

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
IN AND FOR THE SECOND APPELLATE DISTRICT

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

Plaintiffs and Appellants,

v.

CALIFORNIA DEPARTMENT OF
JUSTICE, XAVIER BECERRA, in his
Official Capacity as Attorney General
for the State of California, and DOES 1-
10,

Defendants and Respondents.

Case No. B340913

**APPELLANTS' NOTICE OF ERRATA RE:
APPELLANTS' OPENING BRIEF**

Superior Court of California, County of Los Angeles
Case No. 20STCP01747
Honorable Daniel S. Murphy, Judge

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NOTICE OF ERRATA

Appellants filed their Opening Brief on May 21, 2025. Upon review of their brief, Appellants recently discovered the following citation errors that require correction:

1. On page 41, Appellants provided an inaccurate citation to *Jackson v. City & County of San Francisco*. The correct citation is *Jackson v. City & County of San Francisco* (9th Cir. 2014) 746 F.3d **953, 967**.

2. In the last two paragraphs of page 42, Appellants used *ibid.* as a short citation three times; each appears to refer back to *United States v. Salerno* (1987) 481 U.S. 739. The correct citation, however, is to *County of Sacramento v. Lewis* (1998) 523 U.S. 833. During the revision process, counsel inadvertently displaced the first full *Lewis* citation, moving it to the top of page 43. As a result, the *ibid.* citations on page 42 no longer follow *Lewis*, and instead appear to refer back to an earlier citation to *Salerno*. Counsel thus inserted a short citation naming *Salerno* in the following paragraph to comply with the California Style Manual's rules for short cites. In fact, that paragraph continued to discuss *Lewis*.

A corrected version of the relevant excerpt is reproduced below. It restores the proper citation sequence so that the *ibid.* citations refer back to *Lewis*, the authority Appellants intended to cite throughout. There are no other changes except for the corrected citations in bold:

To be sure, in substantive due process cases premised on abusive executive action, the plaintiff must show that the complained of government action “shocks the conscience, or interferes with rights ‘implicit in the concept of ordered liberty.’” (*United States*

v. Salerno (“*Salerno*”) (1987) 481 U.S. 739, 746, quoting *Rochin v. California* (1952) 342 U.S. 165, 172.) And “liability for negligently inflicted harm is categorically beneath th[is] threshold.” (*Cnty. of Sacramento v. Lewis* (1998) 523 U.S. 833, 849 (“*Lewis*”).) But “conduct *intended to injure* in some way unjustifiable by any government interest is the sort of official action most likely to rise to the conscience-shocking level.” (*Ibid.*)

This is not to say that culpability falling somewhere between these two extremes does not also “shock the conscience.” (*Lewis, supra*, 523 U.S. at pp. 849-850.) The Supreme Court has, at least once, recognized “that such conduct is egregious enough to state a substantive due process claim.” (*Ibid.* [holding that “deliberate indifference” satisfies the fault requirement for substantive due process claims based on the medical needs of pretrial detainee]; see also *Castro v. City of Los Angeles*, (9th Cir. 2016) 833 F.3d 1060, 1067-1068 [holding that substantive due process requires a showing of “deliberate indifference”]; *Sharp v. Becerra* (“*Sharp*”) (E.D. Cal. 2019) 393 F. Supp. 3d 991, 997-98 [same].)

In short, the “constitutional concept of conscience-shocking behavior” (*Lewis, supra*, 523 U.S. at p. 849) does not require that the government go to the sort of disturbing extremes one might envision when thinking generally of “shocking” conduct.

3. Due to the changes noted above, the Certificate of Word Count on page 49 should state that the brief contains 9,694 words instead of 9,687.

Dated: November 17, 2025 MICHEL & ASSOCIATES, P.C.

s/Anna M. Barvir

Anna M. Barvir
Attorneys for Plaintiffs-Appellants

PROOF OF SERVICE

Case Name: *Franklin Armory, Inc., et al. v. California Department of Justice, et al.*
Court of Appeal Case No. B340913
Superior Court Case No. 20STCP01747

I, Laura Fera, am employed in the City of Long Beach, Los Angeles County, California. I am over the age eighteen (18) years and am not a party to the within action. My business address is 180 East Ocean Boulevard, Long Beach, California 90802.

On November 17, 2025, I served a copy of the foregoing document described as **APPELLANTS' NOTICE OF ERRATA RE: OPENING BRIEF**, on the following parties, as follows:

Kenneth G. Lake
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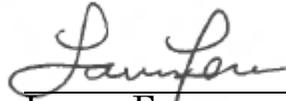
Attorneys for Respondent

These parties were served as follows: I served a true and correct copy by electronic transmission through TrueFiling. Said transmission was reported and completed without error.

Superior Court of California, County of Los Angeles
Stanley Mosk Courthouse
Judge Daniel S. Murphy
111 North Hill Street
Department 32
Los Angeles, CA 90012

This party was served by mail. I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. Under the practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date is more than one day after date of deposit for mailing an affidavit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Executed on November 17, 2025, at Long Beach, California.

A handwritten signature in cursive script, appearing to read "Laura Fera".

Laura Fera
Declarant