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**DISTRICT COURT OF THE UNITED STATES
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

ENDIR BRISENO, NEIL OPDAHL-
LOPEZ, and RODNEY WILSON,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

ROBERT A. BONTA, in his official
capacity as Attorney General for the
State of California; LUIS LOPEZ, in his
official capacity as Acting Chief of the
California Department of Justice Bureau
of Firearms; CALIFORNIA
DEPARTMENT OF JUSTICE; and
DOES 1-10,

Defendants.

Case No.:

CLASS ACTION

COMPLAINT FOR:

- 1. VIOLATION OF SECOND AMENDMENT RIGHT TO KEEP & BEAR ARMS [42 U.S.C. § 1983];**
- 2. VIOLATION OF FOURTEENTH AMENDMENT RIGHT TO SUBSTANTIVE DUE PROCESS [42 U.S.C. § 1983];**
- 3. VIOLATION OF FOURTEENTH AMENDMENT RIGHT TO PROCEDURAL DUE PROCESS [42 U.S.C. § 1983].**

DEMAND FOR JURY TRIAL

1 Plaintiffs ENDIR BRISENO, NEIL OPDAHL-LOPEZ, and RODNEY WILSON
2 (collectively, “PLAINTIFFS”), individually and on behalf of all others similarly situated,
3 bring this Class Action Complaint against Defendants ROBERT BONTA, in his official
4 capacity as Attorney General of the State of California, CALIFORNIA DEPARTMENT
5 OF JUSTICE, and DOES 1-10 (collectively, “DEFENDANTS”), alleging the following
6 upon information and belief based upon personal knowledge;

7 INTRODUCTION

8 1. Franklin Armory, Inc., a federally licensed firearms manufacturer,
9 manufactures a series of firearms which are not considered “rifles,” “shotguns,” or
10 “handguns” as those terms are defined by California law and which Franklin Armory, Inc.,
11 has designated with the model name “Title 1.”

12 2. Franklin Armory’s Title 1 firearms come in various calibers such as 5.56
13 NATO (a centerfire caliber) and .17 WSM (a rimfire caliber).

14 3. Franklin Armory’s Title 1 firearms were—at the time Plaintiffs and all those
15 similarly situated made a deposit to initiate the purchase of one or more Title 1 firearms—
16 lawful to possess, sell, transfer, purchase, loan, or otherwise be distributed within
17 California through licensed California firearm dealers to persons who are not otherwise
18 prohibited from possessing firearms, though subsequent changes in the law have limited
19 the market for centerfire variants of Franklin Armory’s Title 1 series of firearms.

20 4. Defendants, however, unlawfully erected and maintained technological and
21 administrative barriers that acted to prevent the completion of transfers of these otherwise
22 lawful firearms via the Dealer’s Record of Sale Entry System (“DES”).

23 5. Indeed, Defendants intentionally delayed taking any action to remedy the
24 known defects of the DES—stalling until the California Legislature passed Senate Bill
25 118 (“SB 118”), which now places restrictions on the purchase, transfer, possession, and
26 registration of centerfire variants of Franklin Armory’s Title 1 series of firearms not
27 possessed before September 1, 2020.

28 6. Plaintiffs and all those similarly situated can no longer take lawful possession

1 of or register the Franklin Armory Title 1 firearms for which they made deposits.

2 7. The above-captioned Plaintiffs thus petition this court for declaratory relief
3 and injunctive relief relating to Defendants’ implementation of unlawful technological and
4 administrative barriers preventing the lawful transfer of firearms and their refusal to
5 timely perform their duties relating to the sale, loan, transfer, purchase, and processing of
6 firearms, including the centerfire variants of Franklin Armory’s Title 1 series of firearms,
7 that are neither “rifles,” “shotguns,” or “handguns” as those terms are defined under state
8 law.

9 **JURISDICTION & VENUE**

10 8. The Court has original jurisdiction of this civil action under 28 U.S.C. § 1331
11 because the action arises under the constitution and laws of the United States, thus raising
12 federal questions.

13 9. The Court also has jurisdiction under 28 U.S.C. § 1343(a)(3) and 42 U.S.C. §
14 1983, since this action seeks to redress the deprivation, under color of the laws, statutes,
15 ordinances, regulations, customs and usages of the state of California and political
16 subdivisions thereof, of rights, privileges or immunities secured by the United States
17 Constitution and by Acts of Congress.

18 10. Plaintiffs’ claims for declaratory and injunctive relief are authorized by 28
19 U.S.C. §§ 2201 and 2202, respectively, and their claim for attorneys’ fees is authorized by
20 42 U.S.C. § 1988.

21 11. The Court has supplemental jurisdiction over Plaintiffs’ state law claims
22 under 28 U.S.C. §1367 because such claims arise out of the same case or controversy as
23 the federal claims.

24 12. Venue in this judicial district is proper under 28 U.S.C. §1391(b)(2) because
25 a substantial part of the events or omissions giving rise to the claims occurred in this
26 district.

27 ///

28 ///

PARTIES

[Plaintiffs]

1
2
3 13. Plaintiff ENDIR BRISENO is a natural person residing in the city of
4 Torrance, in the county of Los Angeles, California. He is a law-abiding citizen and is not
5 prohibited from owning or possessing firearms or ammunition under state or federal law.
6 On or before August 6, 2020, Plaintiff Briseno paid a deposit and entered into a contract
7 with Franklin Armory for the purchase of one or more Franklin Armory Title 1 firearms
8 chambered in 5.56 NATO (a centerfire cartridge). Plaintiff Briseno was, however, barred
9 from receiving his lawful firearm(s) because of technological and administrative barriers
10 that Defendants intentionally and unlawfully erected to prevent such transfers. And, with
11 the passage of SB 118 by the California Legislature, he can no longer take the steps
12 required to register and lawfully possess the centerfire Title 1 firearms for which he made
13 a deposit. But for Defendants' conduct complained of, he would have completed the
14 purchase and taken possession of the Title 1 firearm(s) for which he paid a deposit before
15 August 6, 2020. If Defendants are enjoined from enforcing the laws and regulations
16 complained of herein, Plaintiff Briseno would immediately complete the purchase and
17 take possession of the Title 1 firearm(s) for which he paid a deposit.

18 14. Plaintiff NEIL OPDAHL-LOPEZ is a natural person residing in the city of
19 San Dimas, in the county of Los Angeles, California. He is a law-abiding citizen and is not
20 prohibited from owning or possessing firearms or ammunition under state or federal law.
21 On or before August 6, 2020, Plaintiff Opdahl-Lopez paid a deposit and entered into a
22 contract with Franklin Armory for the purchase of one or more Franklin Armory Title 1
23 firearms chambered in 5.56 NATO (a centerfire cartridge). Plaintiff Opdahl-Lopez was,
24 however, barred from receiving his lawful firearm(s) because of technological and
25 administrative barriers that Defendants intentionally and unlawfully erected to prevent
26 such transfers. And, with the passage of SB 118 by the California Legislature, he can no
27 longer take the steps required to register and lawfully possess the centerfire Title 1
28 firearms for which he made a deposit. But for Defendants' conduct complained of, he

1 would have completed the purchase and taken possession of the Title 1 firearm(s) for
2 which he paid a deposit before August 6, 2020. If Defendants are enjoined from enforcing
3 the laws and regulations complained of herein, Plaintiff Opdahl-Lopez would immediately
4 complete the purchase and take possession of the Title 1 firearm(s) for which he paid a
5 deposit.

6 15. Plaintiff RODNEY WILSON is a natural person residing in the city of
7 Montebello, in the county of Los Angeles, California. He is a law-abiding citizen and is
8 not prohibited from owning or possessing firearms or ammunition under state or federal
9 law. On or before August 6, 2020, Plaintiff Wilson paid a deposit and entered into a
10 contract with Franklin Armory for the purchase of one or more Franklin Armory Title 1
11 firearms chambered in 5.56 NATO (a centerfire cartridge). Plaintiff Wilson was, however,
12 barred from receiving his lawful firearm(s) because of technological and administrative
13 barriers that Defendants intentionally and unlawfully erected to prevent such transfers.
14 And, with the passage of SB 118 by the California Legislature, he can no longer take the
15 steps required to register and lawfully possess the centerfire Title 1 firearms for which he
16 made a deposit. But for Defendants' conduct complained of, he would have completed the
17 purchase and taken possession of the Title 1 firearm(s) for which he paid a deposit before
18 September 1, 2020. If Defendants are enjoined from enforcing the laws and regulations
19 complained of herein, Plaintiff Wilson would immediately complete the purchase and take
20 possession of the Title 1 firearm(s) for which he paid a deposit.

21 16. All members of the proposed class are natural persons and law-abiding individuals
22 who reside in the state of California. They each deposited money and entered into a contract with
23 Franklin Armory on or before August 6, 2020, for the purchase of one or more Franklin Armory
24 Title 1 firearms chambered in 5.56 NATO (a centerfire cartridge). All members of the proposed
25 class were, however, barred from receiving their lawful firearms because of technological
26 and administrative barriers that Defendants intentionally and unlawfully erected to prevent
27 such transfers. And, with the passage of SB 118 by the California Legislature, the
28 proposed class members can no longer take the steps required to register and lawfully

1 possess the centerfire Title 1 firearms for which they made deposits. But for Defendants’
2 allegedly unlawful conduct, members of the proposed class would have completed the
3 purchase and taken possession of the Title 1 firearm(s) for which they paid deposits before
4 August 6, 2020. If Defendants are enjoined from enforcing the laws and regulations
5 complained of herein, members of the proposed class would immediately complete the
6 purchase and take possession of the Title 1 firearm(s) for which they paid a deposit.

7 **[Defendants]**

8 17. Defendant ROBERT BONTA is the Attorney General and chief law enforcement
9 officer of the state of California. Defendant Bonta is charged by article V, section 13, of the
10 California Constitution with the duty to see that the laws of California are uniformly and
11 adequately enforced. He also has direct supervision over every district attorney and sheriff in all
12 matters pertaining to the duties of their respective officers. Defendant Bonta’s duties also include
13 informing the public, local prosecutors, and law enforcement of the meaning of the laws of
14 California, including restrictions on the transfer of firearms, including the Franklin Armory Title
15 1 series of firearms at issue here. He is sued in his official capacity.

16 18. Defendant LUIS LOPEZ is the Acting Chief of the California Department of
17 Justice Bureau of Firearms (“BOF”). As such, he is authorized to execute, interpret, and enforce
18 the laws of the state of California pertaining to, among other things, the submission and
19 collection of DROS information to facilitate lawful firearm transfers in California via the DES or
20 other approved alternative method. He is sued in his official capacity.

21 19. Defendant CALIFORNIA DEPARTMENT OF JUSTICE (“DOJ”) is a lawfully
22 constituted executive agency charged with implementing, enforcing, and administering the state
23 of California’s firearm laws and systems for processing firearm transfers and loans. The DOJ is
24 under the direction and control of the Attorney General. Cal. Gov’t Code § 15000. The DOJ is
25 composed of the Office of the Attorney General and those other divisions, bureaus, branches,
26 sections or other units as the Attorney General may create within the department pursuant to
27 Section 15002.5. *Id.* § 15001. The BOF was created by the Attorney General within the Division
28 of Law Enforcement for the purpose of designing, implementing, and enforcing California’s

1 firearm laws, rules, regulations, and support systems. The DOJ is responsible for the design,
2 development, maintenance, and enforcement of the DES, the system by which licensed
3 California firearm dealers submit purchaser and firearm information to the DOJ for processing in
4 accordance with California's firearm transfer laws and regulations.

5 20. Plaintiffs do not know the true names and capacities of Defendants DOE 1 through
6 10, inclusive, who are therefore sued by such fictitious names. Plaintiffs allege on information
7 and belief that each person or entity designated as DOE 1 through 10 is responsible in some
8 capacity or manner for the adoption or enforcement of the unlawful regulations as alleged in this
9 Complaint. Plaintiffs pray for leave to amend to show the true names, capacities, and/or liabilities
10 of DOE DEFENDANTS 1 through 10, when they are determined.

11 CLASS ALLEGATIONS

12 21. Plaintiffs bring this action as a class action pursuant to Rule 23(a) and (b) of
13 the Federal Rules of Civil Procedure on behalf of themselves and all persons similarly
14 situated, as a member of the proposed class (hereafter "the Class") defined as follows: All
15 persons within the state of California who made earnest money deposits for the purchase
16 of one or more centerfire variants of Franklin Armory's Title 1 series of firearms before
17 August 6, 2020 (i.e., the effective date of Penal Code section 30515(a)(9), 30658, and
18 30900(c)).

19 22. Plaintiffs, and each of them, represent and are members of the Class,
20 consisting of all persons within the state of California who made earnest money deposits
21 for the purchase of one or more centerfire variants of Franklin Armory's Title 1 series of
22 firearms before August 6, 2020.

23 23. The members of the Class are so numerous that joinder of all members is
24 impracticable. While the exact number of Class members is unknown to Plaintiffs at this
25 time, Plaintiffs are informed and believe that thousands of persons made earnest money
26 deposits for the purchase of one or more centerfire variants of Franklin Armory's Title 1
27 series of firearms before August 6, 2020.

28 24. Plaintiffs' claims are typical of the claims of the Class because Plaintiffs and

1 all the Class members sustained the same injury which arose out of Defendants’ wrongful
2 conduct complained of herein—that is, because of Defendants’ alleged conduct, they each
3 were barred from completing the transfer of and taking possession of the centerfire Title 1
4 firearms for which they made earnest money deposits in violation of their rights under the
5 Second and Fourteenth Amendments.

6 25. Common questions of fact and law exist as to all members of the Class which
7 predominate over any questions affecting only individual members of the Class. The
8 common legal and factual questions ,which do not vary between Class members, and
9 which may be determined without reference to the individual circumstances of any
10 individual Class member include, but are not limited to:

11 a. Whether Defendants, through the conduct alleged herein, including the
12 promulgation, maintenance, and enforcement a non-statutory rule prohibiting
13 the transfer of lawful “firearms with an undefined subtype,” including
14 centerfire variants of Franklin Armory’s Title 1 series of firearms, deprived
15 Plaintiffs and all members of the Class of their right to keep and bear arms in
16 violation of the Second Amendment to the United States Constitution.

17 b. Whether Defendants, through the conduct alleged herein, including
18 the promulgation, maintenance, and enforcement a non-statutory rule
19 prohibiting the transfer of lawful “firearms with an undefined
20 subtype,” including centerfire variants of Franklin Armory’s Title 1 series of
21 firearms, deprived Plaintiffs and all members of the Class of their right to
22 substantive due process in violation of the Fourteenth Amendment to the
23 United States Constitution.

24 c. Whether Defendants, through the conduct alleged herein, including the
25 promulgation, maintenance, and enforcement a non-statutory rule prohibiting
26 the transfer of lawful “firearms with an undefined subtype,” including
27 centerfire variants of Franklin Armory’s Title 1 series of firearms, deprived
28 Plaintiffs and all members of the Class of their right to procedural due

1 process in violation of the Fourteenth Amendment to the United States
2 Constitution.

3 26. Plaintiffs are representative parties who will fully and adequately protect the
4 interests of the Class members. Plaintiffs have retained counsel who are qualified and
5 competent to bring both class action and constitutional litigation, including Second and
6 Fourteenth Amendment litigation. Plaintiffs have no interests which are contrary to or in
7 conflict with those of the Class they seek to represent.

8 27. A class action is superior to all other available methods for the fair and
9 efficient adjudication of this controversy since individual litigation of the claims of all
10 members of the Class is impracticable. Even if every single member of the Class could
11 afford to bring litigation individually, the court system could not bear it. It would be
12 unduly burdensome to the courts in which individual litigation of each of the *thousands* of
13 Class members' claims would be brought.

14 28. Further, individualized litigation would invite the potential for varying,
15 inconsistent, or contradictory judgments that would impose varying standards of conduct
16 on Defendants. That is, Plaintiffs and the Class members seek declaratory and injunctive
17 relief, including orders requiring Defendants to allow Plaintiffs and all Class members to
18 submit firearm purchaser information for, finalize the transfer of, take possession of, and
19 register pursuant to Penal Code section 30900(c) the centerfire Title 1 firearms for which
20 they paid earnest money deposits before August 6, 2020. If thousands of individualized
21 actions are brought on behalf of each Class member, varying, inconsistent, or
22 contradictory judgments would result in Defendants being ordered to allow some, but not
23 all, Class members to finalize their centerfire Title 1 firearms purchases and register those
24 firearms as required by state law—even though all Class members have the same interests
25 in this case.

26 29. Further, the prosecution of separate actions by individual Class members
27 would create a risk of adjudications with respect to them that would, as a practical matter,
28 be dispositive of the interests of the other Class members who are not parties to those

1 actions or would substantially impair the ability of non-party Class members to protect
2 their interests. Specifically, because this action deals primarily with legal questions about
3 the scope and application of the Second Amendment right to keep and bear arms, as well
4 as the Fourteenth Amendment rights to substantive and procedural due process, each
5 individual decision would have the potential of creating persuasive or binding precedent
6 on those legal issues that would either be dispositive of those claims for non-party Class
7 members or otherwise substantially impair the ability of such Class members to protect
8 their own interests. By contrast, the conduct of this action as a class action presents fewer
9 management difficulties, conserves the resources of the parties and of the court system,
10 and protects the rights of each Class member.

11 30. Defendants through the conduct alleged herein, including the promulgation,
12 maintenance, and enforcement a non-statutory rule prohibiting the transfer of lawful
13 “firearms with an undefined subtype,” including centerfire variants of Franklin Armory’s
14 Title 1 series of firearms, have violated the Second and Fourteenth Amendment rights of
15 Plaintiffs and members of the Class. Defendants have thus acted or refused to act in
16 respects generally applicable to all members of the Class, making declaratory and
17 injunctive relief appropriate with regard to the members of the Class as a whole.

18 **GENERAL ALLEGATIONS**

19 **[Defendants’ General Duties]**

20 31. The California Constitution vests the office of the Attorney General, currently held
21 by Defendant Bonta, with great powers over the lives of the citizens of the state. Indeed, subject
22 to the powers and duties of the Governor, the Attorney General is the “chief law officer” of the
23 state, and it is his or her duty “to see that the laws of the state are uniformly and adequately
24 enforced.” Cal. Const., art. V, § 13.

25 32. In addition to being the “chief law officer” and the state’s chief attorney, the
26 Attorney General is also the head of the DOJ, Cal. Gov’t Code § 12510, the executive agency
27 charged with implementing, enforcing, and administering the laws of the state of California,
28 including the state’s firearms laws.

1 33. The Attorney General and DOJ must thus provide oversight, enforcement,
2 education, and regulation of many facets of California’s firearms laws. The Attorney General and
3 DOJ primarily perform these duties through DOJ’s BOF, which is currently led by Acting Chief
4 Defendant Lopez.

5 34. The BOF’s mission statement emphasizes its obligation to educate and
6 promote legitimate and lawful firearm sales, and is as follows:

7 The Bureau of Firearms serves the people of California through
8 education, regulation, and enforcement actions regarding the
9 manufacture, sales, ownership, safety training, and transfer of firearms.
10 Bureau of Firearms staff are leaders in providing firearms expertise
and information to law enforcement, legislators, and the general public
in a comprehensive program to promote legitimate and responsible
firearms possession and use by California residents.

11 (Emphasis added.)

12 35. Defendants’ proper performance of their duties ensures that the laws of California,
13 including the state’s firearms laws, are administered fairly, enforced vigorously, and understood
14 uniformly throughout California

15 **[California’s Relevant Definitions]**

16 36. Over the years, the California Legislature has used its lawmaking authority to
17 make the state’s firearms laws the most comprehensive, complex, and restrictive in the
18 nation, with over 800 state statutes regulating firearms and firearms transactions within
19 the state.

20 37. As part of its legislative scheme for the control of firearms, California
21 regulates firearms in a wide variety of ways. Some laws focus on the transfer of firearms
22 (e.g., conducting background checks and registering firearms), some focus on the use of
23 firearms (e.g., regulating the carrying of firearms in public places), some focus on where
24 firearms may be (e.g., prohibiting firearms within school zones), and some focus on the
25 technological aspects of particular firearms (e.g., regulating firearms based upon their
26 function, design, and physical characteristics).

27 38. California has adopted specific definitions related to the technological aspects of
28 particular firearms. For example, state law defines the term “firearm” in several ways, generally

1 including “a device, designed to be used as a weapon, from which is expelled through a barrel, a
2 projectile by the force of an explosion or other form of combustion.” Cal. Penal Code § 16520.

3 39. State law further divides the term “firearm” into two types for transfer regulation:
4 “long guns” and “handguns.”

5 40. Under state law, “long guns” are those firearms that do not qualify as handguns.
6 For purposes of Penal Code section 26860, “ ‘long gun’ means any firearm that is not a handgun
7 or a machinegun.” Cal. Penal Code § 16865.

8 41. Under state law, “ ‘[h]andgun’ means any pistol, revolver, or firearm capable of
9 being concealed upon the person.” *Id.* § 16640. The statutory definition does not “prevent a
10 device defined as a ‘handgun’ from also being found to be a short-barreled rifle^[1] or a short-
11 barreled shotgun.^[2]” *Id.*

12 42. Within the definition of “handgun,” the terms “ ‘firearm capable of being
13 concealed upon the person,’ ‘pistol,’ and ‘revolver’ apply to and include any device designed to
14 be used as a weapon, from which is expelled a projectile by the force of any explosion, or other
15 form of combustion, and that has a barrel less than 16 inches in length. These terms also include
16 any device that has a barrel 16 inches or more in length which is designed to be interchanged

17 ¹ “ ‘Short-barreled rifle’ means any of the following: (a) [a] rifle having a barrel or
18 barrels of less than 16 inches in length; (b) [a] rifle with an overall length of less than 26
19 inches; (c) [a]ny weapon made from a rifle (whether by alteration, modification, or
20 otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a
21 barrel or barrels of less than 16 inches in length; (d) [a]ny device that may be readily
22 restored to fire a fixed cartridge which, when so restored, is a device defined in
23 subdivisions (a) to (c), inclusive; and (e) [a]ny part, or combination of parts, designed and
24 intended to convert a device into a device defined in subdivisions (a) to (c), inclusive, or
25 any combination of parts from which a device defined in subdivisions (a) to (c), inclusive,
26 may be readily assembled if those parts are in the possession or under the control of the
27 same person.” Cal. Penal Code § 17170.

28 ² “ ‘Short-barreled shotgun’ means any of the following: (a) [a] firearm that is designed
or redesigned to fire a fixed shotgun shell and has a barrel or barrels of less than 18 inches
in length; (b) [a] firearm that has an overall length of less than 26 inches and that is
designed or redesigned to fire a fixed shotgun shell; (c) [a]ny weapon made from a
shotgun (whether by alteration, modification, or otherwise) if that weapon, as modified,
has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in
length; (d) [a]ny device that may be readily restored to fire a fixed shotgun shell which,
when so restored, is a device defined in subdivisions (a) to (c), inclusive; and (e) [a]ny
part, or combination of parts, designed and intended to convert a device into a device
defined in subdivisions (a) to (c), inclusive, or any combination of parts from which a
device defined in subdivisions (a) to (c), inclusive, can be readily assembled if those parts
are in the possession or under the control of the same person.” *Id.* § 17180.

1 with a barrel less than 16 inches in length.” *Id.* § 16530 (emphasis added); *see also id.* §§ 17010,
2 17080.

3 43. Below these two classifications (i.e., long gun and handgun) are several statutorily
4 defined firearm subtypes, the most common of which are “rifles” and “shotguns” under the
5 classification for “long guns.”

6 44. Under state law, a “rifle” is “a weapon designed or redesigned, made or
7 remade, and intended to be fired from the shoulder and designed or redesigned and made
8 or remade to use the energy of the explosive in a fixed cartridge to fire only a single
9 projectile through a rifled bore for each single pull of the trigger.” *Id.* § 17090.

10 45. Under state law, a “shotgun” is “a weapon designed or redesigned, made or
11 remade, and intended to be fired from the shoulder and designed or redesigned and made
12 or remade to use the energy of the explosive in a fixed shotgun shell to fire through a
13 smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of
14 the trigger.” *Id.* § 17190.

15 46. The state of California uses these types and subtypes to regulate firearms in distinct
16 ways based upon their design and technology.

17 47. While a device may be considered a “firearm” under California law, it may also fall
18 outside of the statutorily defined subcategories due to the design and features of the firearm. In
19 other words, a “firearm” can be neither a “rifle,” nor a “shotgun,” nor a “handgun.” For ease of
20 reference throughout this complaint, Plaintiffs refer to firearms that are neither “rifles,” nor
21 “shotguns,” nor “handguns,” as those terms are defined by California law, as “firearms with an
22 undefined subtype.”

23 **[Firearms with an Undefined Subtype and the Title 1 Firearm]**

24 48. Franklin Armory’s Title 1 series of firearms are “firearms with an undefined
25 subtype,” as their overall design render the devices to be a “firearm,” but not “rifles,”
26 “shotguns,” or “handguns,” as those terms are defined by California law.

27 49. As “firearms,” Franklin Armory’s Title 1 series of firearms and other “firearms with
28 an undefined subtype,” including but not limited to buntline revolvers 16 or more inches long,

1 butterfly grip firearms, and barreled action firearms, are subject to California “firearm” transfer
2 laws.

3 50. “Firearms with an undefined subtype” have been manufactured for decades and
4 have been known to Defendants for at least the last ten years.

5 51. For instance, the Browning 1919 A4 firearms began production in
6 approximately 1936 and would be deemed “firearms with an undefined subtype.” On
7 March 28, 2000, DOJ issued a letter to Mr. Tim Bero, President of TNW, Inc., about a
8 conversation that they had relating to the Browning .30 Cal. M-1919 A4 and A6, as well
9 as the Browning .50 Cal. M2 semiautomatic rifles configured with a pistol grip or
10 butterfly grip and clarifying that said firearms would not constitute “assault weapons”
11 under California law at that time. *See* Letter from Randy Rossi, Firearms Division
12 Director, California Department of Justice, to Tim Bero, President, TNW, Inc. (Mar. 28,
13 2000) attached hereto as **Exhibit A**.

14 52. Similarly, on November 3, 2004, the Director of the Firearms Division of the
15 DOJ issued a letter stating that a U.S. Ordinance Semi-60 configured with a butterfly grip,
16 which would constitute a “firearm with an undefined subtype,” was not an “assault
17 weapon” under California law at that time. *See* Correspondence between Jason Davis,
18 Trutanich Michel, LLP, and Randy Rossi, Firearms Division Director, California
19 Department of Justice (Nov. 3, 2004) attached hereto as **Exhibit B**.

20 53. One of the most common types of firearms in the United States are barreled
21 action firearms. Barreled action firearms are sold with and without stocks to allow the end
22 user to configure the firearm as desired. Barreled action firearms sold or configured
23 without a stock are “firearms with an undefined subtype.” Such firearms are currently sold
24 nationwide. A simple search of one online retailer, Brownells.com, for “barreled
25 receivers” returns dozens of barreled action firearms currently available for sale that
26 would constitute “firearms with an undefined subtype” (and not bare receivers).

27 54. Other examples of “firearms with an undefined subtype” include firearms
28 that are chambered for shot shells, including but not limited to the O.F. Mossberg & Sons,

1 Inc. model Cruiser chambered in 12 gauge with an 18” barrel, which does not satisfy the
2 definition of “rifle,” “shotgun,” or “handgun,” at those terms are defined under California
3 law.

4 55. Finally, the Franklin Armory Title I series of firearms was originally
5 designed in 2012, at which time the BOF was notified of the firearms’ design and features
6 and of Franklin Armory’s intent to manufacture, produce, sell, and distribute the firearm
7 within the state of California.

8 **[Overview of California’s Firearm Transfer Scheme]**

9 56. The state of California has reserved the entire field of licensing and
10 registration of firearms to itself. Cal. Penal Code § 53071.

11 57. With limited exception, nearly all firearm transfers within California must be
12 processed through a dealer licensed by the federal government, the state of California, and
13 the local authorities to engage in the retail sale of firearms. *Id.* §§ 26700, 27545.

14 58. As part of the firearm transfer process in California, every prospective
15 firearm purchaser must meet various criteria and provide specific documentation.

16 59. In addition to providing a valid government-issued identification, *id.* §§
17 16400, 26845, 27510, prospective firearm purchasers must also:

- 18 ■ Complete the Bureau of Alcohol, Tobacco, Firearms, and Explosives’
19 Form 4473;
- 20 ■ Complete the California Dealer’s Record of Sale (“DROS”) form, *see id.*
21 § 28160;
- 22 ■ Pass a comprehensive background check performed by the state of
23 California, *id.* § 29820, which reviews records in nearly a dozen different
24 databases;
- 25 ■ Pay the background check fee;
- 26 ■ Pay the Firearm Safety & Enforcement fee;
- 27 ■ Pay the Firearm Safety Device fee, *id.* § 23635;
- 28 ■ Undergo a 10-day waiting period, *id.* § 26815;

- 1 ▪ Obtain a Firearm Safety Device, *id.* § 23635; and
- 2 ▪ Possess a Firearm Safety Certificate (“FSC”), *id.* § 31615.

3 60. Certain aspects of licensing and registration have been delegated to
4 Defendants. This includes the licensing of California retailers engaged in the sale of
5 firearms, as well as administration of the recordkeeping, background checks, and fees
6 related to the sale, lease, loan, or transfer of firearms.

7 61. For example, state law mandates that “[a]s required by [Defendant DOJ],
8 every dealer shall keep a register or record of electronic or telephonic transfer in which
9 shall be entered” certain information relating to the transfer of firearms. *Id.* § 28100. And
10 Defendant DOJ must “prescribe the *form* of the register and the record of electronic
11 transfer pursuant to Section 28105.” *Id.* § 28155 (emphasis added).

12 62. Penal Code section 28160(a) requires that the register or record of electronic
13 transfer contain the following detailed information:

- 14 ▪ Date and time of sale;
- 15 ▪ Make of firearm;
- 16 ▪ Peace officer exemption status under the provisions listed in subdivision
17 (c) of Section 16585, and the agency name;
- 18 ▪ Any applicable waiting period exemption information;
- 19 ▪ California Firearms Dealer number issued pursuant to Article 1
20 (commencing with Section 26700) of Chapter 2;
- 21 ▪ The purchaser’s handgun safety certificate number, if applicable;
- 22 ▪ Manufacturer’s name, if stamped on the firearm;
- 23 ▪ Model name or number, if stamped on the firearm;
- 24 ▪ Serial number, if applicable;
- 25 ▪ Other number, if more than one serial number is stamped on the firearm;
- 26 ▪ Any identification number or mark assigned to the firearm pursuant to
27 section 23910;
- 28 ▪ If the firearm is not a handgun and does not have a serial number,

1 identification number, or mark assigned to it, a notation as to that fact;

- 2 ■ Caliber;
- 3 ■ *Type of firearm*;
- 4 ■ Whether the firearm is new or used;
- 5 ■ Barrel length;
- 6 ■ Color of the firearm;
- 7 ■ Full name of purchaser;
- 8 ■ Purchaser's complete date of birth;
- 9 ■ Purchaser's local address;
- 10 ■ If current address is temporary, complete permanent address of purchaser;
- 11 ■ Identification of purchaser;
- 12 ■ Purchaser's place of birth (state or country);
- 13 ■ Purchaser's complete telephone number;
- 14 ■ Purchaser's occupation;
- 15 ■ Purchaser's gender;
- 16 ■ Purchaser's physical description;
- 17 ■ All legal names and aliases ever used by the purchaser;
- 18 ■ Yes or no answer to questions that prohibit purchase;
- 19 ■ Signature of purchaser;
- 20 ■ Signature of salesperson, as a witness to the purchaser's signature;
- 21 ■ Salesperson's certificate of eligibility number, if the salesperson has
22 obtained a certificate of eligibility;
- 23 ■ Name and complete address of the dealer or firm selling the firearm as
24 shown on the dealer's license;
- 25 ■ The establishment number, if assigned;
- 26 ■ The dealer's complete business telephone number;
- 27 ■ Any information required by Chapter 5 (commencing with Section
28 28050);
- Any information required to determine whether subdivision (f) of Section

1 27540 applies;

- 2 ■ A statement of the penalties for signing a fictitious name or address,
- 3 knowingly furnishing any incorrect information, or knowingly omitting
- 4 any information required to be provided for the register; and
- 5 ■ A statement informing the purchaser of certain information.

6 63. Significantly, while information regarding the “type” of firearm (e.g., “long
7 gun” or “handgun”) must be included, information about the “subtype” of a firearm is not
8 expressly mandated by Penal Code section 28160(a) or any other provision of the Penal
9 Code.

10 64. To lawfully transfer any firearm, the licensed California dealer through
11 which the firearm is transferred *must* receive, verify, retain, and/or transmit *all* required
12 firearm purchaser information to Defendant DOJ. *Id.* §§ 28175, 28215(d).

13 65. The state of California has thus made licensed firearm dealers state agents in
14 connection with the gathering and dispensing of information on the purchase of firearms.
15 *United States v. Tallmadge*, 829 F.2d 767 (9th Cir. 1987). As such, licensed firearm
16 dealers are required to submit only information that is “true, accurate, and complete.” Cal.
17 Code Regs., tit. 11, § 4210(b)(1)(6).

18 66. Since 2003, state law has mandated that electronic transfer be the exclusive
19 means for transmitting the required firearm purchaser information to Defendant DOJ but
20 permitted Defendant DOJ to make limited exceptions. *Id.* § 28205(d).

21 67. The method of electronic transfer that Defendants have established under
22 section 28205(c) for the submission of firearm purchaser information required by section
23 28160(a) is the DES. The DES is a web-based application designed, developed, and
24 maintained by Defendants and used by firearm dealers to record and submit the statutorily
25 required firearm purchaser information to the DOJ.

26 68. California law also mandates that Defendant DOJ *shall* examine specified
27 records to determine whether the applicant is prohibited from owning or possessing
28 firearms once it receives the required firearm purchaser information from the licensed

1 firearm dealer. *Id.* § 28220.

2 69. The state did *not* authorize Defendant DOJ to indiscriminately prevent
3 otherwise lawful firearm sales. Rather, the state has granted DOJ the limited authority to
4 stop sales for certain specified reasons. For example, DOJ may halt the sale of a firearm if
5 a purchaser is prohibited from lawfully possessing or obtaining a firearm. *See e.g., id.* §
6 28220.

7 70. The state did *not* authorize Defendant DOJ to indiscriminately delay
8 otherwise lawful firearm sales. Rather, the state granted DOJ the limited authority to delay
9 sales for specified reasons. For example, DOJ may delay if its records show that the
10 purchaser may be prohibited, but additional research is needed to make a final
11 determination. *See e.g., id.* §28220(d) & (f)(1)(A) (authorizing a 30-day delay under
12 specified circumstances but permitting the release of the firearm by the dealer if DOJ
13 cannot determine the purchaser to be ineligible within the 30-day period). DOJ may also
14 delay a sale if the Dealer’s Record of Sale (“DROS”) application contains any blank
15 spaces or inaccurate, illegible, or incomplete information, preventing identification of the
16 purchaser or the handgun or other firearm to be purchased.

17 71. As alleged more fully below, Defendants have failed to comply with their
18 mandates, making it impossible for firearm purchasers and licensed firearm dealers acting
19 as agents of the DOJ to submit true, accurate, and complete information, effectively
20 barring the sale of centerfire variants of Franklin Armory’s Title 1 series of firearms and
21 other “firearms with an undefined subtype.”

22 72. Thus, while Defendant DOJ is the gatekeeper of firearm transactions within
23 the state, its ability to delay or deny the lawful sale and transfer of firearms is exceedingly
24 limited to expressly prohibited activities.

25 **[Senate Bill 118 and Its Impact on Centerfire Variants of Franklin Armory’s Title 1**
26 **Firearms]**

27 73. On or about August 6, 2020, Governor Gavin Newsom signed into law SB
28 118, a budget trailer bill that, as relevant here, added sections 30515(a)(9), 30685, and

1 30900(c) to the California Penal Code. The relevant statutes took effect immediately upon
2 signing.

3 74. The addition of Penal Code section 30515(a)(9) via SB 118, expanded the
4 state’s definition of “assault weapon” to include any “semiautomatic centerfire firearm
5 that is not a rifle, pistol, or shotgun, that does not have a fixed magazine” and has any one
6 of the following features:

- 7 ▪ Pistol grip that protrudes conspicuously beneath the action of the weapon;
- 8 ▪ Thumbhole stock;
- 9 ▪ Folding or telescoping stock;
- 10 ▪ Grenade launcher or flare launcher;
- 11 ▪ Flash suppressor;
- 12 ▪ Forward pistol grip;
- 13 ▪ Threaded barrel, capable of accepting a flash suppressor, forward handgrip,
14 or silencer; or
- 15 ▪ Second handgrip.

16 Cal. Penal Code § 30515(a)(9)(A)-(I).

17 75. In California, under Penal Code section 30605, it is unlawful to possession
18 any firearm designated as an “assault weapon” unless an exemption applies.

19 76. Penal Code section 30685, which was adopted as part of SB 118, exempts
20 from Penal Code section 30605 the possession of any firearm constituting an “assault
21 weapon” under Penal Code section 30515(a)(9) if: (1) “Prior to September 1, 2020, the
22 person would have been eligible to register that assault weapon pursuant to subdivision (c)
23 of Section 30900”; (2) “[t]he person lawfully possessed that assault weapon prior to
24 September 1, 2020”; and (3) “[t] he person registers the assault weapon by January 1,
25 2022, in accordance with subdivision (c) of Section 30900.”

26 77. Penal Code section 30900(c), which was adopted as part of SB 118,
27 establishes the registration requirements for firearms designated “assault weapons”
28 pursuant to Penal Code section 30515(a)(9) and mandates that Defendant DOJ “adopt

1 regulations for the purpose of implementing” sections 30900(c) and 30515(a)(9).

2 78. Under the definition of “assault weapon” expanded by SB 118 via Penal
3 Code section 30515(a)(9), centerfire variants of Franklin Armory’s Title 1 series of
4 firearms are now considered “assault weapons” under California law.

5 79. Because centerfire variants of Franklin Armory’s Title 1 series of firearms are
6 now considered “assault weapons” under Penal Code section 30515(a)(9), it is a crime to
7 possess a centerfire Title 1 firearm *unless* the person (1) was eligible to register the
8 firearm under Penal Code section 30900(c) before September 1, 2020; (2) possessed the
9 firearm before September 1, 2020; *and* (3) registers the firearm by January 1, 2022,
10 pursuant to Penal Code section 30900.

11 **[Nature of Dispute]**

12 80. As part of the design, implementation, maintenance, and enforcement of the
13 DES, Defendants mandated the submission of information relating to firearm “subtypes.”

14 81. Specifically, by design, when the DES user is inputting the designated
15 information into the DES, they must select the firearm type (i.e., “long gun” or
16 “handgun”) from a dropdown menu.

17 82. Until 5:00 a.m. on October 1, 2021, upon selecting “long gun,” the DES was
18 designed and functioned to automatically populate a new dropdown menu including *three*
19 options for firearm “subtype”: “rifle,” “rifle/shotgun,” and “shotgun.”

20 83. In order to complete the electronic form and submit the required firearm
21 purchaser information for a “long gun,” the licensed firearm dealer was required to select
22 one of the three options for “long gun” “subtypes.” But, as alleged above, there are many
23 “long guns,” including centerfire variants of Franklin Armory’s Title 1 series of firearms,
24 that are neither “rifles” nor “shotguns,” as those terms are defined by California law.

25 84. Unlike the dropdown fields that populate for “Color,” “Purchaser Place of
26 Birth,” and Seller Place of Birth,” each of which contains a catchall option labelled
27 “Other,” the DES dropdown field for “long guns” contained no such option until October
28 1, 2021—some fourteen months after the relevant provisions of SB 118 went into effect.

1 85. The actual and practical effect of the design of the DES was that licensed
2 dealers could not submit complete and accurate firearm purchaser information to
3 Defendant DOJ through the DES for centerfire Title 1 firearms because such firearms do
4 not meet the statutory definition of either “rifles” or “shotguns,” as those terms are defined
5 by California law. And, under California Code of Regulations, title 11, § 4210(b)(1)(6),
6 firearm dealers are prohibited from entering inaccurate information within the system.

7 86. Though Penal Code section 28205(c) authorizes Defendant DOJ to adopt an
8 alternative procedure for the submission of firearm purchaser information, Defendant DOJ
9 neither adopted nor implemented an alternative procedure for the submission of firearm
10 purchaser information related to the transfer of “firearms with an undefined subtype,”
11 including centerfire variants of Franklin Armory’s Title 1 series of firearms, before
12 August 6, 2020, when SB 118 took effect.

13 87. Without an alternative procedure for submission of the firearm purchaser
14 information, the DES is the only method of submitting the statutorily required firearm
15 purchaser information to permit the lawful transfer of “firearms with an undefined
16 subtype,” including centerfire variants of Franklin Armory’s Title 1 series of firearms.

17 88. And because dealers could not fully and accurately submit the statutorily
18 required firearm purchaser information through the DES for “long guns” that are
19 “firearms with an undefined subtype,” they could not accept or process applications from
20 prospective purchasers of such firearms before October 1, 2021. Cal. Penal Code §
21 28215(c).

22 89. At all times relevant to Plaintiffs’ claims then, the DES effectively prevented
23 licensed firearm dealers from proceeding with the lawful sale, transfer, or loan of “long
24 guns” that are “firearms with an undefined subtype,” including centerfire variants of
25 Franklin Armory’s Title 1 series of firearms.

26 90. As part of Defendants’ design, implementation, maintenance, and
27 enforcement of the DES, Defendants have instituted a technological and administrative
28 barrier that functions and serves as a ban on the sale, transfer, acquisition, loan, or other

1 processing of “firearms with an undefined subtype,” including centerfire variants of
2 Franklin Armory’s Title 1 series of firearms, through licensed firearms dealers in
3 California.

4 91. But before August 6, 2020—the effective date of SB 118—no state or federal
5 law prevented the sale, transfer, acquisition, or loan of centerfire variants of Franklin
6 Armory’s Title 1 series of firearms within California.

7 92. It was instead Defendants’ refusal to remove the technological and
8 administrative barriers they themselves erected that prevented the otherwise lawful
9 transfer of Franklin Armory’s centerfire Title 1 firearms to law-abiding, non-prohibited
10 persons.

11 93. These barriers could have been alleviated if Defendants had simply updated
12 DES to provide the option to select “Other” from the dropdown menu of “long gun”
13 “subtypes”—an option the DES provides in dropdown menus for the firearm’s “Color,”
14 the “Purchaser Place of Birth,” and “Seller Place of Birth.”

15 94. These barriers could also have been alleviated by permitting the DES user to
16 proceed without selecting a “subtype,” but the DES, as then configured, did not allow the
17 user to complete and submit the application without selecting a “subtype.”

18 95. These barriers could also have been alleviated if Defendants had authorized
19 any of a multitude of other means under the authority granted them by Penal Code section
20 28205(c), including but not limited to, instructing DES users to proceed by selecting
21 preauthorized designated options and identifying the firearm as “other” in one of the
22 “comment” fields within the DES.

23 96. Plaintiffs allege under information and belief that Defendants knew the DES
24 deficiencies complained of herein and intended them from inception.

25 97. Indeed, Defendants have known of the DES deficiencies complained of
26 herein at least since the introduction of the Franklin Armory Title 1 series of firearms in
27 2012, and they have been asked to correct said defects.

28 98. Indeed, Defendants and Franklin Armory were in communication about the

1 design and features of the Title 1 series of firearms since about 2012.

2 99. At minimum, Defendants knew of the DES deficiencies complained of herein
3 as of October 24, 2019, when Franklin Armory expressly notified Defendants of the DES
4 defects and Franklin Armory's inability to transmit Title 1 firearms to their customers
5 because of said defects. *See Exhibit C.*

6 100. Defendants neither corrected the DES, nor did they implement alternative
7 procedures to facilitate the lawful transfer of "firearms with an undefined subtype,"
8 including centerfire variants of Franklin Armory's Title I series of firearms.

9 101. Defendants had more than adequate and reasonable time to make the
10 corrections necessary to permit the system to process "firearms with an undefined
11 subtype," including but not limited to centerfire variants of Franklin Armory's Title 1
12 series of firearms, before September 1, 2020.

13 102. Defendants had more than adequate and reasonable time to implement
14 alternative procedures under Penal Code section 28205(c) for the lawful transfer of
15 "firearms with an undefined subtype," including but not limited to centerfire variants of
16 Franklin Armory's Title 1 series of firearms, before September 1, 2020.

17 103. Indeed, Defendants were able to modify the DES to address a similar
18 deficiency reported concurrently by Franklin Armory's counsel in the same letter dated
19 October 24, 2019. Specifically, Franklin Armory reported to Defendant DOJ that the DES
20 omitted the United Arab Emirates from the dropdown list of options for "Country of
21 Birth." Defendant DOJ corrected that defect on or about November 26, 2019.

22 104. After Franklin Armory submitted a Government Tort Claim under
23 California's Tort Claims Act on November 20, 2019, Defendants informed Mr. Jason
24 Davis, counsel for Franklin Armory, Inc., that the DOJ would make changes to the DES to
25 correct the deficiencies described herein. But Defendants claimed it would take a few
26 months to institute those changes.

27 105. Defendants would not, in fact, update the DES to allow for the transfer of
28 "firearms with an undefined subtype" until October 1, 2021—more than two years after

1 Franklin Armory informed Defendants of the defects that prevented the transfer of such
2 firearms and about a year and a half after Franklin Armory and California Rifle & Pistol
3 Association, Incorporated, sued Defendants in state court to have the defects corrected.

4 106. Plaintiffs allege on information and belief that Defendants designed and
5 developed alternative procedures, processes, and/or updates that would cure the
6 deficiencies of the DES complained of herein but refused and/or intentionally delayed
7 implementation of those alternatives.

8 107. Plaintiffs allege on information and belief that Defendants designed,
9 implemented, maintained, and enforced the DES to intentionally prevent the transfer of
10 “firearms with an undefined subtype,” including centerfire variants of Franklin Armory’s
11 Title 1 series of firearms.

12 108. Plaintiffs allege on information and belief that Defendants continued with the
13 deficiencies intentionally, delaying the necessary changes to the DES that would permit
14 the lawful transfer of lawful “firearms with an undefined subtype,” including centerfire
15 variants of Franklin Armory’s Title 1 series of firearms, to Plaintiffs and all members of
16 the Class.

17 109. As a result of the inability of dealers to submit true, accurate, and complete
18 firearm purchaser information through the DES for “firearms with an undefined subtype,”
19 including centerfire variants of Franklin Armory’s Title 1 series of firearms, Franklin
20 Armory was unable to transfer the centerfire Title 1 firearms reserved by Plaintiffs and all
21 members of the Class who sought to lawfully purchase and take possession of the
22 centerfire Title 1 firearms that they submitted deposits for.

23 110. Defendants could have, if they desired, rectified this matter immediately
24 upon learning of the deficiencies that Franklin Armory and others warned them of, but
25 they instead chose to perpetuate the de facto ban on the sale of certain lawful firearms,
26 including centerfire variants of Franklin Armory’s Title 1 series of firearms, by way of
27 institutionalized technological and administrative barriers.

28 111. Plaintiffs allege on information and belief that Defendants acted in concert to

1 prevent the sale of centerfire variants of Franklin Armory’s Title 1 series of firearms
2 indefinitely.

3 112. Specifically, on information and belief, Plaintiffs allege that Defendants
4 conspired to and did delay any action that would permit the lawful sale, transfer, and
5 delivery of “firearms with an undefined subtype” until legislation designed and intended
6 to ban the sale, transfer, and delivery of centerfire variants of Franklin Armory’s Title 1
7 series of firearms could be adopted by the California legislature and take effect.

8 113. Plaintiffs allege on information and belief that the acts described above were
9 performed by Defendants with the intent to delay and prohibit the sales and lawful transfer
10 of centerfire variants of Franklin Armory’s Title 1 series of firearms to Plaintiffs and all
11 members of the Class until such time as legislation was developed, proposed, and passed
12 designating such firearms as “assault weapons” under the Roberti-Roos Assault Weapons
13 Control Act. *See* Email from Jennifer Kim, Principal Consultant, Assembly Budget
14 Committee, to Jason Sisney Re: Assault Weapon TBL—Add’l Info FYI (June 24, 2020)
15 attached hereto as **Exhibit D**.

16 114. Plaintiffs allege on information and belief that Assembly Bill 88 (“AB 88”),
17 introduced by the Committee on Budget and amended in the Senate to include the relevant
18 expansion of California’s “assault weapons” law in June 2020, was the result of
19 Defendants’ first attempt to redesignate centerfire variants of Franklin Armory’s Title 1
20 series of firearms as “assault weapons.” AB 88 did not pass.

21 115. Plaintiffs allege on information and belief that Defendants’ scheme was
22 ultimately successful with the adoption of Penal Code sections 30515(a)(9), 30685,
23 30900(c) (the relevant portions of SB 118), which took effect on August 6, 2020—
24 immediately designating centerfire variants of Franklin Armory’s Title 1 series of firearms
25 as “assault weapons” and effectively prohibiting the transfer of centerfire Title 1 firearms
26 from Franklin Armory to Plaintiffs and all Class members.

27 116. Because of Defendants’ unlawful and unconstitutional conduct, as alleged
28 herein, Plaintiffs (and all members of the Class) were unable to submit the statutorily

1 required firearm purchaser information via DES for, complete the lawful purchase of, and
2 take possession of their centerfire Franklin Armory Title 1 firearms before the September
3 1, 2020 deadline imposed by Penal Code section 30685.

4 117. As such, Defendants' actions and inaction described herein effectively denied
5 Plaintiffs and all members of the Class of their right to due process, their Second
6 Amendment rights, and their property rights, among other things.

7 **DECLARATORY RELIEF ALLEGATIONS**

8 118. There is an actual and present controversy between the parties that is definite
9 and concrete and touches on the legal relations of the parties, as well as many thousands
10 of people not before this Court whom Defendants are legally bound to serve.

11 119. Plaintiffs contend that Defendants, by implementing, maintaining, and
12 enforcing a non-statutory ban on the transfer of "firearms with an undefined subtype,"
13 including centerfire variants of Franklin Armory's Title 1 series of firearms, deprived
14 Plaintiffs (and all members of the Class) of their right to keep and bear arms for lawful
15 purposes under the Second Amendment.

16 120. Plaintiffs contend that Defendants, by implementing, maintaining, and
17 enforcing a non-statutory ban on the transfer of "firearms with an undefined subtype,"
18 including centerfire variants of Franklin Armory's Title 1 series of firearms, deprived
19 Plaintiffs (and all members of the Class) of their rights to substantive and procedural due
20 process under the Fourteenth Amendment before depriving them of their rights to acquire
21 and possess lawful firearms, including the centerfire Title 1, for lawful purposes and to
22 contract freely in lawful commerce without unlawful impairment by the government.

23 121. Plaintiffs allege on information and belief that Defendants deny these
24 contentions.

25 122. Plaintiffs thus desire a judicial declaration concerning the parties' respective
26 rights, duties, and responsibilities.

27 **INJUNCTIVE RELIEF ALLEGATIONS**

28 123. Plaintiffs have suffered and will continue to suffer harm by Defendants'

1 conduct as complained of herein insofar as that conduct violates Plaintiffs' right to keep
2 and bear arms for lawful purposes under the Second Amendment to the United States
3 Constitution.

4 124. Plaintiffs have suffered and will continue to suffer harm by Defendants'
5 conduct as complained of herein insofar as that conduct violates Plaintiffs' rights to
6 substantive and procedural due process under the Fourteenth Amendment to the United
7 States Constitution.

8 125. If not enjoined by this Court, Defendants will continue to engage in the
9 unconstitutional and unlawful conduct complained of herein.

10 126. Plaintiffs have no plain, speedy, and adequate remedy at law. Damages are
11 indeterminate or unascertainable and, in any event, would not fully redress any harm
12 suffered by Plaintiffs who have suffered the violation of their constitutional rights.

13 **FIRST CAUSE OF ACTION**
14 **Violation of the Right to Keep and Bear Arms Under U.S. Const., Amend. II**
15 **42 U.S.C. § 1983**
16 **(By All Plaintiffs Against All Defendants)**

17 127. Plaintiffs reallege and incorporate by reference the allegations contained in
18 Paragraphs 1 through 126, inclusive, as though fully set forth below.

19 128. The Second Amendment to the United States Constitution declares that "the
20 right of the people to keep and bear arms shall not be infringed." U.S. CONST. amend. II.

21 129. The Supreme Court has held that the Second Amendment right to keep and
22 bear arms is incorporated into the Due Process Clause of the Fourteenth Amendment and
23 may not be infringed by state and local governments. McDonald, 561 U.S. at 750.

24 130. Defendants deprived Plaintiffs and all members of the Class of their right to
25 keep and bear arms under the Second Amendment by implementing, maintaining, and
26 enforcing a non-statutory ban via technological and administrative barriers prohibiting the
27 application for, sale, transfer, delivery of lawful "firearms with an undefined subtype,"
28 including centerfire variants of Franklin Armory's Title 1 series of firearms.

131. Plaintiffs contend that at all times before Penal Code sections 30515(a)(9),

1 30685, and 30900(c) went into effect on August 6, 2020, centerfire variants of Franklin
2 Armory's Title 1 series of firearms were lawful to sell, transfer, deliver, and possess within
3 California and that Plaintiffs (and all members of the Class) were entitled to apply for,
4 purchase, receive, and possess the Title 1 firearms for which they had paid earnest money
5 deposits. Plaintiffs and all members of the Class could not complete the purchase of said
6 firearms, however, due to Defendants' conduct complained of herein.

7 132. Defendants have no authority under either the California Constitution or any
8 law adopted by the state legislature, including California's Dangerous Weapons laws, to
9 unilaterally suspend the Second Amendment rights of Californians or to suspend state
10 statutes regarding their obligation to facilitate the submission of firearm purchaser
11 information in order to facilitate the lawful transfer of firearms that are legal to sell,
12 transfer, deliver, and possess in California.

13 133. What's more, Defendants had no authority to prohibit or otherwise disrupt
14 the sale, transfer, delivery, or possession of centerfire variants of Franklin Armory's Title
15 1 series of firearms before the effective date of Penal Code sections 30515(a)(9), 30685,
16 and 30900(c).

17 134. Defendants had no legitimate, let alone compelling or substantial, interest in
18 promulgating and enforcing a rule, practice, policy, or procedure that effectively barred
19 the transfer of lawful firearms to law-abiding persons—a rule that Defendants had no
20 authority to adopt in the first place.

21 135. Plaintiffs and all members of the Class have suffered and will continue to
22 suffer irreparable harm unless and until Defendants are enjoined from barring the delivery,
23 sale, transfer, possession, and registration of those centerfire Title 1 firearms that could
24 have been (and, but for Defendants' conduct complained of herein, would have been)
25 lawfully sold, delivered, transferred, and possessed before the September 1, 2020 deadline
26 imposed by Penal Code section 30685(b).

27 136. Plaintiffs and all members of the Class are entitled to declaratory relief and
28 injunctive relief restraining Defendants from resuming enforcement of a non-statutory ban

1 on “firearms with an undefined subtype” and from enforcing against them Penal Code
2 sections 30515(a)(9), 30685, and 30900(c)—the provisions of SB 118 that prohibit the
3 sale, transfer, delivery, and registration of centerfire Title 1 firearms not possessed before
4 September 1, 2020—compliance with which, for Plaintiffs and all Class members, was
5 thwarted and made impossible by Defendants’ actions described herein.

6
7 **SECOND CAUSE OF ACTION**
8 **Violation of the Right to Substantive Due Process Under U.S. Const., Amend. XIV**
9 **42 U.S.C. § 1983**
10 **(By All Plaintiffs Against All Defendants)**

11 137. Plaintiffs reallege and incorporate by reference the allegations contained in
12 Paragraphs 1 through 136, inclusive, as though fully set forth below.

13 138. The Due Process Clause of the Fourteenth Amendment provides that no state
14 shall “deprive any person of life, liberty, or property, without due process of law.” U.S.
15 Const., amend XIV. The government may only deprive individuals of these interests when
16 doing so furthers a “legitimate governmental objective.” *Lingle v. Chevron USA*, 544 U.S.
17 528, 542 (2005).

18 139. Plaintiffs and all members of the Class have a liberty interest in the
19 fundamental right to acquire and possess lawful firearms for lawful purposes, U.S. Const.,
20 amend. II, and in their right to contract freely in lawful commerce without unlawful or
21 unauthorized impairment by the government, U.S. Const., art. I, §10; Cal. Const., art. I, §

22 140. Defendants deprived Plaintiffs and all members of the Class of these rights
23 and liberties without due process of law in violation of the Fourteenth Amendment by
24 implementing, maintaining, and enforcing a non-statutory ban via technological and
25 administrative barriers prohibiting the application for, sale, transfer, and delivery of lawful
26 “firearms with an undefined subtype,” including centerfire variants of Franklin Armory’s
27 Title 1 series of firearms.

28 141. Plaintiffs contend that at all times before 30515(a)(9), 30685, and 30900(c)
went into effect on August 6, 2020, centerfire variants of Franklin Armory’s Title 1 series

1 of firearms were lawful to sell, transfer, deliver, and possess within California and that
2 Plaintiffs and all members of the Class were entitled to apply for, purchase, receive, and
3 possess the Title 1 firearms for which they had paid earnest money deposits. Plaintiffs and
4 all members of the Class could not complete the purchase of said firearms, however, due
5 to Defendants' conduct complained of herein.

6 142. Defendants have no authority under either the California Constitution or any
7 law adopted by the state legislature, including California's Dangerous Weapons laws, to
8 unilaterally suspend the constitutional rights of Californians or to suspend state statutes
9 regarding their obligation to facilitate the submission of firearm purchaser information in
10 order to facilitate the lawful transfer of firearms that are legal to sell, transfer, own, and
11 possess in California.

12 143. What's more, Defendants had no authority to prohibit or otherwise disrupt
13 the sale, transfer, delivery, or possession of centerfire variants of Franklin Armory's Title
14 1 series of firearms before the effective date of Penal Code sections 30515(a)(9), 30685,
15 and 30900(c).

16 144. Defendants have no legitimate, let alone compelling or substantial, interest in
17 promulgating and enforcing a rule, practice, policy, or procedure that effectively bars the
18 transfer of lawful firearms to law-abiding persons—a rule that suspends the constitutional
19 rights of Californians, including Plaintiffs and all members of the Class, and that
20 Defendants had no authority to adopt in the first place.

21 145. Plaintiffs and all members of the Class have suffered and will continue to
22 suffer irreparable harm unless and until Defendants are enjoined from barring the delivery,
23 sale, transfer, possession, and registration of those centerfire Title 1 firearms that could
24 have been (and, but for Defendants' conduct complained of herein, would have been)
25 lawfully sold, delivered, transferred, and possessed before the September 1, 2020 deadline
26 imposed by Penal Code section 30685(b).

27 146. Plaintiffs and all members of the Class are entitled to declaratory relief and
28 injunctive relief restraining Defendants from resuming enforcement of a non-statutory ban

1 on “firearms with an undefined subtype” and from enforcing against them Penal Code
2 sections 30515(a)(9), 30685, and 30900(c)—the provisions of SB 118 that prohibit the
3 sale, transfer, delivery, and registration of centerfire Title 1 firearms not possessed before
4 September 1, 2020—compliance with which, for Plaintiffs and all Class members, was
5 thwarted and made impossible by Defendants’ actions described herein.

6 **THIRD CAUSE OF ACTION**
7 **Violation of Right to Procedural Due Process Under U.S. Const., Amend. XIV**
8 **42 U.S.C. § 1983**
9 **(By All Plaintiffs Against All Defendants)**

10 147. Plaintiffs reallege and incorporate by reference the allegations contained in
11 Paragraphs 1 through 146, inclusive, as though fully set forth below.

12 148. The Due Process Clause of the Fourteenth Amendment provides that no state
13 shall “deprive any person of life, liberty, or property, without due process of law.” U.S.
14 Const., amend XIV.

15 149. Due process requires that the state afford an individual an opportunity to be
16 heard at a meaningful time and in a meaningful manner before taking action which
17 materially infringes that person’s liberty or property interests. *Boddie v. Connecticut*, 401
18 U.S. 371 (1971); *Armstrong v. Manzo*, 380 U.S. 545 (1964); *Mullane v. Central Hanover*
19 *Tr. Co.*, 339 U.S. 306 (1950).

20 150. Plaintiffs and members of the Class have a liberty interest in the fundamental
21 right to acquire and possess lawful firearms, including the Franklin Armory Title 1 series
22 of firearms, buntline revolvers 16 or more inches long, butterfly grip firearms, and
23 barreled action firearms, for lawful purposes, U.S. Const., amend. II, and in their right to
24 contract freely in lawful commerce without unlawful or unauthorized impairment by the
25 government, U.S. Const., art. I, §10; Cal. Const., art. I, § 9.

26 151. Defendants deprived Plaintiffs and all members of the class of these rights
27 and liberties without due process of law in violation of the Fourteenth Amendment by
28 implementing, maintaining, and enforcing a non-statutory ban via technological barriers
prohibiting the application for, sale, transfer, delivery of Title 1 firearms.

1 152. Plaintiffs contend that at all times before the signing of SB 118, the Title 1
2 firearm was lawful to sell, transfer, deliver, and possess within California and that
3 Plaintiffs and all members of the Class were entitled to apply for, purchase, receive, and
4 possess Title 1 firearms for which they had paid earnest money deposits.

5 153. Defendants have no authority under either the California Constitution or any
6 law adopted by the California Legislature to unilaterally suspend the constitutional rights
7 of Californians or to suspend California statutes regarding the obligation to facilitate the
8 transfer of firearms.

9 154. Defendants had no authority to promulgate, maintain, and enforce a non-
10 statutory rule prohibiting the transfer of lawful firearms, including but not limited to
11 centerfire variants of Franklin Armory's Title 1 series of firearms, that was not adopted in
12 compliance with the mandatory procedural requirements of California's APA before the
13 effective date of Penal Code sections 30515(a)(9), 30685, and 30900(c). *See Modesto City*
14 *Schools v. Educ. Audits Appeal Panel*, 123 Cal.App.4th 1365, 1381 (2004).

15 155. What's more, Defendants had no authority to prohibit or otherwise disrupt
16 the sale, transfer, delivery, or possession of centerfire variants of Franklin Armory's Title
17 1 series of firearms before the effective date of Penal Code sections 30515(a)(9), 30685,
18 and 30900(c).

19 156. Plaintiffs, all members of the Class, and the public at large lacked any
20 meaningful opportunity to seek redress of injuries caused by Defendants' conduct
21 complained of herein or by which they could effectuate the transfer of the said firearms.

22 157. Plaintiffs and all members of the Class have suffered and will continue to
23 suffer irreparable harm unless and until Defendants are enjoined from barring the delivery,
24 sale, transfer, possession, and registration of those centerfire Title 1 firearms that could
25 have been (and, but for Defendants' conduct complained of herein, would have been)
26 lawfully sold, delivered, transferred, and possessed before the September 1, 2020 deadline
27 imposed by Penal Code section 30685(b).

28 158. Plaintiffs and all members of the Class are entitled to declaratory relief and

1 injunctive relief restraining Defendants from resuming enforcement of a non-statutory ban
2 on “firearms with an undefined subtype” and from enforcing against them Penal Code
3 sections 30515(a)(9), 30685, and 30900(c)—the provisions of SB 118 that prohibit the
4 sale, transfer, delivery, and registration of centerfire Title 1 firearms not possessed before
5 September 1, 2020—compliance with which, for Plaintiffs and all Class members, was
6 thwarted and made impossible by Defendants’ actions described herein.

7 **PRAYER**

8 WHEREFORE, Plaintiffs, individually and on behalf of the Class, pray that this Court:

9 1. Enter declaratory judgment under 28 U.S.C. § 2201 in Plaintiffs’ favor
10 holding that Defendants, through the conduct alleged herein, including the promulgation,
11 maintenance, and enforcement a non-statutory rule prohibiting the transfer of lawful
12 “firearms with an undefined subtype,” including centerfire variants of Franklin Armory’s
13 Title 1 series of firearms, deprived Plaintiffs and all members of the Class of their right to
14 keep and bear arms guaranteed by the Second Amendment to the United States
15 Constitution.

16 2. Enter declaratory judgment under 28 U.S.C. § 2201 in Plaintiffs’ favor
17 holding that Defendants, through the conduct alleged herein, including the promulgation,
18 maintenance, and enforcement a non-statutory rule prohibiting the transfer of lawful
19 “firearms with an undefined subtype,” including centerfire variants of Franklin Armory’s
20 Title 1 series of firearms, deprived Plaintiffs and all members of the Class of their right to
21 substantive due process guaranteed by the Fourteenth Amendment to the United States
22 Constitution.

23 3. Enter declaratory judgment under 28 U.S.C. § 2201 in Plaintiffs’ favor
24 holding that Defendants, through the conduct alleged herein, including the promulgation,
25 maintenance, and enforcement a non-statutory rule prohibiting the transfer of lawful
26 “firearms with an undefined subtype,” including centerfire variants of Franklin Armory’s
27 Title 1 series of firearms, deprived Plaintiffs and all members of the Class of their right to
28 procedural due process guaranteed by the Fourteenth Amendment to the United States

1 Constitution.

2 4. Issue injunctive relief in Plaintiffs’ favor and against Defendants:

3 (a) Restraining Defendants, their employees, representatives, and all those
4 acting in concert with them or pursuant to their authority or control, from
5 resuming enforcement of a non-statutory ban on “firearms with undefined
6 subtypes,” including but not limited to centerfire variants of Franklin
7 Armory’s Title 1 firearms;

8 (b) Ordering Defendants to allow Plaintiffs and members of the Class to
9 submit the statutorily required firearm purchaser information through DES
10 for, complete the transfer of, take possession of, and register pursuant to
11 Penal Code section 30900(c) those centerfire Title 1 firearms for which they
12 made earnest money deposits before August 6, 2020, notwithstanding the fact
13 that these firearms were not possessed by Plaintiffs or the Class members
14 before September 1, 2020;

15 (c) Restraining Defendants, their employees, representatives, and all those
16 acting in concert with them or pursuant to their authority or control, from
17 enforcing Penal Code sections 30515(a)(9), 30685, and 30900(c) and any
18 agency rule or regulation adopted pursuant to section 30900(c) against any
19 Plaintiff or member of the Class until they are given a reasonable period
20 during which to submit the statutorily required firearm purchaser information
21 through DES, complete the transfer of, take possession of, and register those
22 centerfire Title 1 firearms for which they made earnest money deposits before
23 August 6, 2020.

24 5. Award nominal damages to Plaintiffs;

25 6. Award reasonable attorneys’ fees and costs of suit incurred in this action
26 pursuant to 42 U.S.C. § 1988 and/or any other applicable law; and

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28 ///

