18 finally allowing DES users to process the 19 transfer of firearms without a defined subtype. 20 Barvir Decl., Ex. 11 [Mendoza Dep. (June 7, 21 2024)], pp. 128:7-11; Barvir Decl., Ex. 18 22 [Massaro-Florez Dep. 1 (Dec. 28, 2021)], pp. 23 34:10-17; 42:7-8; Barvir Decl., Ex. 19 [Leyva 24 Dep. 1 (Dec. 29, 2021)], pp. 39:15-22, 40:9- 25 17, 45:10-25, 46-47, 48:16-25, 61:5-62, 26 67:4-73, 74:1, 95:8-25, 108:3-25, 109 & 27 Exs. 3, 6, 7, and 8.)</p>	
<p>28 60. The enhancement to the DES came too late to allow for the lawful transfer of centerfire FAI Title 1 model firearms, which had been designated as “assault weapons” effective August 6, 2020, and could not be lawfully registered with the DOJ unless they were possessed on or before September 1, 2020. (Rq. Jud. Ntc., Exs. 1, 3; Pen. Code, § 30515, subd. (a)(9)-(11).)</p>	
<p>61. FAI could not lawfully transfer the FAI Title 1 model firearm to its deposit-paying customers before the enactment and enforcement of SB 118 (Penal Code section 30515, subd. (a)(9)-(11)) because the DES enhancement adding “Other” to the “long gun” subtype dropdown list was not made until October 1, 2021. (Jacobson Decl., ¶ 11; Barvir Decl., Ex. 11 [Mendoza Dep. (June 7, 2024)], pp. 128:7-11;</p>	

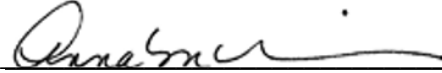
<p>1 Barvir Decl., Ex. 18 [Massaro-Florez Dep. 1 2 (Dec. 28, 2021)], pp. 34:10-17; 42:7-8; Barvir 3 Decl., Ex. 19 [Leyva Dep. 1 (Dec. 29, 2021)], 4 pp. 39:15-22, 40:9-17, 45:10-25, 46-47, 5 48:16-25, 61:5-62, 67:4-73, 74:1, 95:8-25, 6 108:3-25, 109 & Exs. 3, 6, 7, and 8.)</p>	
<p>5 62. FAI suffered economic damage in the form of 6 millions of dollars in lost profits because it 7 could not lawfully complete the sale of and 8 transfer the FAI Title 1 model firearm to its 9 thousands of deposit-paying customers before 10 the enactment and enforcement of SB 118 11 (Penal Code section 30515, subd. (a)(9)-(11). 12 13 (Jacobson Decl., ¶¶ 10-12, Ex. 10; Barvir 14 Decl., Ex. 16 [J. Jacobson Dep. (Nov. 14, 15 2023)], pp. 138:19-142:14.)</p>	
<p>11 63. To date, a very small minority of the 12 thousands of individuals who made a deposit 13 have asked for a refund. 14 15 (Jacobson Decl., ¶ 14.)</p>	
<p>14 64. There is currently a class action lawsuit 15 pending in federal district court, brought on 16 behalf of the thousands of person who made 17 earnest-money deposits for the purchase of 18 one or more FAI Title 1 model firearms, 19 against Attorney General Rob Bonta, Luis 20 Lopez, and the California Department of 21 Justice. The plaintiffs seek equitable relief, 22 including injunctive relief ordering 23 [d]efendants to allow ... the members of the 24 [c]lass to submit the statutorily required 25 firearm purchaser information through DES 26 for, complete the transfer of, take possession 27 of, and register pursuant to Penal Code section 28 30900(c) those Title 1 firearms for which they made earnest money deposits before August 6, 2020, notwithstanding the fact that these firearms were not possessed by ... the [c]lass members before September 1, 2020.” (First Amended Complaint at 7, 40, <i>Briseno v.</i> <i>Bonta</i>, C.D. Cal. Case No. 21-cv-09018 (Feb. 4, 2022); Opdahl-Lopez Decl., ¶¶ 3-8.)</p>	
<p>Fourth Cause of Action: Tortious Interference with Prospective Economic Advantage</p>	
<p>27 65. Plaintiff hereby incorporates by reference 28 Plaintiff’s Undisputed Material Facts Nos. 21- 64.</p>	

1 **Fifth Cause of Action: Negligent Interference with Prospective Economic Advantage**

2 66. Plaintiff hereby incorporates by Plaintiff's
3 Undisputed Material Facts Nos. 21-64.

4
5 Date: June 26, 2024

MICHEL & ASSOCIATES, P.C.

6 

7 Anna M. Barvir

8 Attorneys for Petitioners-Plaintiffs

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

8 **SEPARATE STATEMENT OF UNDISPUTED MATERIAL FACTS IN OPPOSITION TO
9 DEFENDANTS’ MOTION FOR SUMMARY ADJUDICATION**

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 June 26, 2024, at Long Beach, California.

28 

Laura Palmerin