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FRESNO COUNTY SUPERIOR COURT
By: C Prendergast, Deputy

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF FRESNO

DANNY VILLANUEVA, NIALL
STALLARD, RUBEN BARRIOS,
CHARLIE COX, MARK STROH,
ANTHONY MENDOZA, AND
CALIFORNIA RIFLE & PISTOL
ASSOCIATION, INCORPORATED,

Petitioners and Plaintiffs,

vs.

XAVIER BECERRA, in his official
capacity as Attorney General for the State
of California; STEPHEN LINDLEY, in his
official capacity as Chief of the California
Department of Justice, Bureau of Firearms;
CALIFORNIA DEPARTMENT OF
JUSTICE; and DOES 1-10,

Respondents and Defendants.

CASE NO. 17CECG03093

**FIRST AMENDED VERIFIED PETITION
FOR WRIT OF MANDATE AND
COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

[Code Civ. Proc., §§ 1085, 526, 1060; Gov.
Code, § 11350]

1 magazine” to be an “assault weapon.”

2 5. Because the registration period for “assault weapons” has long been closed, AB
3 1135 and SB 880 opened a new registration window, allowing for the continued possession of the
4 countless newly affected rifles and pistols already owned by California residents, as long as they
5 are registered as “assault weapons” prior to July 1, 2018, and in accordance with regulations
6 established by Respondent California Department of Justice (“DOJ”).

7 6. In order to enact regulations, a state agency must comply with the requirements set
8 out in California’s Administrative Procedure Act (“APA”) (Gov. Code, § 11340, et seq.), unless
9 the Legislature expressly exempts the enforcing state agency from those requirements. AB 1135
10 and SB 880 do expressly exempt Respondent DOJ from the requirements of the APA, but only
11 for the limited purpose of creating *registration procedures* for the newly defined “assault
12 weapons” created by those bills. (Pen. Code, § 30900, subd. (b)(5).)

13 7. Nevertheless, DOJ’s Bureau of Firearms (“BOF”) has promulgated and is currently
14 enforcing a whole host of regulations that go far beyond the registration process without adhering
15 to the APA’s requirements, including ones regulating activities that necessarily occur *after* the
16 registration process. Some of these regulations also unlawfully expand the scope of the AWCA’s
17 registration requirements and the statutory definition of “assault weapon” itself.

18 8. **Individual owners of firearms deemed “assault weapons” under the new law,**
19 **including Petitioners and members and supporters of Petitioner CRPA, are irreparably**
20 **harmed as a direct result of Respondents’ adoption of these illegal regulations. Accordingly,**
21 **Petitioners bring this action seeking: (1) a writ of mandamus under Code of Civil Procedure**
22 **section 1085 to invalidate those regulations; (2) a declaration under Government Code**
23 **section 11350(a) and Code of Civil Procedure sections 526, 1060 that those regulations are**
24 **void and unenforceable; and (3) an injunction prohibiting Respondents and their employees**
25 **and agents from enforcing these invalid regulations.**

26 **PARTIES**

27 **I. PETITIONERS-PLAINTIFFS**

28 9. Petitioner Danny Villanueva is a resident of Fresno County, California and a

1 citizen of the United States. Petitioner Villanueva is not prohibited from firearm ownership under
2 federal or California law. Petitioner Villanueva lawfully owns a semi-automatic, centerfire rifle
3 that does not have a “fixed” magazine. Without a “fixed” magazine, Petitioner Villanueva’s rifle
4 is now classified as an “assault weapon” under the AWCA and must be registered as such in
5 compliance with Respondents’ illegal regulations. Because Respondents’ regulations were not
6 adopted according to the requirements of the APA or in conformance the limited exception
7 afforded by Penal Code section 30900(b)(5), Petitioner Villanueva was deprived of his statutory
8 right under the APA to comment on them before their enforcement. Moreover, Petitioner
9 Villanueva will be forced to comply with regulations that go beyond what is statutorily allowed or
10 required. And he will be subject to criminal prosecution should he violate or otherwise fail to
11 comply with Respondents’ illegal regulations.

12 10. Petitioner Niall Stallard is a resident of Fresno County, California and a citizen of
13 the United States. Petitioner Stallard is not prohibited from firearm ownership under federal or
14 California law. Petitioner Stallard lawfully owns a semi-automatic, centerfire rifle that does not
15 have a “fixed” magazine. Without a “fixed” magazine, Petitioner Stallard’s rifle is now classified
16 as an “assault weapon” under the AWCA and must be registered as such in compliance with
17 Respondents’ illegal regulations. Petitioner Stallard also owns a semi-automatic shotgun that does
18 not have a “fixed” magazine. Petitioner Stallard’s shotgun is not considered an “assault weapon”
19 under the AWCA, but is considered an “assault weapon” according to Respondents’ illegal
20 regulations which unlawfully expand the definition of an “assault weapon” to include her shotgun.
21 Because Respondents’ regulations were not adopted according to the requirements of the APA or
22 in conformance the limited exception afforded by Penal Code section 30900(b)(5), Petitioner
23 Stallard was deprived of her statutory right under the APA to comment on them before their
24 enforcement. Moreover, Petitioner Stallard will be forced to comply with regulations that go
25 beyond what is statutorily allowed or required. And she will be subject to criminal prosecution
26 should she violate or otherwise fail to comply with Respondents’ illegal regulations.

27 11. Petitioner Ruben Barrios is a resident of Fresno County, California, and a citizen
28 of the United States. Petitioner Barrios is not prohibited from firearm ownership under federal or

1 California law. Petitioner Barrios lawfully owns a semi-automatic, centerfire rifle that does not
2 have a "fixed" magazine. Petitioner Barrios did not acquire this rifle from a manufacturer but
3 lawfully built it. Although not required to do so under either federal or state law, Petitioner
4 Barrios voluntarily inscribed a serial number onto his rifle. Without a "fixed" magazine,
5 Petitioner Barrios' rifle is now classified as an "assault weapon" under the AWCA and must be
6 registered as such in compliance with Respondents' illegal regulations. As a condition of
7 registration, Respondents' illegal regulations will require Petitioner Barrios to first apply to DOJ
8 for a unique serial number that must be inscribed onto the firearm, and is otherwise subject to all
9 of Respondent's illegal regulations. Because Respondents' regulations were not adopted
10 according to the requirements of the APA or in conformance the limited exception afforded by
11 Penal Code section 30900(b)(5), Petitioner Barrios was deprived of his statutory right under the
12 APA to comment on them before their enforcement. Moreover, Petitioner Barrios will be forced
13 to comply with regulations that go beyond what is statutorily allowed or required. And he will be
14 subject to criminal prosecution should he violate or otherwise fail to comply with Respondents'
15 illegal regulations.

16 12. Petitioner Charlie Cox is a resident of Riverside County, California and a citizen of
17 the United States. Petitioner Cox is not prohibited from firearm ownership under federal or
18 California law. Petitioner Cox lawfully owns a semi-automatic, centerfire rifle that does not have
19 a "fixed" magazine. Without a "fixed" magazine, Petitioner Cox's rifle is now classified as an
20 "assault weapon" under the AWCA and must be registered as such in compliance with
21 Respondents' illegal regulations. Because Respondents' regulations were not adopted according
22 to the requirements of the APA or in conformance the limited exception afforded by Penal Code
23 section 30900(b)(5), Petitioner Cox was deprived of his statutory right under the APA to
24 comment on them before their enforcement. Moreover, Petitioner Cox will be forced to comply
25 with regulations that go beyond what is statutorily allowed or required. And he will be subject to
26 criminal prosecution should he violate or otherwise fail to comply with Respondents' illegal
27 regulations.

28 13. Petitioner Mark Stroh is a resident of Riverside County, California and a citizen of

1 the United States. Petitioner Stroh is not prohibited from firearm ownership under federal or
2 California law. Petitioner Stroh lawfully owns a semi-automatic, centerfire rifle that does not have
3 a “fixed” magazine. Without a “fixed” magazine, Petitioner Stroh’s rifle is now classified as an
4 “assault weapon” under the AWCA and must be registered as such in compliance with
5 Respondents’ illegal regulations. Because Respondents’ regulations were not adopted according
6 to the requirements of the APA or in conformance the limited exception afforded by Penal Code
7 section 30900(b)(5), Petitioner Stroh was deprived of his statutory right under the APA to
8 comment on them before their enforcement. Moreover, Petitioner Stroh will be forced to comply
9 with regulations that go beyond what is statutorily allowed or required. And he will be subject to
10 criminal prosecution should he violate or otherwise fail to comply with Respondents’ illegal
11 regulations.

12 14. Petitioner Anthony Mendoza is a resident of Alameda County, California, and a
13 citizen of the United States. Petitioner Mendoza is not prohibited from firearm ownership under
14 federal or California law. Petitioner Mendoza lawfully owns a semi-automatic, centerfire rifle that
15 does not have a “fixed” magazine. Without a “fixed” magazine, Petitioner Mendoza’s rifle is now
16 classified as an “assault weapon” under the AWCA and must be registered as such in compliance
17 with Respondents’ illegal regulations. Petitioner Mendoza also owns a semi-automatic shotgun
18 that does not have a “fixed” magazine. Petitioner Mendoza’s shotgun is not considered an “assault
19 weapon” under the AWCA, but is considered an “assault weapon” according to Respondents’
20 illegal regulations which unlawfully expand the definition of an “assault weapon” to include his
21 shotgun. Because Respondents’ regulations were not adopted according to the requirements of the
22 APA or in conformance the limited exception afforded by Penal Code section 30900(b)(5),
23 Petitioner Mendoza was deprived of his statutory right under the APA to comment on them before
24 their enforcement. Moreover, Petitioner Mendoza will be forced to comply with regulations that
25 go beyond what is statutorily allowed or required. And he will be subject to criminal prosecution
26 should he violate or otherwise fail to comply with Respondents’ illegal regulations.

27 15. Petitioner California Rifle & Pistol Association, Incorporated (“CRPA”) is a
28 nonprofit organization that works to preserve constitutional and statutory rights of gun ownership,

1 including the right to self-defense, right to hunt, and the right to keep and bear arms. CRPA is
2 dedicated to promoting the shooting sports by conducting state championship matches for adults
3 and young shooters, teaching firearms safety, and supporting state teams that attend the national
4 championships each year. CRPA represents the interests of the tens of thousands of its members
5 who reside in the State of California, including those in Fresno County, who are too numerous to
6 conveniently bring this action individually and whose interests include their desire to register
7 firearms potentially impacted by the new “assault weapon” definition and subject to Respondents’
8 illegal regulations challenged herein. Because Respondents’ illegal regulations were not adopted
9 according to the requirements of the APA or in conformance the limited exception afforded by
10 Penal Code section 30900(b)(5), CRPA members have been deprived of their statutory right under
11 the APA to comment on them before their enforcement. Moreover, CRPA members will be
12 forced to comply with regulations that go beyond what is statutorily allowed or required. And they
13 will be subject to criminal prosecution should they violate or otherwise fail to comply with
14 Respondents’ illegal regulations.

15 **II. RESPONDENTS**

16 16. Respondent Xavier Becerra is the Attorney General of California, the state’s chief
17 law enforcement officer. Pursuant to Article V, Section 13, of the California Constitution and
18 Government Code sections 12524, 12550, and 12560, Respondent Becerra has supervisory
19 powers over the district attorneys, sheriffs, and other law enforcement officials to ensure the
20 “uniform and adequate” enforcement of the laws of the state of California. He is also charged
21 with the duty to instruct local prosecutors and law enforcement agencies regarding the meaning of
22 the laws of the state, including the implementation of the new “assault weapon” regulations.
23 Respondent Becerra is sued in his official capacity.

24 17. Respondent Stephen Lindley is the Director of the DOJ Bureau of Firearms. As
25 such, he is authorized to execute, interpret, and enforce the laws of the State of California
26 pertaining to, among other things, “assault weapons” and the registration of such firearms,
27 including the regulations, practices, and policies at issue in this action. Respondent Lindley is
28 sued in his official capacity.

1 **GENERAL ALLEGATIONS**

2 **I. LAWS GOVERNING ADOPTION OF REGULATIONS**

3 24. The APA was enacted as a result of “unprecedented growth” in the number of
4 administrative regulations in recent years, many of which are frequently “unclear and
5 unnecessarily complex, even when the complicated and technical nature of the subject matter is
6 taken into account.” (Gov. Code, § 11340.) To combat the substantial time and public funds
7 wasted in adopting unnecessary regulations, the Legislature created the Office of the
8 Administrative Law (“OAL”) to oversee the rulemaking process in California. (Gov. Code, §§
9 11340–11340.1.)

10 25. On information and belief, Petitioners allege that OAL did not conduct a review
11 of Respondents’ illegal regulations to determine their compliance with the substantive and
12 procedural standards of the APA. Rather, OAL merely granted Respondents’ request to “file and
13 print” the regulations pro forma. As a result, there was no “approval” of Respondents’ illegal
14 regulations by OAL.

15 26. The APA requires that for each regulation to be effective, it must be within the
16 scope of authority conferred to a state agency and in accordance with standards prescribed by
17 other provisions of law. (Gov. Code, § 11342.1.) In order to have appropriate “authority,” a
18 regulation must be supported by a provision of law that permits or obligates the agency to adopt,
19 amend, or repeal the regulation. (Gov. Code, § 11349, subd. (b).)

20 27. If a rule constitutes a “regulation,” and there is no statutory provision expressly
21 excusing the agency from complying with the APA, the rule is invalid and cannot be enforced if
22 it is enacted without satisfying the APA’s requirements. (See Gov. Code, § 11346; and *Tidewater*
23 *Marine Western, Inc. v. Bradshaw* (1996) 14 Cal.4th 557, 576.)

24 28. Even if an agency complies with the APA’s requisite rulemaking process, courts
25 can conduct an independent review of whether a regulation is consistent with the statute
26 authorizing its adoption. (*Watkins v. Cty. of Alameda* (2009) 177 Cal. App. 4th 320, 335; and
27 Gov. Code, §§ 11342.1–11342.2.) If a court finds a regulation is not “within the scope of the
28 authority conferred,” the regulation is void. (*Ibid.*) And, a regulation that impairs the scope of a

1 statute must be declared void. (*Bearden v. U.S. Borax, Inc.* (2006) 138 Cal.App.4th 429, 436
2 internal quotation marks and citations omitted.)

3 29. “Any interested person may obtain a judicial declaration as to the validity of any
4 regulation . . . by bringing an action for declaratory relief in the superior court in accordance with
5 the Code of Civil Procedure.” (Gov. Code, § 11350(a).)

6 **II. THE “ASSAULT WEAPON CONTROL ACT”**

7 30. The AWCA generally makes it illegal to manufacture or cause to be
8 manufactured, distribute, transport, or import into the state for sale, keep for sale, offer or expose
9 for sale, or give, or lend an “assault weapon.”¹ A violation is punishable as a felony by
10 imprisonment for four, six, or eight years.² The AWCA also generally prohibits the possession of
11 any “assault weapon,” which is punishable as either a misdemeanor or felony.³

12 31. The class of firearms that California defines as “assault weapons” has changed
13 (and expanded) multiple times since the AWCA was first enacted in 1989. As originally written,
14 the AWCA expressly declared over 55 firearms, listed by make and model, to be “assault
15 weapons” under Penal Code section 30520 (former Penal Code section 12276.5).⁴

16 **A. Category 1 “Assault Weapons”**

17 32. In 1991, the Legislature amended the AWCA to add several new firearms to the
18 list of restricted “assault weapons.”⁵ Following those amendments, this list of firearms became
19 known as “Category 1 assault weapons.”

20 33. “Category 1 assault weapons” already in the possession of individuals prior to
21 their classification as “assault weapons” were required to be registered with DOJ on or before

22
23 ¹ Pen. Code, § 30600(a).

24 ² *Ibid.*

25 ³ Pen. Code, § 30605(a).

26 ⁴ In 2010, the legislature reorganized, without substantive change, all the Penal Code
27 sections relating to “deadly weapons,” including those relating to “assault weapons.” See Sen. B.
1080, 2009-2010 Reg. Sess. (Cal. 2010).

28 ⁵ Pen. Code, § 30510 (former Pen. Code, § 12276 (1992)).

1 March 31, 1992, following an extension resulting from the 1991 amendment.⁶ It is no longer
2 possible to register a “Category 1 assault weapon,” and individuals who still possess such
3 firearms can only legally do so if the firearms were properly registered.

4 34. In order to register a “Category 1 assault weapon,” individuals had to obtain a
5 registration form from a local police or sheriff’s office.⁷ The form was completed under penalty
6 of perjury, and required the applicant to provide a thumbprint, pay a \$20 fee, and list specific
7 information about their firearm, including the serial number, make, model, and caliber.⁸

8 **B. Category 2 “Assault Weapons”**

9 35. In 2000, the California Supreme Court explained the legal requirements DOJ had
10 to meet to add a firearm to the list of “assault weapons.”⁹ Immediately following this decision,
11 DOJ added more than 60 firearms to that list.¹⁰ These firearms became known as “Category 2
12 assault weapons.” But in 2006, the legislature repealed DOJ’s authority to add firearms to the list
13 of “assault weapons,” and as a result the Category 1 and 2 list of is now static.¹¹

14 36. Category 2 firearms already in the possession of individuals prior to their
15 classification as “assault weapons” were required to be registered with DOJ on or before January
16 23, 2001. It is no longer possible to register a Category 2 “assault weapon,” and individuals who
17 still possess such firearms can only legally do so if the firearms were properly registered.

18 37. The process for registering a firearm classified as a Category 2 “assault weapon”

19 _____
20 ⁶ Pen. Code, § 30960(a) (former Pen. Code, § 12285(f) (1992)).

21 ⁷ See *Registering of 300,000 Assault Guns Begins: Weapons: Tough First-In-Nation Law*
22 *Controls the Manufacture, Sale, Possession and Ownership of High-Powered Military-Style*
23 *Guns*, Los Angeles Times (Jan. 4, 1990)
<http://articles.latimes.com/1990-01-04/news/mn-315_1_assault-gun>.

24 ⁸ *Ibid.*

25 ⁹ *Kasler v. Lockyer* (2000) 23 Cal.4th 472.

26 ¹⁰ The list of firearms added by DOJ can be found in Title 11 of the California Code of
27 Regulations, section 5499.

28 ¹¹ Assembly Bill No. 2728 (2006) (repealing the Attorney General’s authority to declare a
firearm an “assault weapon.”)

1 was generally identical to that of the registration requirements for Category 1 “assault weapons,”
2 requiring the registrant to provide their personal information along with a thumbprint, pay a \$20
3 fee, and list their firearms serial number, make, model, caliber, and acquisition information (if
4 known).¹²

5 **C. Category 3 “Assault Weapons”**

6 38. In 1999, the legislature again amended the AWCA to further expand the
7 definition of an “assault weapon.” Unlike Category 1 and 2 “assault weapons,” which are
8 expressly listed by make and model, the legislature created a new definition for the term “assault
9 weapon” by identifying firearms based on their features and configuration.¹³ Firearms meeting
10 this definition became known as “Category 3 assault weapons.” “Category 3 assault weapons”
11 include:

- 12 (1) A semiautomatic, centerfire rifle *that has the capacity to accept a*
13 *detachable magazine and any one of the following:*
14 (A) A pistol grip that protrudes conspicuously beneath the action of the
15 weapon.
16 (B) A thumbhole stock.
17 (C) A folding or telescoping stock.
18 (D) A grenade launcher or flare launcher.
19 (E) A flash suppressor.
20 (F) A forward pistol grip.
- 21 (2) A semiautomatic, centerfire rifle that has a fixed magazine with the
22 capacity to accept more than 10 rounds.
- 23 (3) A semiautomatic, centerfire rifle that has an overall length of less than 30
24 inches.
- 25 (4) A semiautomatic pistol that *has the capacity to accept a detachable*
26 *magazine and any one of the following:*
27 (A) A threaded barrel, capable of accepting a flash suppressor, forward
28 handgrip, or silencer.
(B) A second handgrip.
(C) A shroud that is attached to, or partially or completely encircles,
the barrel that allows the bearer to fire the weapon without burning
the bearer's hand, except a slide that encloses the barrel.
(D) The capacity to accept a detachable magazine at some location
outside of the pistol grip.

27 ¹² See former Cal. Code Regs., tit. 11, §§ 978.30–978.31 (renumbered to sections 5470 and
5471 in 2006).

28 ¹³ Pen. Code, § 30515 (former Pen. Code, § 12276.1).

- 1 (5) A semiautomatic pistol with a fixed magazine that has the capacity to
2 accept more than 10 rounds.
- 3 (6) A semiautomatic shotgun that has both of the following:
 - 4 (A) A folding or telescoping stock.
 - 5 (B) A pistol grip that protrudes conspicuously beneath the action of the
6 weapon, thumbhole stock, or vertical handgrip.
- 7 (7) A semiautomatic shotgun that has the ability to accept a detachable
8 magazine.
- 9 (8) Any shotgun with a revolving cylinder.¹⁴

10 39. Because Category 3 firearms were identified by their features and characteristics,
11 DOJ adopted regulations that defined a number of terms used in the identification of Category 3
12 “assault weapons,” stating that these definitions were “necessary to promote a clear
13 understanding” of the new laws.¹⁵ The regulations were submitted under California’s APA
14 rulemaking process, which includes “comprehensive public notice and comment requirements,”
15 and that “documents and information on which the rulemaking action is based are available for
16 review and inspection.”¹⁶

17 40. “Category 3 assault weapons” already in the possession of individuals prior to
18 their classification as “assault weapons” were required to be registered in compliance with these
19 regulations on or before December 31, 2000. It is no longer possible to register a Category 3
20 “assault weapon,” and individuals who still possess such firearms can only legally do so if they
21 were properly registered. The same registration application for Category 2 “assault weapons” was

22 ¹⁴ Pen. Code, § 30515(a) (2016), italics and bold added to subdivisions (a)(1) and (a)(4) to
23 highlight the only two sections that are modified by the recent change in California law and that
24 serve as the basis of the regulations at issue.

25 ¹⁵ See “Initial Statement of Reasons” for regulations for Senate Bill No. 23, available at
26 <<https://www.oag.ca.gov/sites/all/files/agweb/pdfs/firearms/regs/isor.pdf>> (last visited June 22,
27 2017).

28 ¹⁶ *Regular Rulemaking Process*, Office of Administrative Law,
<https://oal.ca.gov/rulemaking_process/regular_rulemaking_process/> (last visited June 22,
2017).

1 used by individuals to register Category 3 “assault weapons.”¹⁷

2 **D. Category 4 “Assault Weapons”**

3 41. Because “Category 3 assault weapons” must have “the capacity to accept a
4 detachable magazine,” owners of such firearms who preferred to keep safety and accuracy-
5 enhancing features like a pistol grip, thumbhole stock, flash suppressor, or adjustable stock
6 (which would otherwise be banned under the Category 3 definition) could avoid their firearm
7 being labeled an “assault weapon” by disabling its capacity to accept a detachable magazine. To
8 do so, they typically retrofitted their firearms with an aftermarket product commonly known as a
9 “magazine lock” or “bullet-button.”

10 42. Whereas the standard magazine release for a “detachable magazine” operates with
11 the push of a finger, the typical “magazine lock” replaces the one-piece magazine release button
12 with a two-piece assembly that cannot be operated with the push of a finger; rather, a tool is
13 needed to reach the button to release the magazine so it can be removed. The most common
14 “tool” used is the tip of a bullet, which was, prior to AB 1135 and SB 880, expressly considered
15 under Title 11, Section 5469(a) of the California Code of Regulations, to be a “tool.” Because a
16 tool was needed to release the magazine, and because California did not consider a magazine
17 “detachable” if a “tool” is required to remove it from a firearm, a firearm with a “magazine lock”
18 did not qualify as having “the capacity to accept a detachable magazine.” Therefore, prior to
19 2017, firearms with a “magazine lock” did not fall within the “Category 3 assault weapons”
20 definition, and could be equipped with safety—and accuracy—enhancing features like a pistol
21 grip, thumbhole stock, flash suppressor, or adjustable stock without being subject to the AWCA.

22 43. In 2016, the Legislature introduced AB 1135 and SB 880, which again changed
23 California’s definition of an “assault weapon,” but only as applied to rifles and pistols (not
24 shotguns). The purpose of these bills was to make equipping a rifle or pistol with a “magazine

25
26 ¹⁷ DOJ maintained a website for the purpose of registering Category 3 “assault weapons.”
27 That website, www.regagun.org (which is no longer functional) including a statement that
28 Category 2 “assault weapons” possessed prior to August 16, 2000 must be registered on or before
January 23, 2001.” But there was no registration form specific to such firearms. An archived
version of DOJ’s website can be found at
<<https://web.archive.org/web/20010119105200/http://www.regagun.org:80/>>.

1 lock” an insufficient alteration to take that firearm outside the definition of a “Category 3 assault
2 weapon.” Specifically, California’s new definition of an “assault weapon” includes:

- 3 (a) (1) A semiautomatic, centerfire rifle *that does not have a fixed magazine but*
4 *has any one of the following:*
- 5 (A) A pistol grip that protrudes conspicuously beneath the action of the
6 weapon.
 - 7 (B) A thumbhole stock.
 - 8 (C) A folding or telescoping stock.
 - 9 (D) A grenade launcher or flare launcher.
 - 10 (E) A flash suppressor.
 - 11 (F) A forward pistol grip.
- 12 (2) A semiautomatic, centerfire rifle that has a fixed magazine with the
13 capacity to accept more than 10 rounds.
- 14 (3) A semiautomatic, centerfire rifle that has an overall length of less than 30
15 inches.
- 16 (4) A semiautomatic pistol *that does not have a fixed magazine but has any*
17 *one of the following:*
- 18 (A) A threaded barrel, capable of accepting a flash suppressor, forward
19 handgrip, or silencer.
 - 20 (B) A second handgrip.
 - 21 (C) A shroud that is attached to, or partially or completely encircles,
22 the barrel that allows the bearer to fire the weapon without burning
23 the bearer's hand, except a slide that encloses the barrel.
 - 24 (D) The capacity to accept a detachable magazine at some location
25 outside of the pistol grip.
- 26 (5) A semiautomatic pistol with a fixed magazine that has the capacity to
27 accept more than 10 rounds.
- 28 (6) A semiautomatic shotgun that has both of the following:
- (A) A folding or telescoping stock.
 - (B) A pistol grip that protrudes conspicuously beneath the action of the
weapon, thumbhole stock, or vertical handgrip.
- (7) A semiautomatic shotgun that has the ability to accept a detachable
magazine.
- (8) Any shotgun with a revolving cylinder.
- (b) *For purposes of this section, "fixed magazine" means an ammunition feeding
device contained in, or permanently attached to, a firearm in such a manner
that the device cannot be removed without disassembly of the firearm action.*¹⁸

¹⁸ Pen. Code, § 30515.

1 (Pen. Code, § 30515 [subdivisions (a)(1), (a)(4), (b) are emphasized to underscore the only
2 changes made to the definition of “assault weapon” from 2016 to 2017. Aside from these
3 changes, the Legislature made no other substantive changes to the definition of an “assault
4 weapon” under California law].)

5 44. Firearms now classified as “assault weapons” under AB 1135 and SB 880 are
6 being referred to as “Category 4 assault weapons.” Since January 1, 2017, the sale, transfer, or
7 manufacturing of such firearms has been prohibited. Thus, it is no longer possible to acquire a
8 “Category 4 assault weapon.”

9 45. Individuals who currently possess a Category 4 “assault weapon” can only legally
10 do so if they lawfully acquired and possessed it before January 1, 2017. They must also register
11 such firearms by July 1, 2018, in accordance with regulations Respondent DOJ is required to
12 adopt. (Pen. Code, § 30900, subd. (b).) Following this date, it will be illegal to possess an
13 unregistered “Category 4 assault weapon,” even if it was otherwise lawfully acquired.

14 46. Because prior registration periods have long been closed, the Legislature also
15 enacted a new subdivision (b) for Penal Code section 30900, which creates a new registration
16 window for “Category 4 assault weapons” so that existing owners could lawfully continue to
17 possess them. This new subdivision states:

- 18 (1) Any person who, from January 1, 2001, to December 31, 2016, inclusive,
19 lawfully possessed an assault weapon that does not have a fixed magazine,
20 as defined in Section 30515, those weapons with an ammunition feeding
21 device that can be readily removed from the firearm with the use of a tool,
22 shall register the firearm before January 1, 2018, but not before the
23 effective date of the regulations adopted pursuant to paragraph (5), with
24 the department pursuant to those procedures that the department may
25 establish by regulation pursuant to paragraph (5).
- 26 (2) Registrations shall be submitted electronically via the Internet utilizing a
27 public-facing application made available by the department.
- 28 (3) The registration shall contain a description of the firearm that identifies it
uniquely, including all identification marks, the date the firearm was
acquired, the name and address of the individual from whom, or business
from which, the firearm was acquired, as well as the registrant's full name,
address, telephone number, date of birth, sex, height, weight, eye color,
hair color, and California driver's license number or California
identification card number.
- (4) The department may charge a fee in an amount of up to fifteen dollars
(\$15) per person but not to exceed the reasonable processing costs of the

1 department. The fee shall be paid by debit or credit card at the time that
2 the electronic registration is submitted to the department. The fee shall be
3 deposited in the Dealers' Record of Sale Special Account to be used for
4 purposes of this section.

- 5 (5) The department shall adopt regulations *for the purpose of implementing*
6 *this subdivision*. These regulations are exempt from the Administrative
7 Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
8 Division 3 of Title 2 of the Government Code).

9 (Pen. Code, § 30900, subd. (b), italics and bold added.)

10 **E. DOJ's "Bullet-Button Assault Weapon" Regulations**

11 47. On December 30, 2016, a Friday immediately preceding New Year's Eve,
12 BOF—without notifying the public or known impacted parties—submitted proposed regulations
13 to OAL purporting to amend sections 5469 and 5473 of Title 11, Division 5 of the California
14 Code of Regulations (hereinafter, Title 11, Division 5 of the California Code of Regulations shall
15 be referred to as "11 CCR") and to add sections 5470–5472, 5474–5474.2, and 5475–5478,
16 relating to "Bullet-Button Assault Weapons," as BOF described them.

17 48. BOF requested that OAL "file and print" the regulations "ASAP" with an
18 effective date of January 1, 2017, asserting that such regulations were exempt from the APA's
19 rulemaking process by way of Penal Code section 30900(b)(5).

20 49. On or about December 30, 2016, Petitioners' counsel contacted BOF to request a
21 copy of the proposed regulations. BOF representatives informed Petitioners' counsel that DOJ
22 would not release the text of the regulations to the public or Petitioners' counsel.

23 50. Following BOF's refusal to release the text of its proposed regulations,
24 Petitioners' counsel contacted OAL to request a copy. Shortly thereafter, OAL provided
25 Petitioners' counsel with a copy of BOF's proposed regulations.

26 51. Because BOF's proposed regulations went far beyond what was necessary to
27 register a firearm as an "assault weapon," Petitioners' counsel submitted a formal request to the
28 OAL to reject BOF's proposed regulations on January 9, 2017.¹⁹

52. On the same day, Petitioners' counsel also submitted a letter to BOF demanding

¹⁹ A copy of this letter is available online at
<http://michellawyers.com/wp-content/uploads/2017/01/Letter-to-OAL-re-Bullet-Button-Assault-Weapons_1.9.17.pdf>.

1 that it withdraw the proposed regulations from OAL's consideration.²⁰

2 53. Both letters explain that Penal Code section 30900(b)(5) provides DOJ a limited
3 exemption from the APA for regulations relating only to:

- 4 (1) "[T]hose procedures" as stated in (b)(1) to register "an assault weapon that
5 does not have a fixed magazine, as defined in Section 30515, including
6 those weapons with an ammunition feeding device that can be readily
7 removed from the firearm with the use of a tool," i.e., the newly classified
8 "assault weapons";
- 9 (2) The electronic submission of the registration of an "assault weapon" as
10 required under Penal Code section 30900, subdivision (b)(2);
- 11 (3) The information for the description of the firearm to be contained in the
12 registration as required (and limited) by Penal Code section 30900,
13 subdivision (b)(3); and
- 14 (4) The registration fee which cannot exceed the reasonable processing costs
15 of the department for registration and how to pay it in compliance with
16 Penal Code section 30900, subdivision (b)(4).

17 54. Any other regulation unrelated to the above registration requirements, has not
18 been specifically exempted by the Legislature and must go through the typical rulemaking
19 procedures mandated by the APA.

20 55. Shortly before a final decision was to be issued by the OAL, BOF formally
21 withdrew its proposed regulations from consideration on February 13, 2017.

22 56. On May 15, 2017, three months after BOF withdrew its proposed regulations, it
23 again submitted proposed regulations to OAL, as "file and print only."²¹ And, once again, BOF
24 refused to provide a copy of its regulations to the public for review, and Petitioners' counsel was
25 again forced to obtain a copy from the OAL.

26 57. BOF's second set of proposed regulations remained almost completely unchanged
27 from its original proposal in December 2016.

28 58. In addition to the second set of proposed regulations, DOJ included a cover letter

26 ²⁰ A copy of this letter is available online at
27 <http://michellawyers.com/wp-content/uploads/2017/01/Letter-to-DOJ-re-Bullet-Button-Assault-Weapons_1.9.17.pdf>.

28 ²¹ A copy of DOJ's regulations can be viewed online at
<<http://michellawyers.com/wp-content/uploads/2017/05/DOJ-Submission-of-Regulation-.pdf>>.

1 purporting to respond to the letters submitted by Petitioners' counsel to OAL and BOF opposing
2 the first set of proposed regulations.²²

3 59. In response to this cover letter, Petitioners' counsel submitted a comprehensive
4 letter addressing all of the arguments raised by BOF, as well as highlighting in detail all of the
5 legal and practical issues with BOF's second set of proposed regulations.²³

6 60. After receiving BOF's cover letter and the comprehensive response letter from
7 Petitioners' counsel, OAL officially denied BOF's request to publish the regulations.²⁴ While the
8 denial mentioned that BOF submitted its proposed regulations pursuant to Government Code
9 section 11343.8, no specific reason or citation was given for the denial.

10 61. On or about July 21, 2017, BOF once again submitted proposed regulations to
11 OAL for the registration of newly-classified "assault weapons." As with its prior proposals, BOF
12 once again submitted the regulations as "File and Print Only," and refused to release a copy of
13 the text to the public. As a result, Petitioners' counsel was once again forced to request a copy
14 from OAL, which it again provided.

15 62. As submitted, this third set of proposed regulations sought adoption of 11 CCR
16 sections 5470, 5471, 5472, 5473, 5474, 5474.1, 5474.2, 5475, 5476, 5477, and 5478. They also
17 sought the amendment of existing 11 CCR section 5469, and the repeal of 11 CCR section 5473.
18 (See Exhibit "A" attached hereto.)

19 63. The only substantive change made between this third set of proposed regulations
20 and BOF's prior set—which was denied by OAL on June 26—was the date for the deadline to
21 register a newly classified "assault weapon," which was changed to reflect the amendments
22 resulting from Governor Jerry Brown signing Assembly Bill No. 103 ("AB 103") into law on
23

24 ²² A copy of this letter is can be viewed online at
25 <<http://michellawyers.com/wp-content/uploads/2017/08/AW-Reg-Cx-Cover-Letter.pdf>>.

26 ²³ A copy of this letter is available online at
27 <<http://michellawyers.com/wp-content/uploads/2017/06/FINAL-Opp-Ltr-to-DOJ-re-Bullet-Button-AWs.pdf>>.

28 ²⁴ A copy of OAL's official denial is available online at
<<https://shared.nrapvf.org/sharedmedia/1509706/2017-0512-02fp-denial.pdf>>

1 June 27, 2017, extending the registration period for newly classified “assault weapons” under SB
2 880 and AB 1135 from January 1, 2018 to July 1, 2018. (See Pen. Code, § 30900, subd. (b) (as
3 amended by AB 103).)

4 64. OAL was not required to make a decision on BOF’s regulations until August 30,
5 2017, but despite the third set of regulations being substantively identical to the prior withdrawn
6 or rejected sets, OAL officially approved BOF’s proposed regulations for publication on August
7 2, 2017, denying Petitioners’ counsel the opportunity to submit an opposition letter.

8 65. As a result of OAL’s approval, BOF’s regulations have now been published in the
9 California Code of Regulations and are currently being administered and enforced by DOJ.

10 **III. DOJ’S REGULATIONS ARE INVALID & HARM PETITIONERS**

11 66. DOJ’s exemption from the APA under Penal Code section 30900(b)(5) is
12 expressly limited to implementing Penal Code section 30900(b). That provision solely concerns
13 the registration procedures for those firearms newly defined as “assault weapons” by AB 1135
14 and SB 880, as explained in paragraph 53 above. While several of the regulations DOJ adopted
15 were indeed exempt from the APA, DOJ improperly shoe-horned various other regulations under
16 the exemption that were not entitled to such exemption.

17 67. Each of those regulations exceeds the scope of that APA exemption because they
18 go beyond merely implementing the registration scheme delineated in Penal Code section
19 30900(b) for firearms newly-designated as “assault weapons” by AB 1135 and SB 880. Because
20 these regulations are not exempt from the requirements of the APA, and otherwise fail to
21 substantially comply with its requirements, they are invalid.

22 68. In addition, a number of these regulations unlawfully enlarge the scope of or are
23 inconsistent with other existing California statutes. Such regulations are thus invalid because
24 DOJ has no authority to adopt such regulations and it abused its discretion in doing so.

25 69. Penal Code section 30900(b) requires individuals who currently possess a firearm
26 now classified as an “assault weapon” following AB 1135 and SB 880 to register their firearm
27 with DOJ before July 1, 2018 according to DOJ’s regulations. Failure to do so can lead to a
28 potential felony conviction punishable as a fine of up to \$500 and imprisonment, leading to a loss

1 of constitutionally-protected rights, including a lifetime ban on the ownership or possession of
2 firearms. (Pen. Code, §§ 30600-30605.)

3 70. Further, harm from these regulations lies in the subversion of the democratic
4 values the APA was intended to serve. The notice, comment, and review procedures of the APA
5 were enacted to secure the public benefits of openness, accessibility, and accountability in the
6 formulation of rules that implement legislative enactments. Irreparable harm to these important
7 public benefits occurs whenever a state agency unlawfully adopts a regulation without adhering
8 to the APA, as DOJ has here.

9
10 **FIRST CAUSE OF ACTION**
FOR WRIT OF MANDATE

11 **Validity of Cal. Code Regs., tit. 11, § 5469 —**
Deletion of “Assault Weapon” Term Definitions
(Code Civ. Proc., § 1085)

12
13 **(By All Petitioners Against All Respondents)**

14 71. Plaintiffs incorporate by reference the allegations in the above paragraphs as
15 though fully set forth herein.

16 72. **Respondents have a clear, present, and ministerial duty to refrain from**
17 **adopting or enforcing invalid regulations.**

18 73. **Respondents have violated that duty, or abused their discretion, by enforcing**
19 **Cal. Code Regs., tit. 11, § 5469 after adopting it on a “file and print” basis, rather than**
20 **doing so in accordance with the APA.**

21 74. Section 5469 deletes existing regulatory provisions that DOJ adopted in 1999—
22 after several public hearings and a 45-day public comment period that resulted in DOJ making
23 significant amendments to most of the provisions as originally proposed²⁵—defining the
24 following “assault weapon” terms: “detachable magazine,” “flash suppressor,” “forward pistol
25 grip,” “pistol grip that protrude conspicuously beneath the action of the weapon,” and

26
27 ²⁵ *Department of Justice Regulations for Assault Weapons and Large Capacity Magazines:*
28 *Final Statement of Reasons*, California Department of Justice,
<<https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/regs/fsor.pdf>> (last visited June 22, 2017);
see also Cal. Code Regs., tit. 11, § 5469.

1 “thumbhole stock.” (11 C.C.R. § 5469 (repealed).)

2 **75. Each of those regulatory provisions expressly and exclusively applied for the**
3 **purpose of “identification of assault weapons pursuant to Penal Code section 30515.” (11**
4 **C.C.R. § 5469 (repealed).)**

5 **76. But, DOJ’s exemption from the APA is expressly limited to *making***
6 **regulations implementing Penal Code section 30900(b). (Pen. Code, § 30900, subd. (b)(5).)**
7 **It does not apply to *deleting* any regulations, let alone ones adopted in compliance with the**
8 **APA over 17 years ago, for the purpose of implementing a statute other than Penal Code**
9 **section 30900(b). Had the Legislature intended to allow DOJ to alter such definitions without**
10 **adhering to the APA, it would have been clear in affording DOJ the authority to do so.**

11 **77. Regulations promulgated by an agency in excess of its statutory authority, or**
12 **without compliance with all substantive and procedural prerequisites to adopt such**
13 **regulations, are void and invalid.**

14 **78. Petitioners are beneficially interested in the outcome of this proceeding**
15 **because—as individuals or members and supporters of CRPA who own firearms recently**
16 **classified as “assault weapons.” Section 5469 retrospectively repeals long-standing**
17 **definitions for their firearms. And Petitioners have been denied their statutory right to be**
18 **heard and to provide input on Respondents act of repeal. This action seeks to preclude**
19 **Respondents from enforcing Section 5469 as an invalid regulation.**

20 **79. Peremptory writ relief is necessary here because Petitioners have no plain,**
21 **speedy, or adequate legal remedy to the ongoing harm caused by Respondents’**
22 **enforcement of Section 5469 because the registration period indefinitely closes on July 1,**
23 **2018. If Section 5469 is not invalidated before then, Respondents will have succeeded in**
24 **enforcing an illegal regulation, rendering pointless this entire lawsuit. Once Petitioners**
25 **register, the harm they seek to avoid with this lawsuit is inflicted and cannot be undone.**
26 **No money damages can remedy such an injury.**

27 **80. A Writ of Mandate as Petitioners pray for below should thus issue.**

28 **///**

1 99. **Should this Court hold that a writ should issue, as Petitioners pray, vacating**
2 **and annulling as unlawful Respondents’ decision to bypass the APA in adopting section**
3 **5470(d) or their decision to promulgate section 5470(d) in a manner that expands statutory**
4 **law, declaratory relief that section 5470(d) is invalid and injunctive relief prohibiting its**
5 **enforcement is necessary and appropriate.**

6 100. An actual controversy exists. Petitioners contend that Respondents are illegally
7 enforcing an invalid regulation requiring that “bullet-button” shotguns be registered by July 1,
8 2018, pursuant to Penal Code section 30900(b) because, not only did Respondents fail to comply
9 with the APA’s substantive and procedural prerequisites in promulgating such regulation, thus
10 lacking the authority to enforce it, but the regulation also illegally expands the scope of what
11 firearms must be registered under the AWCA. Defendants nevertheless currently enforce or
12 intend to enforce that regulation because Respondents contend the regulation is neither subject to
13 the APA nor expands the scope of the AWCA.

14 101. A judicial declaration as to the validity of Section 5470(d) is necessary and
15 appropriate at this time, as Respondents are currently enforcing or intend to enforce it.

16 102. Respondents’ unlawful conduct has caused and, unless enjoined by this Court,
17 will continue to cause irreparable injury to those Petitioners, including Stallard, Mendoza, and
18 countless members and supporters of Petitioner CRPA, and other similarly-situated individuals,
19 who own “bullet button” shotguns. Respondents’ enforcement of section 5470(d) means these
20 Petitioners must register firearms that the law does not require to be registered, subject to
21 potential criminal penalty, a gross expansion of statutory law. What’s more, section 5470(d) is an
22 invalid regulation because Petitioners have been denied their statutory right to be heard and to
23 provide input on it under the APA. The public in general, and these Petitioners specifically, have
24 an interest in preventing Respondents from enforcing this unlawful regulation.

25 103. Unless Section 5470(d) is enjoined by order of this Court, Petitioners Stallard,
26 Mendoza, and countless members and supporters of Petitioner CRPA, and other similarly-
27 situated individuals will continue to suffer great an irreparable harm by being subjected to and
28 forced to comply with these illegal regulations.

1 FIFTH CAUSE OF ACTION
2 FOR WRIT OF MANDATE

3 **Validity of Cal. Code Regs., tit. 11, § 5471 —**
4 **New “Assault Weapon” Term Definitions**
5 **(Code Civ. Proc., § 1085)**

6 **(By All Petitioners Against All Respondents)**

7 104. Petitioners incorporate by reference the allegations in the above paragraphs as
8 though fully set forth herein.

9 105. **Respondents have a clear, present, and ministerial duty to refrain from**
10 **adopting or enforcing invalid regulations.**

11 106. **Respondents have violated that duty, or abused their discretion, by enforcing**
12 **Cal. Code Regs., tit. 11, § 5471 after adopting it on a “file and print” basis, rather than**
13 **doing so in accordance with the APA.**

14 107. **Respondents have further violated that duty, or abused their discretion, by**
15 **enforcing Section 5471 because its provisions unlawfully alter, amend, or enlarge the scope**
16 **of statutory law.**

17 108. Section 5471 creates new definitions for forty-four “assault weapon” terms.

18 109. Forty of 11 CCR section 5471’s forty-four definitions apply to terms that have
19 nothing to do with the firearm characteristics affected by AB 1135 or SB 880 (*i.e.*, “fixed”
20 magazines). In fact, some of the terms Section 5471 creates definitions for have nothing to do
21 with defining an “assault weapon” at all, e.g., the new definition of “barrel length” promulgated
22 in subdivision (d). And most of these forty terms have existed since 2000, either without a
23 definition or were previously defined in regulations that were adopted in compliance with the
24 APA and have now been repealed by DOJ, as explained in the First Cause of Action above.
25 Section 5471 alters these long-standing “assault weapon” term definitions and replaces them with
26 newly revised definitions that were adopted without any input from the public whatsoever.
27 What’s more, countless firearms were already acquired, registered, or prohibited years ago based
28 on those terms as previously defined by statute or regulation. This means that firearms lawfully
possessed pre-2017 could be classified as “assault weapons” not by the Legislature’s adoption of

1 AB 1135 and SB 880, but by DOJ’s unilateral redefinition of terms, thereby retroactively making
2 them illegal. DOJ was not authorized to change these definitions at all by AB 1135 and SB 880,
3 much less on a “file and print” basis as they have done here.

4 110. Section 5471 is not a mere restatement of statutory law. It creates new substantive
5 definitions of critical terms defining “assault weapons.” Because there is no express exemption
6 from the APA in the California Code for promulgating regulations regarding the definition of
7 “assault weapon” terms, any regulation defining or redefining “assault weapon” terms is thus
8 subject to the procedural requirements set forth in the APA. Because DOJ has adopted such
9 definitions without satisfying the APA’s requirements, they are void.

10 111. Section 5471 also improperly expands the scope of the definition of “assault
11 weapon” to include firearms that are not “assault weapons” under the AWCA, e.g., section
12 5471(a) would improperly re-classify certain shotguns as “assault weapons” in a manner that
13 expands Penal Code section 30515, for the same reasons explained above in the Second Cause of
14 Action.

15 112. Additionally, as explained above in the First Cause of Action, DOJ’s exemption
16 from the APA does not extend to regulations defining “assault weapon” terms. Rather, it is
17 expressly limited to implementing the registration procedures for those firearms newly defined as
18 “assault weapons” under Penal Code section 30900(b), which provision expressly points to
19 another statute for the definition of those new “assault weapons,” Penal Code section 30515.

20 **113. Regulations promulgated by an agency in excess of its statutory authority, or**
21 **without compliance with all substantive and procedural prerequisites to adopt such**
22 **regulations, are void and invalid.**

23 **114. Petitioners are beneficially interested in the outcome of this proceeding**
24 **because they—as individuals or members and supporters of CRPA who own firearms**
25 **recently classified as “assault weapons”—Section 5471 replaces long-standing definitions**
26 **for their firearms. And Petitioners have been denied their statutory right of be heard and**
27 **provide input on these new definitions. This action seeks to preclude Respondents from**
28 **enforcing Section 5471 as an invalid regulation.**

1 Petitioners allege on information and belief that the Respondents contend the regulation is not
2 subject to the APA.

3 121. A judicial declaration as to the validity of Section 5471 is necessary and
4 appropriate at this time, as Respondents are currently enforcing or intend to enforce it.

5 122. Respondents' unlawful conduct has caused and, unless enjoined by this Court,
6 will continue to cause irreparable injury to Petitioners. Petitioners, including supporters and
7 members of CRPA, as owners of firearms affected or potentially affected by DOJ's regulations,
8 have been specifically harmed because Respondents' unlawful conduct has denied them their
9 statutory right to be heard and to provide input regarding regulations governing a program that
10 significantly affects both their property and liberty interests and requires them to comply with
11 illegal regulations.

12 123. The public in general, and Petitioners specifically, have an interest in preventing
13 Respondents from enforcing Section 5471.

14 124. Unless Section 5471 is enjoined by order of this Court, Petitioners will continue
15 to suffer great an irreparable harm by being subjected to and forced to comply with these illegal
16 regulations.

17 **SEVENTH CAUSE OF ACTION**
18 **FOR WRIT OF MANDATE**

19 **Validity of Cal. Code Regs., tit. 11, §§ 5472, subds. (f)–(g), 5474.2 —**
20 **Restrictions on Registrations**
21 **(Code Civ. Proc., § 1085)**

22 **(By All Petitioners Against All Respondents)**

23 125. Petitioners incorporate by reference the allegations in the above paragraphs as
24 though fully set forth herein.

25 126. **Respondents have a clear, present, and ministerial duty to refrain from**
26 **adopting or enforcing invalid regulations.**

27 127. **Respondents have violated that duty, or abused their discretion, by enforcing**
28 **Cal. Code Regs., tit. 11, §§ 5472, subds. (f)–(g), and 5474.2 after adopting them on a “file**
and print” basis, rather than doing so in accordance with the APA.

1 128. **Respondents have further violated that duty, or abused their discretion, by**
2 **enforcing Section 5472, subds. (f)–(g) and Section 5474.2 because those provisions**
3 **unlawfully alter, amend, or enlarge the scope of statutory law.**

4 129. Subdivision (f) of Section 5472 prohibits the registration of any “firearm
5 manufactured by a federally-licensed manufacturer if the firearm does not have a serial number
6 applied pursuant to federal law” as an “assault weapon.” And subdivision (g) prohibits the
7 registration of home-built firearms (defined by DOJ as a “Firearm Manufactured By Unlicensed
8 Subject” or “FMBUS”) that do “not have a serial number assigned by the Department and
9 applied by the owner or agent pursuant to section 5474.2” as an “assault weapon.”

10 130. Section 5474.2 sets forth the procedures by which individuals can obtain and
11 apply for a unique serial number from DOJ that must then be inscribed on the firearm. As stated
12 in that section, a “person seeking assault weapon registration” for a FMBUS “shall seek a
13 Department issued serial number . . . prior to initiating the assault weapon registration process.”

14 131. Taken together, subdivisions (f) and (g) of section 5472 and section 5474.2
15 prohibit individuals from registering lawfully acquired home-built firearms as “assault weapons”
16 unless first obtaining and applying a DOJ-approved serial number. Neither California or federal
17 law, however, requires individuals who own a FMBUS to apply for—let alone obtain and affix—a
18 DOJ-approved serial number on their FMBUS. What’s more, California recently enacted Penal
19 Code sections 29180 through 29184 as part of AB 857, requiring individuals who currently
20 possess a FMBUS lacking a DOJ-approved serial number to apply for and engrave a DOJ-
21 approved serial number on the firearm no later than January 1, 2019—well after the deadline to
22 register a firearm as an “assault weapon” ends on July 1, 2018. (Pen. Code, § 29180, subd. (c).)

23 132. As a result, subdivisions (f) and (g) of section 5472 and section 5474.2 unlawfully
24 expand the scope of AB 857's serialization requirements by mandating the deadline to apply a
25 serial number on a FMBUS six months earlier than statutorily required. Likewise, subdivisions
26 (f) and (g) of section 5472 and section 5474.2 also unlawfully expand the scope of Penal Code
27 section 30900, subdivision (b)(3)'s requirement that individuals simply provide a description of
28

1 the firearm, “including all identification marks,” to be registered as an “assault weapon.” They
2 require *creation* of information, not just a description of existing information.

3 133. In contrast to AB 857 and other areas of California law, Section 5474.2 also
4 requires “certain additional information” (i.e., information in addition to the serial number) to be
5 stamped on the firearm.²⁶ AB 857, however, solely requires the engraving, stamping, or
6 placement of the serial number. California’s legislature knowingly chose *not* to require additional
7 information beyond the serial number.

8 134. Also, Section 5474.2 specifies that a federally licensed firearm manufacturer
9 (commonly referred to as an “07” licensee) is required to engrave the firearm. This is incorrect. A
10 federally-licensed gunsmith or dealer (commonly referred to as an “01”) may do engraving.²⁷
11 And current California law requires anyone doing this to have a “Dangerous Weapon” Permit
12 (“DWP”) because the firearms in question are “assault weapons.” (See, e.g., Pen. Code, § 30645
13 [exception to “assault weapon” restrictions for “entities and persons who have been issued”
14 dangerous weapon permits].) Without a DWP, the firearms could not be taken to or left with a
15 firearm manufacturer/dealer/gunsmith without violating California laws restricting transfer and
16 possession of an “assault weapon.”

17 135. Section 5472, subdivisions (f) and (g), and Section 5472.2, subdivision (a)(3)(B)
18 are not mere restatements of statutory law. They create requirements for markings on a firearm
19 before the firearms can be registered that no statute requires, including, specifically, AB 1135
20 and SB 880 under which DOJ purportedly promulgated these new definitions.

21 136. Each of these regulations also exceeds the scope of DOJ’s APA exemption and
22 are thus invalid because they go beyond merely implementing the registration scheme delineated
23 in Penal Code section 30900(b) for firearms newly-designated as “assault weapons” by AB 1135
24 and SB 880.

25 ///

27 ²⁶ Failure to abide by these marking requirements will cause DOJ to deny the registration
28 of the “assault weapon.” (Cal. Code Regs., tit. 11 § 5474.2(a)(4)).

²⁷ See ATF Rul. 2009–1

1 137. Regulations promulgated by an agency in excess of its statutory authority, or
2 without compliance with all substantive and procedural prerequisites to adopt such
3 regulations, are void and invalid.

4 138. Petitioners Barrios and other similarly-situated individuals, including
5 members and supporters of Petitioner CRPA, are beneficially interested in the outcome of
6 this proceeding because they must comply with Section 5472, subs. (f)–(g) and Section
7 5474.2 to register their “assault weapon” that lacks a serial number. This action seeks to
8 preclude Respondents from enforcing Section 5472, subs. (f)–(g) and Section 5474.2 as an
9 invalid regulation.

10 139. Peremptory writ relief is necessary here because Petitioners Barrios and
11 other similarly-situated individuals, including members and supporters of Petitioner CRPA
12 with unserialized “assault weapons,” have no plain, speedy, or adequate legal remedy to
13 the ongoing harm caused by Respondents’ enforcement of Section 5472, subs. (f)–(g) and
14 Section 5474.2. Because the registration period indefinitely closes on July 1, 2018, if
15 Petitioners do not register their “assault weapons” before that date, they face a potential
16 felony conviction. (Pen. Code, §§ 30600-30605.) To register, however, Petitioners would
17 have to comply with Section 5472, subs. (f)–(g) and Section 5474.2, rendering pointless
18 their entire lawsuit, which is to prevent Respondents from enforcing illegal regulations.
19 Once Petitioners register, the harm they seek to avoid with this lawsuit is inflicted and
20 cannot be undone. No money damages can remedy such an injury.

21 140. A Writ of Mandate as Petitioners pray for below should thus issue.

22
23 **EIGHTH CAUSE OF ACTION**
24 **FOR DECLARATORY AND INJUNCTIVE RELIEF**

24 Declaration re Validity of Cal. Code Regs., tit. 11, §§ 5472, subs. (f)–(g), 5474.2 —
25 Restrictions on Registrations
26 (Gov. Code, § 11350; Code Civ. Proc., §§ 526, 1060)

26 **(By All Petitioners Against All Respondents)**

27 141. Petitioners incorporate by reference the allegations in the above paragraphs as
28 though fully set forth herein.

1 142. **Should this Court hold that a writ should issue, as Petitioners pray, vacating**
2 **and annulling as unlawful Respondents' decision to bypass the APA in adopting Section**
3 **5472, subdivisions (f)-(g) and Section 5474.2 or their decision to promulgate these**
4 **provisions in a manner that expands statutory law, declaratory relief that Section 5472,**
5 **subdivisions (f)-(g) and Section 5474.2 are invalid and injunctive relief prohibiting their**
6 **enforcement is necessary and appropriate.**

7 143. An actual controversy exists. Petitioners contend that Respondents are illegally
8 enforcing an invalid regulation that prohibits firearms that otherwise qualify for registration from
9 being registered as “assault weapons” merely for lacking a serial number because Respondents
10 failed to comply with the APA’s substantive and procedural prerequisites in promulgating such
11 regulations and thus lack authority to enforce it. Respondents nevertheless currently enforce or
12 intend to enforce those regulations because Respondents contend the regulations are not subject
13 to the APA.

14 144. A judicial declaration as to the validity of Section 5472, subdivisions (f)-(g) and
15 Section 5474.2 are necessary and appropriate at this time, as Respondents are currently enforcing
16 or intend to enforce them.

17 145. Respondents’ unlawful conduct has caused and, unless enjoined by this Court,
18 will continue to cause irreparable injury to Petitioner Barrios and other similarly-situated
19 individuals, including members and supporters of Petition CRPA, as owners of firearms affected
20 or potentially affected by DOJ’s regulations, have been specifically harmed because
21 Respondents’ unlawful conduct will required them to deface their lawfully acquired property, and
22 in doing so face potential penalties for violating federal law. And Respondents have and will
23 continue to cause CRPA members who have previously voluntarily registered their firearms
24 using a personally inscribed serial number irreparable harm because thye will be required to re-
25 apply for a serial number despite Respondents already accepting their personally inscribed serial
26 number for the purposes of voluntary registration. What’s more, Respondents have denied
27 Petitioners and other similarly situated individuals their statutory right to be heard and to provide
28

1 input regarding regulations governing a program that significantly affects both their property and
2 liberty interests.

3 146. The public in general, and Petitioners specifically, have an interest in preventing
4 Respondents from enforcing Section 5472, subdivisions (f)-(g), and Section 5474.2.

5 147. Unless Section 5472, subdivisions (f)-(g), and Section 5474.2 are enjoined by
6 order of this Court, Petitioners will continue to suffer great an irreparable harm by being
7 subjected to and forced to comply with these illegal regulations.

8 **NINTH CAUSE OF ACTON**
9 **FOR WRIT OF MANDATE**

10 **Validity of Cal. Code Regs., tit. 11, § 5473, subd. (b)(1)**
11 **— “Non-Liability” Clause**
12 **(Code Civ. Proc., § 1085)**

13 **(By All Petitioners Against All Respondents)**

14 148. Petitioners incorporate by reference the allegations in the above paragraphs as
15 though fully set forth herein.

16 149. **Respondents have a clear, present, and ministerial duty to refrain from**
17 **adopting or enforcing invalid regulations.**

18 150. **Respondents have violated that duty, or abused their discretion, by enforcing**
19 **Cal. Code Regs., tit. 11, §§ 5473, subd. (B)(1) after adopting it on a “file and print” basis,**
20 **rather than doing so in accordance with the APA.**

21 151. **Respondents have violated their duty, or abused their discretion, by**
22 **enforcing Cal. Code Regs., tit. 11, § 5473, subd. (b)(1) because its provisions unlawfully**
23 **alter, amend, or enlarge the scope of statutory law.**

24 152. Section 5473, subd. (b)(1) states that DOJ “is not responsible for and will have no
25 liability for any hardware, software, information, or other items or any services,” and that “in no
26 event shall either party be liable . . . under any theory of liability . . . for any indirect, incidental,
27 special, or consequential damages.”

28 153. Section 5473, subd. (b)(1)’s “non-liability” clause is also in direct conflict with
the California Constitution and the Information Practices Act of 1977 (“IPA”). Under the

1 California Constitution, every individual is entitled to certain inalienable rights, including the
2 right to privacy. (Cal. Const., art. I, § 1.) Out of concern with the government’s increasing
3 demand for personal information of citizens, California enacted the IPA to bolster the right to
4 privacy.

5 154. The IPA prohibits the government, including DOJ, from disclosing “any personal
6 information in a manner that would link the information disclosed to the individual to whom it
7 pertains” absent very limited exceptions. (See Civ. Code, § 1798.24.)

8 155. Because the “non-liability” clause directly conflicts with the provisions of the
9 IPA, it is contradictory to existing California law. As a result, the “non-liability” clause is
10 invalid.

11 156. Additionally, this “non-liability” clause is unrelated to the registration process for
12 a firearm now classified as an “assault weapon” pursuant to SB 880 and AB 1135. It concerns
13 DOJ’s liability after the registration process.

14 157. **Regulations promulgated by an agency in excess of its statutory authority, or**
15 **without compliance with all substantive and procedural prerequisites to adopt such**
16 **regulations, are void and invalid.**

17 158. **Petitioners are beneficially interested in the outcome of this proceeding**
18 **because they—as individuals or members and supporters of CRPA who own firearms that**
19 **qualify for registration—must comply with Section 5473, subd. (b)(1) to register their**
20 **“assault weapons.” This action seeks to preclude Respondents from enforcing Section 5473,**
21 **subd. (b)(1) as an invalid regulation.**

22 159. **Peremptory writ relief is necessary here because Petitioners have no plain,**
23 **speedy, or adequate legal remedy to the ongoing harm caused by Respondents’**
24 **enforcement of Section 5473, subd. (b)(1). Because the registration period indefinitely**
25 **closes on July 1, 2018, if Petitioners do not register their “assault weapons” before that**
26 **date, they face a potential felony conviction. (Pen. Code, §§ 30600-30605.) To register,**
27 **however, Petitioners would have to comply with Section 5473, subd. (b)(1), rendering**
28 **pointless their entire lawsuit, which is to prevent Respondents from enforcing illegal**

1 regulations. Once Petitioners register, the harm they seek to avoid with this lawsuit is
2 inflicted and cannot be undone. No money damages can remedy such an injury.

3 160. A Writ of Mandate as Petitioners pray for below should thus issue.

4 **TENTH CAUSE OF ACTION**
5 **FOR DECLARATORY AND INJUNCTIVE RELIEF**

6 Declaration re Validity of Cal. Code Regs., tit. 11, § 5473, subd. (b)(1)
7 — “Non-Liability” Clause
8 (Gov. Code, § 11350; Code Civ. Proc., §§ 526, 1060)

9 (By All Petitioners Against All Respondents)

10 161. Petitioners incorporate by reference the allegations in the above paragraphs as
11 though fully set forth herein.

12 162. Should this Court hold that a writ should issue, as Petitioners pray, vacating
13 and annulling as unlawful Respondents’ decision to bypass the APA in adopting section
14 5473, subdivision (b)(1) or their decision to promulgate section 5473, subdivision (b)(1) in a
15 manner that expands statutory law, declaratory relief that section 5473, subdivision (b)(1)
16 is invalid and injunctive relief prohibiting its enforcement is necessary and appropriate.

17 163. An actual controversy exists. Petitioners contend that Respondents are illegally
18 enforcing an invalid regulation that exempts DOJ from liability because Respondents failed to
19 comply with the APA’s substantive and procedural prerequisites in promulgating such
20 regulations and thus lack authority to enforce it. Respondents nevertheless currently enforce or
21 intend to enforce those regulations because Respondents contend the regulations are not subject
22 to the APA.

23 164. A judicial declaration as to the validity of Section 5473, subdivision (b)(1) is
24 necessary and appropriate at this time, as Respondents are currently enforcing or intend to
25 enforce it.

26 165. By mandating as a condition of registration that individuals agree to not hold DOJ
27 responsible for any indirect, incidental, special, or consequential damages under any theory of
28 liability for hardware, software, information, or other items or any services, Respondents’ have
caused and, unless enjoined by this Court, will continue to cause irreparable injury to Petitioners,

1 their members, and supporters. Petitioners, their supporters, and members, as owners of firearms
2 affected or potentially affected by DOJ's regulations because they will be required to surrender
3 their Constitutional right to privacy and protections afforded under the IPA. What's more,
4 Respondents' unlawful conduct has denied them their statutory right to be heard and to provide
5 input regarding regulations governing a program that significantly affects both their property and
6 liberty interests.

7 166. The public in general, and Petitioners specifically, have an interest in preventing
8 Respondents from enforcing Section 5473, subdivisions (b)(1).

9 167. Unless Section 5473, subdivisions (b)(1) is enjoined by order of this Court,
10 Petitioners will continue to suffer great an irreparable harm by being subjected to and forced to
11 comply with these illegal regulations.

12 **ELEVENTH CAUSE OF ACTION**
13 **FOR WRIT OF MANDATE**

14 **Validity of Cal. Code Regs., tit. 11, §§ 5474, subs. (a) &(c); and**
15 **5478, subd. (a)(2) —**
16 **Required Registration Information**
17 **(Code Civ. Proc., § 1085)**

18 **(By All Petitioners Against All Respondents)**

19 168. Petitioners incorporate by reference the allegations in the above paragraphs as
20 though fully set forth herein.

21 169. **Respondents have a clear, present, and ministerial duty to refrain from**
22 **adopting or enforcing invalid regulations.**

23 170. **Respondents have violated that duty, or abused their discretion, by enforcing**
24 **Cal. Code Regs., tit. 11, §§ 5474, subs. (a) &(c), and 5478, subd. (a)(2) after adopting them**
25 **on a “file and print” basis, rather than doing so in accordance with the APA.**

26 171. **Respondents have violated that duty, or abused their discretion, by enforcing**
27 **Section 5474, subs. (a), (c) and Section 5478, subd. (a)(2) because those provisions**
28 **unlawfully alter, amend, or enlarge the scope of statutory law.**

172. The information required by DOJ for “assault weapon” registration, as stated in
Section 5474, subd. (a), is not called for by statute.

1 173. Penal Code section 30900, subd. (b)(3) is specific as to exactly what personal
2 information is required for registration: “registrant’s full name, address, telephone number, date
3 of birth, sex, height, weight, eye color, hair color, and California driver’s license number or
4 California identification card number.”

5 174. Section 5474, subd. (a) additionally requires an applicant to provide *military ID*
6 *number, U.S. citizenship status, place of birth, country of citizenship, and alien registration*
7 *number.*

8 175. Section 5474, subd. (c) makes a prerequisite to “assault weapon” registration
9 access to fairly expensive equipment, by requiring “clear digital photographs” of any firearm
10 sought to be registered as an “assault weapon” to be included in the registration application. So it
11 would require an individual who wants to register her firearm as an “assault weapon” to have
12 access to a digital camera capable of taking photos of the firearm that DOJ may find acceptable
13 and to send the photos to DOJ.

14 176. No requirement to have access to such cameras exists under the Penal Code for
15 any type of firearm ownership or registration. Section 30900, subd. (b)(3) requires registrants to
16 provide a “description” of the firearm. Section 5474, subd. (c) requires a “depiction,” and an
17 expensive one at that. Had the legislature intended such it would have said so.

18 177. Such an expansion of a statute is not permissible via regulation. Section 5474,
19 subd. (c) is thus invalid.

20 178. For the same reasons, Section 5478, subd. (a)(2)’s digital photograph requirement
21 for voluntary deregistration is also void.

22 179. **Additionally, Section 5474, subs. (a) &(c) and Section 5478, subd. (a)(2) do**
23 **not concern the registration process, but rather what information is required to register.**
24 **By adopting these provisions without adhering to the APA and continuing to enforce those**
25 **provisions, Respondents have acted in excess of their statutory authority.**

26 180. **Regulations promulgated by an agency in excess of its statutory authority, or**
27 **without compliance with all substantive and procedural prerequisites to adopt such**
28 **regulations, are void and invalid.**

1 **provisions in a manner that expands statutory law, declaratory relief that Section 5474,**
2 **subds. (a)-(c), and Section 5478, subd. (a)(2) are invalid and injunctive relief prohibiting**
3 **their enforcement is necessary and appropriate.**

4 186. An actual controversy exists. Petitioners contend that Respondents are illegally
5 enforcing an invalid regulation that requires individuals to provide information in excess of what
6 the statute calls for as a condition of registration because Respondents failed to comply with the
7 APA's substantive and procedural prerequisites in promulgating such regulations and thus lack
8 authority to enforce it. Respondents nevertheless currently enforce or intend to enforce those
9 regulations because Respondents contend the regulations are not subject to the APA.

10 187. A judicial declaration as to the validity of Section 5474, subdivisions (a) and ©
11 and Section 5478, subdivision (a)(2) are necessary and appropriate at this time, as Respondents
12 are currently enforcing or intend to enforce them.

13 188. Respondents' unlawful conduct has caused and, unless enjoined by this Court,
14 will continue to cause irreparable injury to Petitioners, their members, and supporters.
15 Petitioners, their supporters, and members, as owners of firearms affected or potentially affected
16 by DOJ's regulations, have been specifically harmed because Respondents' unlawful conduct has
17 denied them their statutory right to be heard and to provide input regarding regulations governing
18 a program that significantly affects both their property and liberty interests.

19 189. The public in general, and Petitioners specifically, have an interest in preventing
20 Respondents from enforcing Section 5474, subd. (a), Section 5474, subd. (c), and Section 5478,
21 subd. (a)(2) .

22 190. Unless Section 5474, subd. (a), Section 5474, subd. (c), and Section 5478, subd.
23 (a)(2) are enjoined by order of this Court, Petitioners will continue to suffer great an irreparable
24 harm by being subjected to and forced to comply with these illegal regulations.

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1 198. By limiting which family members can jointly-register, Section 5474.1, subd. (b)
2 improperly limits the scope of statutorily permissible joint registrations of “assault weapons”
3 under Penal Code section 30955.

4 199. Existing California law does not limit the definition of the term “family member.”
5 Section 5474.1, subd. (b) is, therefore, in conflict with Penal Code section 30955, and thus void.

6 200. Section 5474.1, subdivision (c) also requires “proof of address” for each joint
7 registrant as a condition of registration. It also expressly establishes acceptable forms that will
8 satisfy DOJ’s “proof of address” requirement for family members residing in the same
9 household.²⁸

10 201. Nothing in the Penal Code requires joint-registrants to provide documentation
11 proving they reside at a specific address, let alone the limited types of documents deemed
12 acceptable by DOJ. If the legislature intended such a requirement, they would have expressly said
13 so as part of Penal Code section 30900, subdivision (b)’s registration requirements. (See, e.g.,
14 Penal Code § 26845 (requiring proof of residency for handgun purchases).)

15 **202. In addition, BOF adopted Section 5474.1, subds. (b)-(c)²⁹ without adhering to**
16 **the APA and Respondents continue to enforce these provisions, in excess of their statutory**
17 **authority, as those provisions do not merely concern the registration process, but rather the**
18 **scope of statutory definitions, and thus do not qualify for the APA exemption.**

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22 ²⁸ Acceptable forms of proof of address are (only) as follows: (1) Carry Concealed Weapon
23 (CCW) Permit; (2) Curio and Relic (C & R) Federal firearm license with name and address; (3)
24 Utility Bill: Cable, electricity garbage, gas, propane, alarm/security or water bill with purchaser’s
25 name on it and dated within three months of application for registration; (4) Military permanent
26 duty station orders indicating assignment within California (active duty military spouse ID is not
27 acceptable); (5) Property Deed: Valid deed or trust for the individual’s property or a certificate of
28 title; (6) Resident Hunting License; (7) Signed and dated rental agreement/contract or residential
lease; (8) Trailer certification of title; (9) DMV Vehicle Registration; and (10) Certificate of
Eligibility, as defined in section 4031, subdivision (g) of Chapter 3.

²⁹ Subsection (a) of 11 CCR section 5474.1 is merely a restatement of the law and,
therefore, not legally problematic.

1 203. Regulations promulgated by an agency in excess of its statutory authority, or
2 without compliance with all substantive and procedural prerequisites to adopt such
3 regulations, are void and invalid.

4 204. Petitioner, including members and supporters of Petitioner CRPA, are
5 beneficially interested in the outcome of this proceeding because Section 5474.1, subd. (b)
6 restricts certain otherwise qualified individuals from jointly-registering a firearm because
7 they do not meet its narrow definition of a "family member" that constricts statutory law,
8 and Section 5474.1, subd. (c) requires registrants to provide documentation beyond what is
9 called for by statute. This action seeks to preclude Respondents from enforcing Section
10 5474.1, subs. (b)-(c) as invalid regulations.

11 205. Peremptory writ relief is necessary here because Petitioners have no plain,
12 speedy, or adequate legal remedy to the ongoing harm caused by Respondents'
13 enforcement of Section 5474.1, subs. (b), (c). Section 5474.1, subs. (b) prevents people
14 who are otherwise statutorily entitled to joint registration from doing so, based on DOJ's
15 erroneously narrow interpretation of Penal Code section 30955. This results in the people
16 unable to jointly register being disqualified from possessing the firearm, and subjecting
17 them to criminal prosecution for doing so. What's more, Petitioners would have to comply
18 with Section 5474.1, subs. (c) and provide documentation in excess of what is statutorily
19 required, rendering pointless their entire lawsuit, which is to prevent Respondents from
20 enforcing illegal regulations. Once Petitioners register, the harm they seek to avoid with
21 this lawsuit is inflicted and cannot be undone. No money damages can remedy either such
22 injury.

23 206. A Writ of Mandate as Petitioners pray for below should thus issue.

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1 **FOURTEENTH CAUSE OF ACTION**
2 **FOR DECLARATORY AND INJUNCTIVE RELIEF**

3 **Declaration re Validity of Cal. Code Regs., tit. 11, § 5474.1, subs. (b)-(c) —**
4 **Joint Registration Restrictions**
5 **(Gov. Code, § 11350; Code Civ. Proc., §§ 526, 1060)**

6 **(By All Petitioners Against All Respondents)**

7 207. Petitioners incorporate by reference the allegations in the above paragraphs as
8 though fully set forth herein.

9 208. **Should this Court hold that a writ should issue, as Petitioners pray, vacating**
10 **and annulling as unlawful Respondents' decision to bypass the APA in adopting Section**
11 **5474.1, subdivisions (b)-(c) or their decision to promulgate that provision in a manner that**
12 **expands statutory law, declaratory relief that Section 5474.1, subdivisions (b)-(c) is invalid**
13 **and injunctive relief prohibiting its enforcement is necessary and appropriate.**

14 209. An actual controversy exists. **Petitioners contend that Respondents are illegally**
15 **enforcing an invalid regulation that restricts certain otherwise qualified individuals from**
16 **jointly-registering a firearm or requires them to provide unnecessary documentation**
17 **because Respondents failed to comply with the APA's substantive and procedural**
18 **prerequisites in promulgating such regulations and thus lack authority to enforce it.**
19 Respondents nevertheless currently enforce or intend to enforce those regulations because
20 Respondents contend the regulations are not subject to the APA.

21 210. A judicial declaration as to the validity of Section 5471, subdivisions (b)-(c) is
22 necessary and appropriate at this time, as Respondents are currently enforcing or intend to
23 enforce it.

24 211. Respondents' unlawful conduct has caused and, unless enjoined by this Court,
25 will continue to cause irreparable injury to Petitioners and members and supporters of Petition
26 CRPA by prohibiting certain family members from jointly-registering their firearms or otherwise
27 requiring them to provide unnecessary documentation as a condition of registration. Petitioners,
28 their supporters, and members, as owners of firearms affected or potentially affected by DOJ's
regulations, have also been harmed because Respondents' unlawful conduct has denied them

1 their statutory right to be heard and to provide input regarding regulations governing a program
2 that significantly affects both their property and liberty interests.

3 212. The public in general, and Petitioners specifically, have an interest in preventing
4 Respondents from enforcing Section 5474, subdivisions (b)-(c).

5 213. Unless Section 5474, subdivisions (b)-(c) is enjoined by order of this Court,
6 Petitioners will continue to suffer great an irreparable harm by being subjected to and forced to
7 comply with these illegal regulations.

8 **FIFTEENTH CAUSE OF ACTION**
9 **FOR WRIT OF MANDATE**

10 **Validity of Cal. Code Regs., tit. 11, § 5477 —**
11 **Post-Registration Restrictions**
12 **(Code Civ. Proc., § 1085)**

13 **(By All Petitioners Against All Respondents)**

14 214. Petitioners incorporate by reference the allegations in the above paragraphs as
15 though fully set forth herein.

16 215. **Respondents have a clear, present, and ministerial duty to refrain from**
17 **adopting or enforcing invalid regulations.**

18 216. **Respondents have violated that duty, or abused their discretion, by enforcing**
19 **Cal. Code Regs., tit. 11, § 5477 after adopting it on a “file and print” basis, rather than**
20 **doing so in accordance with the APA.**

21 217. **Respondents have further violated that duty, or abused their discretion, by**
22 **enforcing Section 5477 because its provisions unlawfully alter, amend, or enlarge the scope**
23 **of statutory law.**

24 218. 11 CCR section 5477 prohibits the removal of the “release mechanism for an
25 *ammunition feeding device on an assault weapon pursuant to Penal Code section 30900(b)(1) . . .*
26 *after the assault weapon is registered.*” This seems to prohibit removal of the magazine lock
27 (e.g., “bullet button”) from a firearm once it is registered.

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1 219. Respondent DOJ’s exemption from the APA is limited to those regulations
2 implementing Penal Code section 30900(b). That provision is solely concerned with the
3 registration process.

4 220. There is simply nothing in Section 30900 allowing DOJ to regulate what happens
5 *after* the registration process has been completed.

6 221. Section 5477 is not a restatement of the law, as the regulation definitively states
7 what activities are restricted once a firearm is registered as an “assault weapon,” when the statute
8 itself is silent on such post-registration activities.

9 222. By implementing, administering, and enforcing a regulation restricting removal of
10 the “magazine lock” post-registration, without adhering to APA’s requirements, Respondents
11 have violated and continue to violate the APA.

12 223. Even if Penal Code section 30900(b) could be read as including within its scope
13 post-registration activity, Section 5477 is still void because it expands what the Legislature
14 intended for the treatment of “assault weapons” post-registration.

15 224. A person who possesses and registers a firearm meeting the current definition of
16 an “assault weapon” pursuant to Penal Code section 30900(b) possesses a *registered* “assault
17 weapon.” That firearm is now in the system as an “assault weapon” registered to that individual.
18 As a result, the requirements, restrictions, and exceptions for possessing a registered “assault
19 weapon” apply to that person and that firearm, irrespective of what he or she does with the
20 “bullet button.”

21 225. The Penal Code does not distinguish between how and why a firearm is
22 considered an “assault weapon” once it is registered. Nothing prevents an individual who
23 currently has a registered “assault weapon” from adding or removing features, provided the
24 resulting firearm is not considered illegal for some other reason (e.g., the firearm has a prohibited
25 short-barreled rifle, is a machinegun, or is a destructive device). Thus, by imposing a post-
26 registration restriction on a properly registered “assault weapon,” Section 5477 unlawfully
27 expands California law. As such, the regulation is invalid.

28 226. **Regulations promulgated by an agency in excess of its statutory authority, or**

1 without compliance with all substantive and procedural prerequisites to adopt such
2 regulations, are void and invalid.

3 227. Petitioners are beneficially interested in the outcome of this proceeding
4 because they—as individuals or members and supporters of CRPA who own firearms that
5 qualify for registration—will be subject to Section 5477's illegal restriction on their
6 registered firearms. This action seeks to preclude Respondents from enforcing Section 5477
7 as an invalid regulation.

8 228. Peremptory writ relief is necessary here because Petitioners have no plain,
9 speedy, or adequate legal remedy to the ongoing harm caused by Respondents'
10 enforcement of Section 5477. After Petitioners register their “assault weapons” they face
11 potential unlawful prosecution if they do not comply with Section 5477's illegal restriction.
12 No money damages can remedy such an injury.

13 229. A Writ of Mandate as Petitioners pray for below should thus issue.

14
15 **SIXTEENTH CAUSE OF ACTION**
FOR DECLARATORY AND INJUNCTIVE RELIEF

16 **Declaration re Validity of Cal. Code Regs., tit. 11, § 5477 —**
17 **Post-Registration Restrictions**
(Gov. Code, § 11350; Code Civ. Proc., §§ 526, 1060)

18 **(By All Petitioners Against All Respondents)**

19 230. Petitioners incorporate by reference the allegations in the above paragraphs as
20 though fully set forth herein.

21 231. Should this Court hold that a writ should issue, as Petitioners pray, vacating
22 and annulling as unlawful Respondents' decision to bypass the APA in adopting Section
23 5477 or their decision to promulgate Section 5477 in a manner that expands statutory law,
24 declaratory relief that Section 5477 is invalid and injunctive relief prohibiting its
25 enforcement is necessary and appropriate.

26 232. An actual controversy exists. Petitioners contend that Respondents are illegally
27 enforcing an invalid regulation that restricts post-registration activity because it alters statutory
28 law and Respondents failed to comply with the APA's substantive and procedural prerequisites

1 in promulgating such regulation and thus lack authority to enforce it. Respondents nevertheless
2 currently enforce or intend to enforce those regulations because Respondents contend the
3 regulations are not subject to the APA.

4 233. A judicial declaration as to the validity of Section 5477 is necessary and
5 appropriate at this time, as Respondents are currently enforcing or intend to enforce it.

6 234. Respondents' unlawful conduct has caused and, unless enjoined by this Court,
7 will continue to cause irreparable injury to Petitioners, their members, and supporters.
8 Petitioners, their supporters, and members, as owners of firearms affected or potentially affected
9 by DOJ's regulations, have been specifically harmed because Respondents' unlawful conduct has
10 subjected them to an illegal regulation and denied them their statutory right to be heard and to
11 provide input regarding regulations governing a program that significantly affects both their
12 property and liberty interests.

13 235. The public in general, and Petitioners specifically, have an interest in preventing
14 Respondents from enforcing Section 5477.

15 236. Unless Section 5477 is enjoined by order of this Court, Petitioners will continue
16 to suffer great an irreparable harm by being subjected to and forced to comply with these illegal
17 regulations.

18 PRAYER FOR RELIEF

19 WHEREFORE, Petitioners pray for relief and judgment as follows:

20 **On the First Cause of Action, that this Court:**

- 21 **1. Issue a Writ of Mandate pursuant to Code of Civil Procedure section 1085:**
22 **(a) vacating and annulling DOJ's decision to interpret Penal Code section**
23 **30900(b) as giving DOJ authority to adopt Cal. Code Regs., tit. 11, §**
24 **5469 without adhering to the APA; and,**
25 **(c) ordering Respondents to cease enforcement of Cal. Code Regs., tit.**
26 **11, § 5469, as is their duty for invalid and void regulations.**

27 **On the Second Cause of Action, that this Court:**

- 28 **2. Declare that Cal. Code Regs., tit. 11, § 5469 is invalid;**

1 3. Issue a preliminary and permanent prohibitory injunction forbidding Respondents,
2 their employees, agents, and successors in office, from enforcing Cal. Code Regs., tit. 11, § 5469,
3 as amended.

4 **On the Third Cause of Action, that this Court:**

5 4. **Issue a Writ of Mandate pursuant to Code of Civil Procedure section 1085:**

6 (a) **vacating and annulling DOJ's decision to interpret Penal Code section**
7 **30900(b) as giving DOJ authority to adopt Cal. Code Regs., tit. 11, §**
8 **5470, subd. (d) without adhering to the APA;**

9 (b) **vacating and annulling DOJ's decision to promulgate Cal. Code**
10 **Regs., tit. 11, § 5470, subd. (d) in a manner that unlawfully alters or**
11 **amends statutory law; and**

12 (c) **ordering Respondents to cease enforcement of Cal. Code Regs., tit.**
13 **11, § 5470, subd. (d), as is their duty for invalid and void regulations.**

14 **On the Fourth Cause of Action, that this Court:**

15 5. Declare that Cal. Code Regs., tit. 11, § 5470, subd. (d) is invalid;

16 6. Issue a preliminary and permanent prohibitory injunction forbidding Respondents,
17 their employees, agents, and successors in office, from enforcing Cal. Code Regs., tit. 11, § 5470,
18 subd. (d);

19 **On the Fifth Cause of Action, that this Court:**

20 7. **Issue a Writ of Mandate pursuant to Code of Civil Procedure section 1085:**

21 (a) **vacating and annulling DOJ's decision to interpret Penal Code section**
22 **30900(b) as giving DOJ authority to adopt Cal. Code Regs., tit. 11, §**
23 **5471 without adhering to the APA;**

24 (b) **vacating and annulling DOJ's decision to promulgate Cal. Code**
25 **Regs., tit. 11, § 5471 in a manner that unlawfully alters or amends**
26 **statutory law; and**

27 (c) **ordering Respondents to cease enforcement of Cal. Code Regs., tit.**
28 **11, § 5471, as is their duty for invalid and void regulations.**

1 **On the Sixth Cause of Action, that this Court:**

2 8. Declare that Cal. Code Regs., tit. 11, § 5471 is invalid;

3 9. Issue a preliminary and permanent prohibitory injunction forbidding Respondents,
4 their employees, agents, and successors in office, from enforcing Cal. Code Regs., tit. 11, § 5471;

5 **On the Seventh Cause of Action, that this Court:**

6 **10. Issue a Writ of Mandate pursuant to Code of Civil Procedure section 1085:**

7 (a) **vacating and annulling DOJ's decision to interpret Penal Code section**
8 **30900(b) as giving DOJ authority to adopt Cal. Code Regs., tit. 11, §**
9 **5472, subs. (f)-(g), and Cal. Code Regs., tit. 11, § 5474.2 without**
10 **adhering to the APA;**

11 (b) **vacating and annulling DOJ's decision to promulgate Cal. Code**
12 **Regs., tit. 11, § 5472, subs. (f)-(g), and Cal. Code Regs., tit. 11, §**
13 **5474.2 in a manner that unlawfully alters or amends statutory law;**
14 **and**

15 (c) **ordering Respondents to cease enforcement of Cal. Code Regs., tit.**
16 **11, § 5472, subs. (f)-(g), and Cal. Code Regs., tit. 11, § 5474.2 , as is**
17 **their duty for invalid and void regulations.**

18 **On the Eighth Cause of Action, that this Court:**

19 11. Declare that Cal. Code Regs., tit. 11, § 5472, subs. (f)-(g) and Code Regs., tit.
20 11, § 5474.2 are invalid;

21 12. Issue a preliminary and permanent prohibitory injunction forbidding Respondents,
22 their employees, agents, and successors in office, from enforcing Cal. Code Regs., tit. 11, §
23 5472, subs. (f)-(g) and Code Regs., tit. 11, § 5474.2.

24 **On the Ninth Cause of Action, that this Court:**

25 **13. Issue a Writ of Mandate pursuant to Code of Civil Procedure section 1085:**

26 (a) **vacating and annulling DOJ's decision to interpret Penal Code section**
27 **30900(b) as giving DOJ authority to adopt Cal. Code Regs., tit. 11, §**
28 **5473, subd. (b)(1) without adhering to the APA;**

1 (b) vacating and annulling DOJ's decision to promulgate Cal. Code
2 Regs., tit. 11, § 5473, subd. (b)(1) in a manner that unlawfully alters or
3 amends statutory law; and

4 (c) ordering Respondents to cease enforcement of Cal. Code Regs., tit.
5 11, § 5473, subd. (b)(1), as is their duty for invalid and void
6 regulations.

7 **On the Tenth Cause of Action, that this Court:**

8 14. Declare that Cal. Code Regs., tit. 11, § 5473, subd. (b)(1) is invalid;

9 15. Issue a preliminary and permanent prohibitory injunction forbidding Respondents,
10 their employees, agents, and successors in office, from enforcing Cal. Code Regs., tit. 11, § 5473,
11 subd. (b)(1).

12 **On the Eleventh Cause of Action, that this Court:**

13 16. Issue a Writ of Mandate pursuant to Code of Civil Procedure section 1085:

14 (a) vacating and annulling DOJ's decision to interpret Penal Code section
15 30900(b) as giving DOJ authority to adopt Cal. Code Regs., tit. 11, §
16 5474, subd. (a), Cal. Code Regs., tit. 11, § 5474, subd. (c), and Cal.
17 Code Regs., tit. 11, § 5478, subd. (a)(2) without adhering to the APA;

18 (b) vacating and annulling DOJ's decision to promulgate Cal. Code
19 Regs., tit. 11, § 5474, subd. (a), Cal. Code Regs., tit. 11, § 5474, subd.
20 (c), and Cal. Code Regs., tit. 11, § 5478, subd. (a)(2) in a manner that
21 unlawfully alters or amends statutory law; and

22 (c) ordering Respondents to cease enforcement of Cal. Code Regs., tit.
23 11, § 5474, subd. (a), Cal. Code Regs., tit. 11, § 5474, subd. (c), and
24 Cal. Code Regs., tit. 11, § 5478, subd. (a)(2), as is their duty for invalid
25 and void regulations.

26 **On the Twelfth Cause of Action, that this Court:**

27 17. Declare that Cal. Code Regs., tit. 11, § 5474, subd. (a), Cal. Code Regs., tit. 11, §
28 5474, subd. (c), and Cal. Code Regs., tit. 11, § 5478, subd. (a)(2) are invalid;

1 18. Issue a preliminary and permanent prohibitory injunction forbidding Respondents,
2 their employees, agents, and successors in office, from enforcing Cal. Code Regs., tit. 11, § 5474,
3 subd. (a), Cal. Code Regs., tit. 11, § 5474, subd. (c), and Cal. Code Regs., tit. 11, § 5478, subd.
4 (a)(2).

5 **On the Thirteenth Cause of Action, that this Court:**

6 **19. Issue a Writ of Mandate pursuant to Code of Civil Procedure section 1085:**

7 (a) **vacating and annulling DOJ's decision to interpret Penal Code section**
8 **30900(b) as giving DOJ authority to adopt Cal. Code Regs., tit. 11, §**
9 **5471, subs. (b)-(c) without adhering to the APA;**

10 (b) **vacating and annulling DOJ's decision to promulgate Cal. Code**
11 **Regs., tit. 11, § 5471, subs. (b)-(c) in a manner that unlawfully alters**
12 **or amends statutory law; and**

13 (c) **ordering Respondents to cease enforcement of Cal. Code Regs., tit.**
14 **11, § 5471, subs. (b)-(c), as is their duty for invalid and void**
15 **regulations.**

16 **On the Fourteenth Cause of Action, that this Court:**

17 20. Declare that Cal. Code Regs., tit. 11, § 5474.1, subs. (b)-(c) are invalid;

18 21. Issue a preliminary and permanent prohibitory injunction forbidding Respondents,
19 their employees, agents, and successors in office, from enforcing Cal. Code Regs., tit. 11, §
20 5474.1, subs. (b)-(c).

21 **On the Fifteenth Cause of Action, that this Court:**

22 **22. Issue a Writ of Mandate pursuant to Code of Civil Procedure section 1085:**

23 (a) **vacating and annulling DOJ's decision to interpret Penal Code section**
24 **30900(b) as giving DOJ authority to adopt Cal. Code Regs., tit. 11, §**
25 **5477 without adhering to the APA;**

26 (b) **vacating and annulling DOJ's decision to promulgate Cal. Code**
27 **Regs., tit. 11, § 5477 in a manner that unlawfully alters or amends**
28 **statutory law; and**

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(c) ordering Respondents to cease enforcement of Cal. Code Regs., tit. 11, § 5477, as is their duty for invalid and void regulations.

On the Sixteenth Cause of Action, that this Court:

- 23. Declare that Cal. Code Regs., tit. 11, § 5477 is invalid;
- 24. Issue a preliminary and permanent prohibitory injunction forbidding Respondents, their employees, agents, and successors in office, from enforcing Cal. Code Regs., tit. 11, § 5477.

On all Causes of Action:

- 25. For an award of Petitioners' reasonable costs and attorneys' fees pursuant to Code of Civil Procedure section 1021.5. and any other relevant provision of state or federal law;
- 26. For such other relief as may be just and proper.

Dated: March 20, 2018

MICHEL & ASSOCIATES, P.C.

/s/C. D. Michel
C. D. Michel
Counsel for Petitioners

EXHIBIT A

FINAL TEXT

Text added to the regulations is shown in underline.

Text deleted from the regulations is shown in strikethrough.

California Code of Regulations Title 11, Division 5

Chapter 39 Assault Weapons and Large-Capacity Magazines

Article 2. Definitions of Terms Used to Identify Assault Weapons Registration Requirement, What Qualifies for Registration, and Definitions

§ 5469. Definitions. Registration of Assault Weapons Pursuant to Penal Code Section 30900(b)(1); Who Must Register.

The following definitions apply to terms used in the identification of assault weapons pursuant to Penal Code section 30515:

- (a) ~~“Detachable magazine” means any ammunition feeding device that can be removed readily from the firearm with neither disassembly of the firearm action nor use of a tool being required. A bullet or ammunition cartridge is considered a tool. Ammunition feeding device includes any belted or linked ammunition, but does not include clips, en bloc clips, or stripper clips that load cartridges into the magazine.~~
- (b) ~~“Flash suppressor” means any device designed, intended, or that functions to perceptibly reduce or redirect muzzle flash from the shooter's field of vision.~~
- (c) ~~“Forward pistol grip” means a grip that allows for a pistol style grasp forward of the trigger.~~
- (d) ~~“Pistol grip that protrudes conspicuously beneath the action of the weapon” means a grip that allows for a pistol style grasp in which the web of the trigger hand (between the thumb and index finger) can be placed below the top of the exposed portion of the trigger while firing.~~
- (e) ~~“Thumbhole stock” means a stock with a hole that allows the thumb of the trigger hand to penetrate into or through the stock while firing.~~

Any person who, from January 1, 2001, to December 31, 2016, inclusive, lawfully possessed an assault weapon that does not have a fixed magazine, as defined in Penal Code section 30515, including those weapons with an ammunition feeding device that can be readily removed from the firearm with the use of a tool (commonly referred to as a bullet-button weapon) must register the firearm before July 1, 2018.

Note: Authority cited: Section ~~30520~~ 30900, Penal Code. Reference: Sections ~~16170(a), 16350, 16890, 30515, 30600, 30605, 30610, 30615, 30620, 30625, 30630, 30635, 30640, 30645, 30650, 30655, 30660, 30665, 30670, 30675, 30900, 30905, 30910, 30915, 30920, 30925, 30930, 30935, 30940, 30945, 30950, 30955, 30960 and 30965,~~ Penal Code.

Article 3. Assault Weapon Registration

§ 5470. Registration of Assault Weapons Pursuant to Penal Code Section 30900(b)(1); Which Weapons Must be Registered.

- (a) Except as provided in section 5472, an assault weapon that does not have a fixed magazine, as defined by Penal Code section 30515, must be registered with the Department before July 1, 2018.
- (b) A semiautomatic, centerfire or rimfire pistol with an ammunition feeding device that can be readily removed from the firearm with the use of a tool, commonly referred to as a bullet-button weapon, that has one or more specified features identified in Penal Code section 30515 is included in the category of firearms that must be registered.
- (c) A semiautomatic, centerfire rifle with an ammunition feeding device that can be readily removed from the firearm with the use of a tool, commonly referred to as a bullet-button weapon, that has one or more specified features identified in Penal Code section 30515 is included in the category of firearms that must be registered.
- (d) A semiautomatic shotgun with an ammunition feeding device that can be readily removed from the firearm with the use of a tool, commonly referred to as a bullet-button weapon, is included in the category of firearms that must be registered.

Note: Authority cited: Section 30900, Penal Code. Reference: Sections 30515 and 30900, Penal Code.

§ 5471. Registration of Assault Weapons Pursuant to Penal Code Section 30900(b)(1); Explanation of Terms Related to Assault Weapon Designation.

For purposes of Penal Code section 30900 and Articles 2 and 3 of this Chapter the following definitions shall apply:

- (a) “Ability to accept a detachable magazine” means with respect to a semiautomatic shotgun, it does not have a fixed magazine.
- (b) “Action” means the working mechanism of a semiautomatic firearm, which is the combination of the receiver or frame and breech bolt together with the other parts of the mechanism by which a firearm is loaded, fired, and unloaded.

- (c) “Barrel” means the tube, usually metal and cylindrical, through which a projectile or shot charge is fired. Barrels may have a rifled or smooth bore.
- (d) “Barrel length” means the length of the barrel measured as follows: Without consideration of any extensions or protrusions rearward of the closed bolt or breech-face the approved procedure for measuring barrel length is to measure from the closed bolt (or breech-face) to the furthest end of the barrel or permanently attached muzzle device. Permanent methods of attachment include full-fusion gas or electric steel-seam welding, high-temperature (1100°F) silver soldering, or blind pinning with the pin head welded over. Barrels are measured by inserting a dowel rod into the barrel until the rod stops against the closed bolt or breech-face. The rod is then marked at the furthest end of the barrel or permanently attached muzzle device, withdrawn from the barrel, and measured.
- (e) “Bullet” means the projectile expelled from a gun. It is not synonymous with a cartridge. Bullets can be of many materials, shapes, weights, and constructions such as solid lead, lead with a jacket of harder metal, round-nosed, flat-nosed, hollow-pointed, et cetera.
- (f) “Bullet-button” means a product requiring a tool to remove an ammunition feeding device or magazine by depressing a recessed button or lever shielded by a magazine lock. A bullet-button equipped fully functional semiautomatic firearm does not meet the fixed magazine definition under Penal Code section 30515(b).
- (g) “Bore” means the interior of a firearm’s barrel excluding the chamber.
- (h) “Caliber” means the nominal diameter of a projectile of a rifled firearm or the diameter between lands in a rifled barrel. In the United States, caliber is usually expressed in hundreds of an inch; in Great Britain in thousandths of an inch; in Europe and elsewhere in millimeters.
- (i) “Cartridge” means a complete round of ammunition that consists of a primer, a case, propellant powder and one or more projectiles.
- (j) “Centerfire” means a cartridge with its primer located in the center of the base of the case.
- (k) “Contained in” means that the magazine cannot be released from the firearm while the action is assembled. For AR-15 style firearms this means the magazine cannot be released from the firearm while the upper receiver and lower receiver are joined together.
- (l) “Department” means the California Department of Justice.
- (m) “Detachable magazine” means any ammunition feeding device that can be removed readily from the firearm without disassembly of the firearm action or use of a tool. A bullet or ammunition cartridge is considered a tool. An ammunition feeding device includes any belted or linked ammunition, but does not include clips, en bloc clips, or stripper clips that load cartridges into the magazine.

An AR-15 style firearm that has a bullet-button style magazine release with a magnet left on the bullet-button constitutes a detachable magazine. An AR-15 style firearm lacking a magazine catch assembly (magazine catch, magazine catch spring and magazine release button) constitutes a detachable magazine. An AK-47 style firearm lacking a magazine catch assembly (magazine catch, spring and rivet/pin) constitutes a detachable magazine.

- (n) “Disassembly of the firearm action” means the fire control assembly is detached from the action in such a way that the action has been interrupted and will not function. For example, disassembling the action on a two part receiver, like that on an AR-15 style firearm, would require the rear take down pin to be removed, the upper receiver lifted upwards and away from the lower receiver using the front pivot pin as the fulcrum, before the magazine may be removed.
- (o) “Featureless” means a semiautomatic firearm (rifle, pistol, or shotgun) lacking the characteristics associated with that weapon, as listed in Penal Code section 30515.
- (p) “Fixed magazine” means an ammunition feeding device contained in, or permanently attached to, a firearm in such a manner that the device cannot be removed without disassembly of the firearm action.
- (q) “Flare launcher” means a device used to launch signal flares.
- (r) “Flash suppressor” means any device attached to the end of the barrel, that is designed, intended, or functions to perceptibly reduce or redirect muzzle flash from the shooter's field of vision. A hybrid device that has either advertised flash suppressing properties or functionally has flash suppressing properties would be deemed a flash suppressor. A device labeled or identified by its manufacturer as a flash hider would be deemed a flash suppressor.
- (s) “FMBUS” means a Firearm Manufactured By Unlicensed Subject.
- (t) “Forward pistol grip” means a grip that allows for a pistol style grasp forward of the trigger.
- (u) “Frame” means the receiver of a pistol.
- (v) “Grenade launcher” means a device capable of launching a grenade.
- (w) “Permanently attached to” means the magazine is welded, epoxied, or riveted into the magazine well. A firearm with a magazine housed in a sealed magazine well and then welded, epoxied, or riveted into the sealed magazine well meets the definition of “permanently attached to”.
- (x) “Overall length of less than 30 inches” with respect to a centerfire rifle means the rifle has been measured in the shortest possible configuration that the weapon will function/fire

and the measurement is less than 30 inches. Folding and telescoping stocks shall be collapsed prior to measurement. The approved method for measuring the length of the rifle is to measure the firearm from the end of the barrel, or permanently attached muzzle device, if so equipped, to that part of the stock that is furthest from the end of the barrel, or permanently attached muzzle device. (Prior to taking a measurement the owner must also check any muzzle devices for how they are attached to the barrel.)

- (y) “Pistol” means any device designed to be used as a weapon, from which a projectile is expelled by the force of any explosion, or other form of combustion, and that has a barrel less than 16 inches in length. This definition includes AR-15 style pistols with pistol buffer tubes attached. Pistol buffer tubes typically have smooth metal with no guide on the bottom for rifle stocks to be attached, and they sometimes have a foam pad on the end of the tube farthest from the receiver.
- (z) “Pistol grip that protrudes conspicuously beneath the action of the weapon” means a grip that allows for a pistol style grasp in which the web of the trigger hand (between the thumb and index finger) can be placed beneath or below the top of the exposed portion of the trigger while firing. This definition includes pistol grips on bullpup firearm designs.
- (aa) “Receiver” means the basic unit of a firearm which houses the firing and breech mechanisms and to which the barrel and stock are assembled.
- (bb) “Receiver, lower” means the lower part of a two part receiver.
- (cc) “Receiver, unfinished” means a precursor part to a firearm that is not yet legally a firearm. Unfinished receivers may be found in various levels of completion. As more finishing work is completed the precursor part gradually becomes a firearm. Some just have the shape of an AR-15 lower receiver for example, but are solid metal. Some have been worked on and the magazine well has been machined open. Firearms Manufactured by Unlicensed Subjects (FMBUS) began as unfinished receivers.
- (dd) “Receiver, upper” means the top portion of a two part receiver.
- (ee) “Rifle” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.
- (ff) “Rimfire” means a rimmed or flanged cartridge with the priming mixture located in the rim of the case.
- (gg) “Second handgrip” means a grip that allows the shooter to grip the pistol with their non-trigger hand. The second hand grip often has a grip texture to assist the shooter in weapon control.
- (hh) “Semiautomatic” means a firearm functionally able to fire a single cartridge, eject the

empty case, and reload the chamber each time the trigger is pulled and released. Further, certain necessary mechanical parts that will allow a firearm to function in a semiautomatic nature must be present for a weapon to be deemed semiautomatic. A weapon clearly designed to be semiautomatic but lacking a firing pin, bolt carrier, gas tube, or some other crucial part of the firearm is not semiautomatic for purposes of Penal Code sections 30515, 30600, 30605(a), and 30900.

- (1) A mechanically whole semiautomatic firearm merely lacking ammunition and a proper magazine is a semiautomatic firearm.
 - (2) A mechanically whole semiautomatic firearm disabled by a gun lock or other firearm safety device is a semiautomatic firearm. (All necessary parts are present, once the gun lock or firearm safety device is removed, and weapon can be loaded with a magazine and proper ammunition.)
 - (3) With regards to an AR-15 style firearm, if a complete upper receiver and a complete lower receiver are completely detached from one another, but still in the possession or under the custody or control of the same person, the firearm is not a semiautomatic firearm.
 - (4) A stripped AR-15 lower receiver, when sold at a California gun store, is not a semiautomatic firearm. (The action type, among other things, is undetermined.)
- (ii) “Shotgun with a revolving cylinder” means a shotgun that holds its ammunition in a cylinder that acts as a chamber much like a revolver. To meet this definition the shotgun’s cylinder must mechanically revolve or rotate each time the weapon is fired. A cylinder that must be manually rotated by the shooter does not qualify as a revolving cylinder.
- (jj) “Shroud” means a heat shield that is attached to, or partially or completely encircles the barrel, allowing the shooter to fire the weapon with one hand and grasp the firearm over the barrel with the other hand without burning the shooter’s hand. A slide that encloses the barrel is not a shroud.
- (kk) “Spigot” means a muzzle device on some firearms that are intended to fire grenades. The spigot is what the grenade is attached to prior to the launching of a grenade.
- (ll) “Stock” means the part of a rifle, carbine, or shotgun to which the receiver is attached and which provides a means for holding the weapon to the shoulder. A stock may be fixed, folding, or telescoping.
- (mm) “Stock, fixed” means a stock that does not move, fold, or telescope.
- (nn) “Stock, folding” means a stock which is hinged in some fashion to the receiver to allow the stock to be folded next to the receiver to reduce the overall length of the firearm. This definition includes under folding and over folding stocks.

- (oo) “Stock, telescoping” means a stock which is shortened or lengthened by allowing one section to telescope into another portion. On AR-15 style firearms, the buffer tube or receiver extension acts as the fixed part of the stock on which the telescoping butt stock slides or telescopes.
- (pp) “Those weapons with an ammunition feeding device that can be readily removed from the firearm with the use of a tool” includes functional semiautomatic rifles, pistols, and shotguns with bullet-button style magazine releases. These weapons do not have a fixed magazine.
- (qq) “Thumbhole stock” means a stock with a hole that allows the thumb of the trigger hand to penetrate into or through the stock while firing.
- (rr) “Threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer” means a threaded barrel able to accept a flash suppressor, forward handgrip, or silencer, and includes a threaded barrel with any one of those features already mounted on it. Some firearms have “lugs” in lieu of threads on the end of the barrel. These lugs are used to attach some versions of silencers. For purposes of this definition a lugged barrel is the same as a threaded barrel.

Note: Authority cited: Section 30900, Penal Code. Reference: Sections 30515 and 30900, Penal Code.

Article 3. Assault Weapon Registration

§ 5472. Registration of Assault Weapons Pursuant to Penal Code Section 30900(b)(1); Weapons That Will Not Be Registered as Assault Weapons.

- (a) The Department will not register as an assault weapon a firearm unless it was lawfully possessed on or before December 31, 2016.
- (b) The Department will not register a firearm that was required to be registered under prior assault weapon registration laws in effect before January 1, 2017. These weapons include, but are not limited to, firearms known as “named assault weapons” and are listed in Penal Code section 30510 and sections 5495 and 5499 of Chapter 40.
- (c) The Department will not register a firearm as an assault weapon if the firearm is featureless, except for bullet-button shotguns as described in section 5470(d).
- (d) The Department will not register a firearm as an assault weapon if the firearm has a fixed magazine that holds ten rounds or less.
- (e) The Department will not register a firearm as an assault weapon unless the firearm is fully assembled and fully functional.

- (f) The Department will not register as an assault weapon a firearm manufactured by a federally-licensed manufacturer if the firearm does not have a serial number applied pursuant to federal law.
- (g) The Department will not register as an assault weapon a FMBUS if the firearm does not have a serial number assigned by the Department and applied by the owner or agent pursuant to section 5474.2.

Note: Authority cited: Section 30900, Penal Code. Reference: Sections 30515 and 30900, Penal Code.

§ 5473. Voluntary Cancellations

- (a) ~~The DOJ will accept voluntary cancellations for assault weapons that are no longer possessed by the registrant. Cancellations will also be accepted for assault weapons, defined and registered pursuant to Penal Code section 30515, that have been modified or reconfigured to no longer meet the assault weapon definition. Cancellation requests must be signed, dated, and provide the following information:
 - (1) ~~Registrant's full name, telephone number, and current address; make, model, and serial number of the assault weapon; and the DOJ assault weapon registration number (as indicated on the registration confirmation letter provided to the registrant at the time of registration). If the DOJ assault weapon registration number is unknown, the request must be notarized.~~~~
- (b) ~~After confirmation of the information provided on the cancellation request, the DOJ will permanently delete the registration for the specified assault weapon(s). If there are no remaining assault weapons registered to the individual, all personal information regarding the registrant will also be deleted from the assault weapon data base. The DOJ will mail confirmation of the cancellation to the address provided on the request.~~

~~Note: Authority cited: Section 30520, Penal Code. Reference: Sections 30900, 30905, 30910, 30915, 30920, 30925, 30930, 30935, 30940, 30945, 30950, 30955, 30960 and 30965, Penal Code.~~

§ 5473. Registration of Assault Weapons Pursuant to Penal Code Section 30900(b)(1); California Firearms Application Reporting System (“CFARS”); Account Requirements.

- (a) Assault weapon registrations must be filed electronically using the Department’s California Firearms Application Reporting System (CFARS), at the following website: <https://cfars.doj.ca.gov/login.do>.
- (b) A CFARS account must be created to use the electronic registration system. To create a CFARS account, assault weapon registrants will be required to agree to the following conditions of use:

(1) Non-Liability: The Department is not responsible for and will have no liability for any hardware, software, information, or other items or any services provided by any persons other than the Department. Except as may be required by law, in no event shall either party be liable to the other or any third party, under any theory of liability, including, but not limited to, any contract or tort claim for any cause whatsoever, for any indirect, incidental, special, or consequential damages, including loss of revenue or profits, even if aware of the possibility thereof.

(2) Authorization: I am authorized to use CFARS for the purpose of reporting firearm information to the Department in order to comply with California firearm laws and regulations. If I become aware of an unauthorized user obtaining access to my CFARS account, I will notify the Customer Support Center immediately at (916) 227-7527, or via email at: firearms.bureau@doj.ca.gov.

(3) Fees: Notwithstanding such notification, the Department shall not be liable for transaction charges fraudulently incurred. It will be the cardholder's responsibility to pay any charges. The Department will not provide refunds after the submission of a transaction.

(4) True and Accurate Information: All of the information I submit to the Department through CFARS shall be true, accurate, and complete to the best of my knowledge.

(c) The following information must be provided by registrants in order to create a CFARS account:

(1) Full Name

(2) Email Address

(3) Three Security Questions and Answers

(4) Password

Note: Authority cited: Section 30900, Penal Code. Reference: Sections 30515 and 30900, Penal Code.

§ 5474. Registration of Assault Weapons Pursuant to Penal Code Section 30900(b)(1); Applicant and Firearms Information.

Once a CFARS account has been created, registrants must provide the following information:

(a) The registrant's full name, address, telephone number, date of birth, sex, height, weight,

eye color, hair color, military identification number (if applicable), California Driver License number or California Identification Card number, U.S. citizenship status, place of birth, country of citizenship, and alien registration number or I-94, if applicable.

- (b) A description of the firearm that identifies it uniquely, including but not limited to: firearm type, make, model, caliber, firearm color, barrel length, serial number, all identification marks, firearm country of origin/manufacture, the date the firearm was acquired, the name and address of the individual from whom, or business from which, the firearm was acquired.
- (c) Clear digital photos of firearms listed on the application. One photo shall depict the bullet-button style magazine release installed on the firearm. One photo shall depict the firearm from the end of the barrel to the end of the stock if it is a long gun or the point furthest from the end of the barrel if it is a pistol. The other two photos shall show the left side of the receiver/frame and right side of the receiver/frame. These locations are typically where firearms are marked when manufacturing is complete. At the discretion of the Department the last two photos shall be substituted for photos of identification markings at some other locations on the firearm.

Note: Authority cited: Section 30900, Penal Code. Reference: Sections 30515 and 30900, Penal Code.

§ 5474.1. Registration of Assault Weapons Pursuant to Penal Code Section 30900(b)(1); Joint Registration of Assault Weapons.

- (a) If a firearm will be jointly registered, one family member must be identified as the primary registrant. The name and relationship of each joint registrant must be provided. Joint registrants must reside in the same household and share the same address.
- (b) All joint registrants must be 18 years of age by June 30, 2018. Joint registrations are only authorized for the following family relationships:
 - (1) Spouses
 - (2) Parent to Child
 - (3) Child to Parent
 - (4) Grandparent to Grandchild
 - (5) Grandchild to Grandparent

(6) Domestic Partners

(7) Siblings

(c) Proof of address for each joint registrant shall be provided at the time of electronic submission. Acceptable forms of proof of address are as follows:

(1) Carry Concealed Weapon (CCW) Permit

(2) Curio and Relic (C & R) Federal firearm license with name and address

(3) Utility Bill: Cable, electricity, garbage, gas, pipeline, propane, alarm/security, or water bill with purchaser's name on it and dated within three months of application for registration.

(4) Military permanent duty station orders indicating assignment within California; (active duty military spouse ID is not acceptable).

(5) Property Deed: Valid deed or deed of trust for the individual's property or a certificate of title

(6) Resident Hunting License

(7) Signed and dated rental agreement/contract or residential lease

(8) Trailer certification of title

(9) DMV Vehicle Registration

(10) Certificate of Eligibility, as defined in section 4031, subdivision (g) of Chapter 3.

Note: Authority cited: Section 30900, Penal Code. Reference: Sections 30515, 30900 and 30955, Penal Code.

5474.2. Registration of Assault Weapons Pursuant to Penal Code Section 30900(b)(1); Firearm Manufactured By Unlicensed Subject (FMBUS).

A person seeking assault weapon registration for this type of firearm shall seek a Department issued serial number at: dojserialnumber@doj.ca.gov, prior to initiating the assault weapon registration process.

(a) A Department-provided serial number shall be issued and applied as follows:

- (1) The Department shall issue a unique serial number to the applicant. The serial number issuance is a separate process and must be done before the assault weapon application will be accepted by the Department. Applicants seeking a FMBUS related serial number shall complete a New Serial Number Application, Form BOF 1008, (Rev. 07/2017) hereby incorporated by reference, and submit it to the Department prior to the initiation of the registration of this type of firearm.
- (2) Once the applicant has received a Department issued serial number, the applicant may contact a Federal Firearms Licensed Manufacturer (type 07) to have the serial number applied in a manner consistent with this section and federal law. However, a Federal Firearms Licensee is under no obligation to perform this work. Persons who have manufactured their own firearm may also use non-licensed parties to apply the serial number and other required markings; however, the owner of the weapon must not leave the firearm unattended with an unlicensed party in violation of firearms transfer and/or lending laws. Proof of the serial number being applied to the firearm shall be given to the Department in the form of one or more digital photographs of the newly serialized firearm being submitted in accordance with the photo requirement noted in section 5474 (c).
- (3) An unlicensed manufacturer of firearms must legibly and uniquely identify each firearm manufactured as follows:

 - (A) By engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame or receiver thereof an individual serial number. The serial number must be placed in a manner not susceptible of being readily obliterated, altered, or removed, and must not duplicate any serial number placed by the unlicensed manufacturer on any other firearm. The engraving, casting, or stamping (impressing) of the serial number must be to a minimum depth of .003 inch and in a print size no smaller than 1/16 inch; and
 - (B) By engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame, receiver, or barrel thereof certain additional information. This information must be placed in a manner not susceptible of being readily obliterated, altered, or removed. The additional information must include:

 - (i) The model of the firearm, if such designation has been made;
 - (ii) The caliber or gauge of the firearm;
 - (iii) The manufacturer's first and last name as provided to the Department for

registration purposes, when applicable; and

(iv) The city and state (or recognized abbreviation thereof) where the manufacturer made the firearm.

(4) Measurement of height and depth of markings. The depth of all markings required by this section will be measured from the flat surface of the metal and not the peaks or ridges. The height of serial numbers required by paragraph (a)(3)(A) of this section will be measured as the distance between the latitudinal ends of the character impression bottoms (bases).

(5) The Department shall deny assault weapon registration applications if it determines the above described marking requirements have not been met.

Note: Authority cited: Section 30900, Penal Code. Reference: Sections 30515 and 30900, Penal Code.

§ 5475. Registration of Assault Weapons Pursuant to Penal Code Section 30900(b)(1); Fees.

(a) The fee to register an assault weapon is \$15.00 per person, per transaction. There is no limit to the number of assault weapons a person can register in a single transaction.

(b) The fee must be paid by debit or credit card at the time the registration is submitted to the Department for processing. If the fee is not paid, the registration will not be processed.

(c) A \$5 fee is required to obtain a copy of the original registration disposition letter.

Note: Authority cited: Section 30900, Penal Code. Reference: Sections 30515 and 30900, Penal Code.

§ 5476. Registration of Assault Weapons Pursuant to Penal Code Section 30900(b)(1); Processing of Applications

(a) Applications for assault weapon registration must be received between January 1, 2017, and June 30, 2018, and will be processed in the order in which they are received.

(b) Once the registration has been submitted electronically and fees have been paid, the Department will inform the applicant, via email, that the application: has been received and accepted for processing; is being returned as incomplete and specify what information is required; or has been rejected.

(c) If the Department deems an application incomplete and notifies the applicant via email of

the incomplete determination, the applicant shall provide the requested information or documentation within 30 days. If the Department does not receive the additional information or documentation within 30 days, the application will be rejected and the application fee will not be refunded. The applicant may complete a new application by June 30, 2018, subject to a new application fee.

- (d) Once the Department determines that all necessary information has been received and the firearm qualifies for registration, the firearms eligibility check shall commence. The Department will inform the applicant of the results of the check.
- (e) If the firearms eligibility check is successful, the registrant shall receive an assault weapon registration disposition letter via U.S. mail.

Note: Authority cited: Section 30900, Penal Code. Reference: Sections 30515, 30900 and 30950, Penal Code.

§ 5477. Registration of Assault Weapons Pursuant to Penal Code Section 30900(b)(1); Post-Registration Modification of Registered Assault Weapons, Prohibition.

- (a) The release mechanism for an ammunition feeding device on an assault weapon registered pursuant to Penal Code section 30900, subdivision (b)(1) shall not be changed after the assault weapon is registered. A weapon's eligibility for registration pursuant to Penal Code section 30900, subdivision (b)(1) depends, in part, on its release mechanism. Any alteration to the release mechanism converts the assault weapon into a different weapon from the one that was registered.
- (b) The prohibition in subdivision (a) does not extend to the repair or like-kind replacement of the mechanism.
- (c) This prohibition in subdivision (a) does not extend to a firearm that is undergoing the deregistration process pursuant to section 5478. Written confirmation from the Department that acknowledges the owner's intent to deregister his or her assault weapon pursuant to section 5478 shall be proof the deregistration process has been initiated.

Note: Authority cited: Section 30900, Penal Code. Reference: Sections 30515 and 30900, Penal Code.

§ 5478. Registration of Assault Weapons Pursuant to Penal Code Section 30900(b)(1); Voluntary Deregistration.

- (a) The Department will accept voluntary deregistration requests for assault weapons that are no longer possessed by the registrant, in the form of a completed Form BOF 4546, "Notice of No Longer in Possession," (Rev. 07/2017) hereby incorporated by reference.

Deregistration requests will also be accepted for assault weapons, as defined in Penal Code section 30515, that have been modified or reconfigured to no longer meet that definition. Deregistration requests must be in writing, signed, dated, and provide the following information:

- (1) Registrant's full name, telephone number, and current address; make, model, and serial number of the assault weapon; and the Department assault weapon registration number (as indicated on the registration confirmation letter provided to the registrant at the time of registration). If the Department assault weapon registration number is unknown, the request must be notarized.
 - (2) If the firearm has been modified or reconfigured to no longer meet the definition of assault weapon, one or more photographs clearly depicting the firearm in its current configuration shall be attached to the written deregistration request. Additional information, photographs, or inspection may be requested by the Department before determining eligibility for deregistration.
 - (3) If the registrant is no longer in possession of the firearm, proof of sale or transfer of the firearm shall be attached to the written deregistration request. Acceptable proof includes receipts from out-of-state gun stores, or law enforcement reports depicting the seizure and/or destruction of the firearm(s).
- (b) Upon determining eligibility for deregistration, the Department will delete the assault weapon registration for the specified firearm(s), and, if the weapon is still in the possession of the registrant, will convert the information to a BOF 4542A, "Firearm Ownership Report, (Rev. 07/2017), hereby incorporated by reference.
- (c) If the registrant has sold the weapon to a party outside of the State of California or otherwise lawfully disposed of the weapon, or if the weapon was seized by law enforcement, the Department will create a "No Longer In Possession" entry in the Automated Firearms System.
- (d) Upon completion of the assault weapon deregistration, the Department will mail confirmation of deregistration and updated firearm ownership information to the registrant at the address provided on the request.

Note: Authority cited: Section 30900, Penal Code. Reference: Sections 30515 and 30900, Penal Code.

VERIFICATION

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I, the undersigned, declare:

I am one of the petitioners in this action. I have read the above Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief and know its contents. All facts regarding my personal circumstances that are alleged in the petition are within my own knowledge, and I know these facts to be true. As to all other facts alleged therein, I am informed and believe, and on those grounds allege, that those matters are also true.

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on March 16, 2018, at Fresno, California.



Danny Villanueva
Petitioner

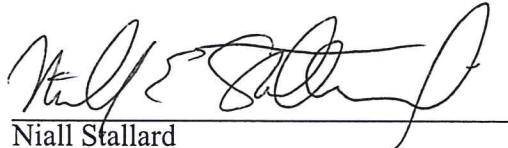
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VERIFICATION

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I am one of the petitioners in this action. I have read the above Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief and know its contents. All facts regarding my personal circumstances that are alleged in the petition are within my own knowledge, and I know these facts to be true. As to all other facts alleged therein, I am informed and believe, and on those grounds allege, that those matters are also true.

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on March 16, 2018, at CLOVIS, California.


Niall Stallard
Petitioner

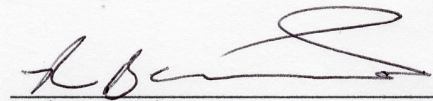
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I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on March 16th, 2018, at Fresno, California.



Ruben Barrios
Petitioner


VERIFICATION

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I, the undersigned, declare:

I am one of the petitioners in this action. I have read the above Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief and know its contents. All facts regarding my personal circumstances that are alleged in the petition are within my own knowledge, and I know these facts to be true. As to all other facts alleged therein, I am informed and believe, and on those grounds allege, that those matters are also true.

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on March 16, 2018, at Riverside, California.



Charlie Cox
Petitioner

VERIFICATION

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I, the undersigned, declare:

I am one of the petitioners in this action. I have read the above Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief and know its contents. All facts regarding my personal circumstances that are alleged in the petition are within my own knowledge, and I know these facts to be true. As to all other facts alleged therein, I am informed and believe, and on those grounds allege, that those matters are also true.

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on March 15, 2018, at LA QUINTA, California.


Mark Stroh
Petitioner

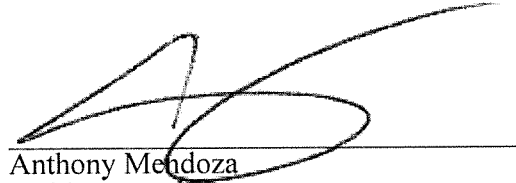
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I, the undersigned, declare:

I am one of the petitioners in this action. I have read the above Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief and know its contents. All facts regarding my personal circumstances that are alleged in the petition are within my own knowledge, and I know these facts to be true. As to all other facts alleged therein, I am informed and believe, and on those grounds allege, that those matters are also true.

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on March 16, 2018, at Fremont, California.



Anthony Mendoza
Petitioner

1 VERIFICATION

2 I, the undersigned, declare:

3 I am the Executive Director of California Rifle & Pistol Association, Incorporated
4 (CRPA), one of the petitioners in this action. As Executive Director, I am authorized to make this
5 verification on behalf of CRPA. I have read the above Petition for Writ of Mandate and
6 Complaint for Declaratory and Injunctive Relief and know its contents. All facts alleged in the
7 petition regarding the particular circumstances of CRPA or its members are within my personal
8 knowledge, and I know these facts to be true. As to all other facts alleged therein, I am informed
9 and believe, and on those grounds allege, that those matters are also true.

10 I declare under the penalty of perjury that the foregoing is true and correct and that this
11 declaration was executed on March 16, 2018, at Long Beach, California.

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14 Richard Francis Travis
15 Petitioner
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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA
3 COUNTY OF FRESNO

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 March 21, 2018, I served the foregoing document(s) described as:

8 **FIRST AMENDED VERIFIED PETITION FOR WRIT OF MANDATE AND
9 COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

10 on the interested parties in this action by placing

11 the original
12 a true and correct copy

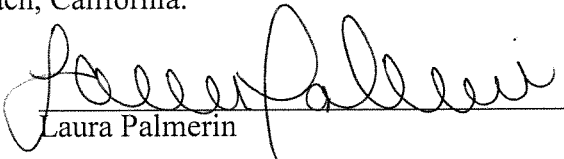
13 thereof by the following means, addressed as follows:

14 P. Patty Li
15 patty.li@doj.ca.gov
16 Deputy Attorney General
17 California Department of Justice
18 Office of the Attorney General
19 455 Golden Gate Ave., Suite 11000
20 San Francisco, CA 94102

21 X (BY ELECTRONIC MAIL) As follows: I served a true and correct copy by
22 electronic transmission through OneLegal. Said transmission was reported and completed
23 without error.

24 X (STATE) I declare under penalty of perjury under the laws of the State of
25 California that the foregoing is true and correct.

26 Executed on March 21, 2018, at Long Beach, California.

27 
28 Laura Palmerin