

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION 7

**FRANKLIN ARMORY, INC.,**  
  
Plaintiff and Appellant,  
  
v.  
  
**CALIFORNIA DEPARTMENT OF  
JUSTICE et al.,**  
  
Defendants and Respondents.

Case No. B340913

Appeal from Los Angeles County Superior Court, Case No. 20STCP01747  
The Honorable Daniel S. Murphy, Presiding

**REPLY TO OPPOSITION TO MOTION TO STRIKE PORTIONS OF  
APPELLANTS' BRIEF RELATING TO APPELLANTS' ALLEGATION THAT  
DEFENDANTS IMPROPERLY WITHHELD DOCUMENTS FROM DISCOVERY  
AND ARGUMENT RELATIVE THERETO; REPLY DECLARATION OF  
KENNETH G. LAKE IN SUPPORT THEROF**

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Document received by the CA 2nd District Court of Appeal.

Appellants do not contest the fact that Respondents timely objected to the subject discovery requests but now are improperly attempting to litigate a motion to compel in the Court of Appeal that was never filed in the trial court. Appellants assertion that they had no notice of potential documents they assert as presenting an issue at this juncture is disingenuous.

First, in Cheryle Massaro-Flores' second deposition, taken on September 8, 2023, she referenced indicating in her December 28, 2021, deposition the potential temporary enhancement that did not go forward. In the September 8 deposition she indicated that the temporary enhancement had reached the point of quality assurance testing and that such an enhancement would normally be included in the JIRA system but she did not recall if that occurred. (Massaro-Flores Dep., 9/8/23, pp. 38:6-39:18, 65:13-67:8; Ex. I to Reply Dec. of Lake.) Respondents objected to the documents requested relative to this deposition. (*Id.* at p. 48:8-20.)

Second, on November 27, 2023, Christina Rosa-Robinson testified in deposition that a project to add an "other" option could take a year and a half and that she recalled starting to do analysis and requirements gathering in the beginning of February, 2020. (Rosa-Robinson Dep., pp. 38:8-40:12; Ex. J to Reply Dec. of Lake.)

Third, on January 11, 2024, Maricela Leyva testified in deposition that there had been a draft bulletin prepared sometime in early 2020 regarding an enhancement to the DES to add an "other" option. (Leyva Dep., 1/22/24. pp. 49:2-18; Ex. K to Reply Dec. of Lake.) Respondents objected to the document requests relative to this deposition. (*Id.* at p. 15:6-22.) Appellants' counsel then stated: "So then at this point, I'm

going to need to suspend this deposition subject to defendants turning over the documents that we requested and continuing your deposition at a later date or if we need to seek appropriate relief from the court before we do.” (*Id.* at p. 50:4-8.)

The above discussion makes clear that Respondents timely objected to the production of potential documents that might relate to the temporary enhancement that did not go forward and that Appellants’ counsel were clearly aware of this and specifically noted that a motion to compel would be necessary if the documents were not produced. However, Appellants’ counsel never followed up or filed a motion to compel.<sup>1</sup>

In addition, Appellants are improperly attempting to expand upon the request for judicial notice of the existence of the DROS spreadsheet generated on February 12, 2025. Respondents did not oppose the request for judicial notice because it would defy logic to deny the existence of the document. The motion to strike is not directed to striking this document but the argument in Appellants’ brief improperly alleging discovery misconduct despite their failure to challenge the objections to the discovery requests in the trial court. Appellants exacerbate this failure by improperly asserting a speculative interpretation of the contents of the DROS document which is not a proper use of judicial notice. (*Malek Media Group v. AXQG Corp.* (2020) 58 Cal.App.5th 817, 826-827.)<sup>2</sup>

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<sup>1</sup> A privilege log was not necessary. (Code Civ. Proc., § 2031.240, (c)(1).) The subject requests were objected to on numerous well taken grounds other than privilege or work product.

<sup>2</sup> A court may take judicial notice of the date of a document. (*Cahill v. San Diego Gas & Electric Co.* (2011) 194 Cal.App.4th 939, 950.)

Furthermore, Appellants' opposition attempts to reargue their alternative request to take evidence . However, the alternative motion to take evidence was not granted and Respondents' motion to strike makes clear that, even if the court were to consider a new motion to take evidence, it should be denied.

Dated: July 8, 2025

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/S/

KENNETH G. LAKE  
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\* \* \* \* \*

**REPLY DECLARATION OF KENNETH G. LAKE IN SUPPORT OF  
MOTION TO STRIKE PORTIONS OF APPELLANTS' BRIEF**

I, Kenneth G. Lake, declare:

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

2. True and correct copies of the relevant portions of the deposition of Cheryle Massaro-Flores, taken on 9/8/23, are attached hereto as Exhibit

I.

3. True and correct copies of the relevant portions of the deposition of Christina Rosa-Robinson, taken on 11/27/23, are attached hereto as Exhibit J.

4. True and correct copies of the relevant portions of the deposition of Maricela Leyva, taken on 1/11/24, are attached hereto as Exhibit K.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on July 8, 2025.

/S/  
KENNETH G. LAKE

# EXHIBIT I

**In The Matter Of:**  
*Franklin Armory, Inc., et al. v.*  
*California Department of Justice, et al.*

---

*Cheryle Massaro-Florez*  
*September 8, 2023*

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1 MR. ADAMS: No.

2 THE WITNESS: I believe I misunderstood a  
3 question, then. I believe I answered yes, I've heard  
4 about delay. I was not in a discussion about delay.

5 BY MR. DAVIS:

6 Q Okay. That makes it clear for me. I  
7 appreciate that.

8 In a previous deposition, you indicated that  
9 there's a prior enhancement to add the term "other" to  
10 the DES other than the one that was actually  
11 implemented, correct? Let me rephrase it.

12 A Yeah.

13 Q How many enhancements in total were there to  
14 add the term "other" to the drop-down list?

15 A Making the change is considered one  
16 enhancement.

17 Q Was there any canceled enhancements prior to  
18 the one that actually implemented the term "other" to  
19 the drop-down list?

20 A Yes.

21 Q How many?

22 A Just one.

23 Q When did that one start?

24 A I don't remember.

25 Q When did it end?



1 A I don't remember.

2 Q Would it be documented?

3 A I don't know.

4 Q Typically, aren't enhancements started and  
5 entered through the Jira process?

6 A Yes.

7 Q Would that one have been entered in the Jira  
8 system process?

9 A It should have been, yes.

10 Q But you don't know if it was?

11 A No. This is too many years back for me. I'm  
12 sorry.

13 Q Why was that one terminated?

14 A I don't know.

15 Q Do you know who terminated it?

16 A Right. I know because this is a discussion  
17 we also had. I was not involved. I believe it was  
18 the Bureau of Firearms.

19 Q That wasn't the question. We did have it.  
20 It was cut short because of the confidentiality issues  
21 that we discussed a second ago.

22 MR. DAVIS: And I think it was towards the  
23 end if you want to look at the previous transcript,  
24 Andrew.

25 ///

1 as a person most qualified. I wanted to go over some  
2 of the production requests.

3 So can you see it, first of all?

4 A Yes, I can see it.

5 MR. DAVIS: So that notice included a request  
6 for the production of documents. And last night,  
7 defendants served objections to these requests. For  
8 the sake of brevity, I'm willing to incorporate those  
9 objections by reference going forward.

10 Does that work for you, Mr. Adams?

11 MR. ADAMS: You'll incorporate the objections  
12 going forward?

13 MR. DAVIS: Yes, so you don't have to keep  
14 objecting.

15 MR. ADAMS: Yeah, that would be great.

16 MR. DAVIS: Thank you.

17 BY MR. DAVIS:

18 Q Did you bring any documents at all with you  
19 today?

20 A No, I did not.

21 Q Can you scroll down to the section where it  
22 says "Responses to Requests for Production," which is  
23 page 3?

24 A Okay. I'm on page 3.

25 Q So with regard to Request for Production

1 to have requested the termination of the prior  
2 enhancement?

3 A Yes.

4 Q Do you know when that occurred?

5 A No.

6 Q Is there typically someone who would be the  
7 point of contact for terminating enhancements?

8 A So to terminate that would have to go to my  
9 upper management.

10 Q And who would that have been at that time?

11 A It would be the same manager,  
12 Naren Mikkilineni.

13 Q Do you know how far that prior enhancement  
14 progressed in development?

15 A Up to the beginning of beta testing.

16 Q And what does that mean?

17 A I was using your words from the last  
18 deposition. I call it quality assurance testing, and  
19 you said, "Is that like beta testing?"

20 Q So quality assurance to make sure everything  
21 functions?

22 A Yes.

23 Q So it had been pretty much implemented to the  
24 point of testing, then the next step would be  
25 implementation going live?

1           A     Yes.  It's a long testing process, but yes.

2           Q     How long is the testing process?

3           A     There's functional testing, which is just at  
4     the application level, and then there is  
5     interrelationship testing where you have to test like  
6     the waterfall effect, how it impacts other  
7     applications.

8                     Then we have to have the Bureau of Firearms  
9     verify and test it that we implemented the  
10    functionality in which they requested.  So that all --  
11    that usually takes between -- usually between six to  
12    eight weeks.

13          Q     Basically, about the same time that the  
14    second project that was implemented took?

15          A     No.  That one took about four months.

16          Q     Was that because of the assault weapons  
17    portion of it?

18                   MR. ADAMS:  Objection.  This is getting  
19    really specific into that -- that one instance that we  
20    already did cover.

21                   So I'm not going to instruct you not to  
22    answer, but we'll start doing that soon.

23                   THE WITNESS:  No problem.  That was a  
24    separate project in its own timeline.

25    ///

1 BY MR. DAVIS:

2 Q In order to get to the point of quality  
3 assurance testing, a project normally has tickets in  
4 the Jira system, correct?

5 A Yes.

6 Q And do you recall the number for the  
7 enhancement -- the prior enhancement, the Jira number?

8 A No.

9 MR. DAVIS: I don't think I have any other  
10 questions.

11 MR. ADAMS: Okay. I don't have any  
12 questions. Code?

13 MR. DAVIS: Yes. I think that's what we'll  
14 do.

15 MR. ADAMS: I want a rush.

16 (Proceedings concluded at 11:30 a.m.)

17 \* \* \*

# EXHIBIT J

**In The Matter Of:**  
*Franklin Armory, Inc., et al. v.*  
*California DOJ, et al.*

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*Christina Rosa-Robinson*  
*November 27, 2023*

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1 that was like a three-arrow four-year project.

2 Q Understood. Would you agree that the  
3 ammunition background check system implementation is a  
4 much larger project than adding an "other" option to  
5 the drop-down menu?

6 A Yeah, it definitely was a bigger project,  
7 yeah.

8 Q And, again, this is me betraying my lack of  
9 technical knowledge here, but -- how do I phrase this?  
10 Of a project of comparable scope to adding an "other"  
11 option, so a project of about that level of work, is a  
12 year and a half a normal time frame to get something  
13 done?

14 A It absolutely can be. Yeah. I mean, it  
15 absolutely can be, yeah.

16 Q And why does it -- it's hard to ask questions  
17 involving details, but why would you say it takes that  
18 long, a year and a half to go from meeting to  
19 implementation?

20 A Well, there is a lot of testing that has to  
21 be involved, right? Before that, there is -- we have  
22 to do requirements gathering. And that in itself does  
23 take time. That takes several weeks, a few months  
24 even, right? So it's not only that, I mean, because  
25 we are kind of a small unit, a small-ish section,



1 right? We're never just working on one mandate or one  
2 project at a time.

3 So there's always, you know, resource  
4 allocation that -- you know, that come into play as  
5 well. If we happen to get other -- you know, other  
6 showstoppers or other, you know, critical tickets that  
7 might have to come, we have to address those, too.

8 So just like taking that into account and  
9 then, you know, usually taking about two or three  
10 months of requirements gathering just for that, and  
11 then there's development and testing. I mean, that --  
12 a year and a half is definitely -- could be typical  
13 for adding something like "other" gun into -- into the  
14 DES.

15 Q Okay. And just not to beat the dead horse  
16 here, but you said it could be typical. Is it typical  
17 or isn't it?

18 A I don't know. I don't know.

19 Q All right. So you had this meeting at some  
20 time in early 2020, you estimate?

21 A Yeah.

22 Q When was the next time the "other" option  
23 came up that you can recall after that meeting?

24 A I'm sorry. Can you say --

25 Q Sure. Sure. So you had that meeting in

1 early 2020 at some point?

2 A Okay.

3 Q In the first two months of 2020 after that  
4 meeting where you discuss the "other" option, when did  
5 you next work on this project?

6 A Well, I do remember that when we had that  
7 meeting, right, that it was going to be coming up.  
8 That's when we had to start doing analysis. And we  
9 did some requirements gathering with the Bureau of  
10 Firearms, and so I would imagine -- I think we began  
11 working on it in the beginning of February of 2020,  
12 yeah.

13 Q And what -- if you recall, what urgency  
14 classification did the project -- I don't know if the  
15 whole project has an urgency classification or if it's  
16 individual tasks. Why don't we ask that first.

17 Did the adding the "other" option have its  
18 own designation like showstopper, high or critical, or  
19 is that system reserved for tasks within a project?

20 A I don't recall if it had a showstopper, you  
21 know, priority to it. I just remember that it was  
22 something that we had to basically, you know, devote  
23 all of our attention to. I don't recall, right, if  
24 there was a Jira or what the Jira's classification  
25 was. I just remember that we had a very limited, you

# EXHIBIT K

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3  
4 FRANKLIN ARMORY, INC. and )  
CALIFORNIA RIFLE & PISTOL )  
5 ASSOCIATION, INCORPORATED, )

6 Petitioners-Plaintiffs, )

7 vs. )

Case No.  
20STCP01747

8 CALIFORNIA DEPARTMENT OF JUSTICE, )  
XAVIER BECERRA, in his official )  
9 capacity as Attorney General for )  
the State of California, and DOES )  
10 1-10, )

11 Respondents-Defendants. )  
12 \_\_\_\_\_ )

13  
14  
15 REMOTE DEPOSITION OF

16 MARICELA LEYVA

17 PMK FOR THE CALIFORNIA DEPARTMENT OF JUSTICE

18 VOLUME I

19 Sacramento, California

20 Thursday, January 11, 2024

21  
22  
23  
24 Reported by: Linda Jones  
CSR No. 9054  
25 LitiCourt Job No. 206152

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1 A Yes.

2 Q Aside from it being on your screen, does it look  
3 different than what you saw before?

4 A No.

5 Q Let's turn to Page 4.

6 Do you see a list of items titled "Request For  
7 Production Of Documents"?

8 A Yes.

9 Q All right. Did you bring any of the documents  
10 you were requested to bring with you today?

11 MR. ADAMS: Anna, for these responses I sent over an  
12 objection two days ago.

13 MS. BARVIR-BOONE: Yes, they were received. Thank  
14 you.

15 MR. ADAMS: Any of the objections obviously she's  
16 not going to speak about the documents.

17 BY MS. BARVIR-BOONE:

18 Q So the objections notwithstanding, you're not  
19 producing any documents today?

20 MR. ADAMS: You can go ahead and answer that,  
21 Ms. Levya.

22 THE WITNESS: No.

23 BY MS. BARVIR-BOONE:

24 Q Thank you.

25 What is your understanding of why you're here

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1 BY MS. BARVIR-BOONE:

2 Q Ms. Leyva, let me figure out where I was. I  
3 just have a few more questions for you. I think I had  
4 last asked you about manufacturer. Okay.

5 Do you recall whether an important notice  
6 regarding the sale of "Other" firearms was drafted  
7 sometime in early 2020 informing California FFLs that  
8 the -- or the DES gun type field for long gun  
9 transactions only has been enhanced to accept an "Other"  
10 firearm?

11 A There was a bulletin drafted. I don't know the  
12 specific date.

13 Q If I were to tell you that there were two  
14 different important notices regarding the sale of "Other"  
15 firearms, one about specifically about the Franklin  
16 Armory Title 1 centerfire and one about "Other" firearms  
17 more generally, would that be your recollection?

18 A I don't recall.

19 Q You don't recall. Okay.

20 Let's take one last look at Exhibit 27. I think  
21 we already confirmed this that we didn't -- you didn't  
22 produce those documents at least in response to this but  
23 may have sent over responsive documents for your last  
24 deposition. So I won't ask you that.

25 I think that is currently all I have for you.

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1           Andrew, do you have anything you would like to  
2     add?

3           MR. ADAMS:   No questions.

4           MS. BARVIR-BOONE:   So then at this point, I'm going  
5     to need to suspend this deposition subject to defendants  
6     turning over the documents that we requested and  
7     continuing your deposition at a later date or if we need  
8     to seek appropriate relief from the court before we do.  
9     So I may have some questions for you in the future.  
10    Okay?

11          THE WITNESS:   Okay.

12          MS. BARVIR-BOONE:   So I will be in touch with  
13     opposing counsel if that should happen and we'll get you  
14     a new date.   Okay?

15          THE WITNESS:   Okay.

16          MS. BARVIR-BOONE:   Ms. Jones, I'm going to need to  
17     request an expedited copy of today's transcript.   My  
18     secretary will be in touch with you about that.

19                 Is that okay?

20          THE REPORTER:   Yes.

21          MS. BARVIR-BOONE:   Anything else we need to cover  
22     before we finish off?

23          THE REPORTER:   Mr. Adams, would you like to order a  
24     copy of the transcript?

25          MR. ADAMS:   I do.   I don't need it expedited but I

Document received by the CA 2nd District Court of Appeal.

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I declare: I am employed in the City of Los Angeles, County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 300 South Spring Street, Room 1700, Los Angeles, California 90013. On July 8, 2025, I served the documents named below on the parties in this action as follows:

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/s/ Sandra Dominguez  
Signature