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17 **UNITED STATES DISTRICT COURT**
18 **EASTERN DISTRICT OF CALIFORNIA**

19 HARRY SHARP; DAVID AJIROGI; RYAN
20 GILARDY; DARIN PRINCE; TODD
21 FELTMAN; DAVID KUEH; TERRY
22 JAHRAUS; THE CALGUNS FOUNDATION;
23 FIREARMS POLICY COALITION;
24 FIREARMS POLICY FOUNDATION;
25 SECOND AMENDMENT FOUNDATION;
26 and MADISON SOCIETY FOUNDATION,

27 Plaintiffs and Petitioners,

28 v.

XAVIER BECERRA, in his official capacity as
Attorney General of California; BRENT E.
ORICK, in his official capacity as Acting Chief
of the Department of Justice Bureau of
Firearms; JOE DOMINIC, in his official
capacity as Chief of the Department of Justice
California Justice Information Services
Division; CALIFORNIA DEPARTMENT OF
JUSTICE; and DOES 1 through 20, inclusive,

Respondents.

Case No. 2:18-cv-02317-MCE-AC

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

1 Plaintiffs and petitioners HARRY SHARP, DAVID AJIROGI, RYAN GILARDY,
2 DARIN PRINCE, TODD FELTMAN, DAVID KUEHL, TERRY JAHRAUS, THE CALGUNS
3 FOUNDATION, FIREARMS POLICY COALITION, FIREARMS POLICY FOUNDATION,
4 SECOND AMENDMENT FOUNDATION, and MADISON SOCIETY FOUNDATION
5 (collectively, “Plaintiffs”) by and through their undersigned counsel, who hereby complain and
6 allege as follows:¹

7 **INTRODUCTION**

8 1. Since 1989, the State of California has regulated the acquisition, possession, and
9 use of firearms using an ever-expanding definition of so-called “assault weapons” and by and
10 through an aggressive enforcement of an ever-expanding statutory scheme. In 2016, the State
11 once again broadened the “assault weapons” statutes to include more semi-automatic firearms
12 with a particular magazine locking device, colloquially known as “bullet buttons.”²

13 2. The possession, transportation, and use of unregistered “assault weapons”
14 imposes criminal liability on gun owners who are not otherwise prohibited from possessing or
15 acquiring firearms, in addition to the potential loss of their property, fines, and standing in the
16 community. Thus, some California citizens and gun owners, desiring to abide by the laws of our
17 State, endeavored to register their eligible firearms in accordance with the statutory registration
18 mandates of California Penal Code §§ 30680 and 30900(b) so as to remain in good standing with
19 the law.³

20 _____
21 ¹ Defendants have consented to the filing of this amended complaint. FRCP 15(a)(2); *see also*
22 Dkt. 8 (stipulation and order granting leave to file amended complaint).

23 ²A Bullet Button is a particular patented and trademarked device that functions to provide a
24 mechanical barrier between a firearm’s normal magazine release function and the user, requiring
25 a bullet, tool, or other object to affirmatively engage the release mechanism and allow the
26 magazine to be removed from the firearm body. Individual plaintiff Darin Prince, in fact, was an
27 early innovator and inventor of the Bullet Button device. Today, while the DOJ’s regulations
28 refer to such devices generally as “bullet button” devices, they are more properly considered as a
class of “magazine locking devices” of which the Bullet Button is but one brand and type. For
consistency, all references to “bullet button” are generic and refer to the broader class of
“magazine locking devices” invented for compliance with prior statutes and regulations or,
where the context so indicates, to the firearms on which such devices are installed.

3 All further undesignated references are to the California Penal Code.

1 3. But many gun owners not prohibited from possessing or acquiring firearms,
2 including the Individual Plaintiffs, those similarly situated, and many members of the
3 Institutional Plaintiffs here, have been unfairly and improperly prevented from registering their
4 eligible firearms in accordance with the law because Defendants Xavier Becerra, California
5 Attorney General; Brent Orick, Acting Chief of the California Department of Justice (DOJ)
6 Bureau of Firearms; Joe Dominic, Chief of the DOJ, California Justice Information Services
7 Division; and the DOJ itself (collectively “Defendants”) have utterly failed and refused to
8 perform their statutorily-imposed duties to the People of the State of California to establish,
9 implement, and maintain a properly functioning, consistently reliable Internet-based system for
10 processing the registration of such firearms throughout the registration period. Defendants knew
11 or reasonably should have known that the system they established, implemented, and maintained
12 for these purposes, the California Firearms Application Reporting System (CFARS), was flawed,
13 intermittently inoperable, and ultimately incapable of providing a reliable means for the public to
14 register their firearms in accordance with the law, and therefore they knew or reasonably should
15 have known that the failures of this system effectively prevented Plaintiffs and many other
16 similarly situated individuals from properly and timely registering their firearms in accordance
17 with the law.

18 4. The situation came to an ignominious conclusion the week before the statutory
19 registration deadline. During the week of Monday, June 25, 2018, through Saturday, June 30,
20 2018, the statutory deadline, and beyond, the DOJ’s registration system was largely inaccessible,
21 and inoperable on a wide variety of ordinary web browsers across the state. And many users
22 who were able to access the site were still prevented from completing the process before the
23 Internet-based registration system crashed, obliterating the hours-long progress they had made.
24 As a result, many individuals, including the Individual Plaintiffs herein, were prevented from
25 timely registering before July 1 in compliance with the law, due to no fault of their own.

26 5. In this case, Plaintiffs seek an un-extraordinary result, compelled by the basic
27 tenets of due process: That they simply be allowed to register their eligible firearms and comply
28 with the law, and that Defendants, and their officers and agents, similarly comply with the law

1 by allowing such registrations and ensuring they are properly and timely processed through a
2 functioning Internet-based system as they were required by statute to do.

3 6. Plaintiffs seek mandamus, declaratory, and injunctive relief as necessary and
4 proper to remedy the Defendants' failures to permit and provide for a functional registration
5 system throughout the registration period, including and especially during the last week of June
6 2018.

7 **JURISDICTION AND VENUE**

8 7. This case raises questions under the Fourteenth Amendment to the United States
9 Constitution. This Court has jurisdiction over Plaintiffs' claims for relief under federal law
10 pursuant to 28 U.S.C. § 1331. This Court has supplemental jurisdiction over Plaintiffs' state-law
11 claims pursuant to 28 U.S.C. § 1367(a).

12 8. Venue is proper under 28 U.S.C. § 1391(v). Assignment to the Sacramento
13 division is proper pursuant to Local Rule 120(d), because it the case was initiated in Shasta
14 County.

15 **THE PARTIES**

16 **A. Individual Plaintiffs**

17 9. All Individual Plaintiffs herein are natural persons, citizens of the United States,
18 and citizens and residents of the State of California, in the counties specified below.

19 10. All Individual Plaintiffs are otherwise eligible to possess and acquire firearms
20 under applicable state and federal laws, including those firearms which the State now classifies
21 as "bullet button assault weapons" under the regulatory scheme enacted in 2016 under Senate
22 Bill 880 and Assembly Bill 1135 (2015-2016 Reg. Sess.)

23 11. Plaintiff Harry Sharp is an individual, a law-abiding gun owner and a resident of
24 the County of Shasta, California, and is and has been otherwise eligible to possess and acquire
25 firearms under applicable state and federal laws. He is also a member and supporter of
26 Institutional Plaintiffs Firearms Policy Coalition, Firearms Policy Foundation, and The Calguns
27 Foundation. For over 30 years, he has held a license to carry a concealed firearm (CCW) issued
28 to him by his county sheriff, after proving "good cause" and his good moral character to his

1 licensing authority, successfully completing a course of training on the law and firearms
2 proficiency, and passing an extensive Live Scan-based background check. Plaintiff Sharp also is
3 the registered owner of several Registered Assault Weapons (RAWs) which were legally owned
4 and registered during a prior assault weapons registration period, in or before 2001. Prior to
5 January 1, 2017, and as a private citizen, plaintiff Sharp legally owned four semiautomatic
6 firearms which the DOJ now labels “bullet button assault weapons” and has declared, in its
7 regulations, and elsewhere, must be registered. On or about June 29, 2018, and continuing
8 through June 30, 2018, before the end of the registration period, Plaintiff Sharp attempted to
9 register said firearms in accordance with the statutes and DOJ’s regulations, using the DOJ’s
10 CFARS system. But the CFARS registration system was inaccessible and defective in his
11 multiple attempts to use it during this period, and Plaintiff Sharp was thus unable to register three
12 of the four firearms because of Defendants’ failures described herein.

13 12. Plaintiff David Ajirogi is an individual, a law-abiding gun owner and a resident of
14 the County of Sacramento, California, and is and has been otherwise eligible to possess and
15 acquire firearms under applicable state and federal laws. He is also a member and supporter of
16 Institutional Plaintiffs Firearms Policy Coalition, Firearms Policy Foundation, and The Calguns
17 Foundation. Prior to January 1, 2017, and as a private citizen, plaintiff Ajirogi legally owned
18 three semiautomatic firearms which the DOJ now labels as “bullet button assault weapons” and
19 has declared, in its regulations, and elsewhere, must be registered. On or about June 28, 2018,
20 and again on June 29, 2018, before the end of the registration period, Plaintiff Ajirogi attempted
21 to register said firearms in accordance with the statutes and DOJ’s regulations, using the DOJ’s
22 CFARS system. But the CFARS registration system was inaccessible and defective throughout
23 the periods of his registration attempts and, as a result, Plaintiff Ajirogi was unable to register the
24 three firearms.

25 13. Plaintiff Ryan Gilardy is an individual, a law-abiding gun owner and a resident of
26 the County of Contra Costa, California, and is and has been otherwise eligible to possess and
27 acquire firearms under applicable state and federal laws. He is also a member and supporter of
28 Institutional Plaintiffs Firearms Policy Coalition, Firearms Policy Foundation, and The Calguns

1 Foundation. Prior to January 1, 2017, and as a private citizen, plaintiff Gilardy legally owned
2 three semiautomatic firearms which the DOJ now labels as “bullet button assault weapons” and
3 has declared, in its regulations, and elsewhere, must be registered. Beginning on or about June
4 22, 2018, and continuing through June 30, 2018, before the end of the registration period,
5 Plaintiff Gilardy attempted to register said firearms in accordance with the statutes and DOJ’s
6 regulations, using the DOJ’s CFARS system. But the CFARS registration system was
7 inaccessible and defective throughout the periods of his registration attempts and, as a result,
8 Plaintiff Gilardy was unable to register two of the three firearms.

9 14. Plaintiff Darin Prince is an individual, a law-abiding gun owner and a resident of
10 the County of San Diego, California, and is and has been otherwise eligible to possess and
11 acquire firearms under applicable state and federal laws. He is also a member and supporter of
12 Institutional Plaintiffs Firearms Policy Coalition, Firearms Policy Foundation, and The Calguns
13 Foundation. Plaintiff Prince has a Certificate of Eligibility (COE) issued to him by the California
14 Department of Justice, and has held a license to carry a concealed firearm (CCW) issued to him
15 by his county sheriff, after proving “good cause” and his good moral character to his licensing
16 authority, successfully completing a course of training on the law and firearms proficiency, and
17 passing an extensive Live Scan-based background check. Prior to January 1, 2017, and as a
18 private citizen, plaintiff Prince legally owned several semiautomatic firearms which the DOJ
19 now labels as “bullet button assault weapons” and which it has declared, in its regulations, and
20 elsewhere, must be registered. On or about June 30, 2018, before the end of the registration
21 period, Plaintiff Prince attempted to register said firearms in accordance with the statutes and
22 DOJ’s regulations, using the DOJ’s CFARS system. But the CFARS registration system was
23 inaccessible and defective throughout this period, and Plaintiff Prince was unable to register his
24 firearms.

25 15. Plaintiff Todd Feltman is an individual, a law-abiding gun owner and a resident of
26 the County of San Diego, California, and is and has been otherwise eligible to possess and
27 acquire firearms under applicable state and federal laws. He is also a member and supporter of
28 Institutional Plaintiffs Firearms Policy Coalition, Firearms Policy Foundation, and The Calguns

1 Foundation. Prior to January 1, 2017, and as a private citizen, plaintiff Feltman legally owned
2 several semiautomatic firearms which the DOJ now labels as “bullet button assault weapons”
3 and has declared, in its regulations, and elsewhere, must be registered. On or about June 30,
4 2018, before the end of the registration period, Plaintiff Feltman attempted to register said
5 firearms in accordance with the statutes and DOJ’s regulations, using the DOJ’s CFARS system.
6 But the CFARS registration system was inaccessible and defective throughout the period of his
7 registration attempt and, as a result, Plaintiff Feltman was unable to register the firearms.

8 16. Plaintiff David Kuehl is an individual, law-abiding gun owner and a resident of
9 the County of Fresno, California, and is and has been otherwise eligible to possess and acquire
10 firearms under applicable state and federal laws. He is also a member and supporter of
11 Institutional Plaintiffs Firearms Policy Coalition, Firearms Policy Foundation, and The Calguns
12 Foundation. Plaintiff Kuehl has held a license to carry a concealed firearm (CCW) issued to him
13 by his county sheriff, after proving “good cause” and his good moral character to his licensing
14 authority, successfully completing a course of training on the law and firearms proficiency, and
15 passing an extensive Live Scan-based background check. Plaintiff Kuehl is a military veteran,
16 having been honorably discharged by the U.S. Coast Guard in or about 1988, and is a retired
17 firefighter. Prior to January 1, 2017, and as a private citizen, plaintiff Kuehl legally owned a
18 semiautomatic firearm which the DOJ now labels as “bullet button assault weapon” and has
19 declared, in its regulations, and elsewhere, must be registered. On or about June 30, 2018, before
20 the end of the registration period, Plaintiff Kuehl attempted to register said firearm in accordance
21 with the statutes and DOJ’s regulations, using the DOJ’s CFARS system. But the CFARS
22 registration system was inaccessible and defective throughout this period and, as a result,
23 Plaintiff Kuehl was unable to register his firearm.

24 17. Plaintiff Terry Jahraus is an individual, law-abiding gun owner and a resident of
25 the County of Los Angeles, California, and is and has been otherwise eligible to possess and
26 acquire firearms under applicable state and federal laws. He is also a member and supporter of
27 Institutional Plaintiffs Firearms Policy Coalition, Firearms Policy Foundation, and The Calguns
28 Foundation. Plaintiff Jahraus is a Vietnam Veteran, having served in the U.S. Marine Corps in

1 that theater from 1969-1971, and was honorably discharged in 1971. Prior to January 1, 2017,
2 and as a private citizen, plaintiff Jahraus legally owned a semiautomatic firearm which the DOJ
3 now labels as “bullet button assault weapon” and has declared, in its regulations, and elsewhere,
4 must be registered. On or about June 30, 2018, before the end of the registration period, Plaintiff
5 Jahraus attempted to register said firearm in accordance with the statutes and DOJ’s regulations,
6 using the DOJ’s CFARS system. But the CFARS registration system was inaccessible and
7 defective throughout this period and, as a result, Plaintiff Jahraus was unable to register his
8 firearm.

9 **B. Institutional Plaintiffs**

10 18. Plaintiff The Calguns Foundation (“CGF”) is a 501(c)(3) non-profit organization
11 incorporated under the laws of California with its principal place of business in Sacramento,
12 California. CGF is dedicated to promoting education for all stakeholders about California and
13 federal firearm laws, rights and privileges, and to defending and protecting the civil rights of
14 California gun owners. CGF represents its members and supporters, who include California
15 firearm retailers and gun owners throughout the State, including Shasta County, and brings this
16 action on behalf of itself, its members, supporters who possess all the indicia of membership, and
17 similarly situated members of the public. Many of CGF’s individual members have been
18 adversely and directly affected by Defendants’ failure to permit or provide for timely and proper
19 registrations of “bullet button assault weapons” as required by statute, and all of CGF’s
20 individual members have been and continue to be adversely and directly affected by Defendants’
21 ongoing deliberate indifference to the resulting plight of law-abiding California gun owners who
22 have been prevented from complying with the law. Defendants’ actions and failures alleged
23 herein have caused CGF to dedicate resources that would otherwise be available for other
24 purposes to protect the rights and property of its members, supporters, and the general public,
25 including by and through this action.

26 19. Plaintiff Firearms Policy Coalition, Inc. (“FPC”) is a 501(c)(4) non-profit
27 organization incorporated under the laws of Delaware with its principal place of business in
28 Sacramento, California, with members residing both within and outside of this state, including in

1 Shasta County, California. FPC serves its members and the public through direct legislative
2 advocacy, grassroots advocacy, legal efforts, research, education, operation of a Hotline, and
3 other programs. The purposes of FPC include defending the United States Constitution and the
4 People’s rights, privileges, and immunities deeply rooted in the Nation’s history and tradition,
5 especially the fundamental right to keep and bear arms. FPC represents its members and
6 supporters, who include California firearm retailers and gun owners, and brings this action on
7 behalf of itself, its members, supporters who possess all the indicia of membership, and similarly
8 situated members of the public. Many of FPC’s individual California members have been
9 adversely and directly affected by Defendants’ failure to permit registrations of “bullet button
10 assault weapons” as required by statute, and all of FPC’s individual members have been and
11 continue to be adversely and directly affected by Defendants’ ongoing deliberate indifference to
12 the resulting plight of law-abiding California gun owners who have been prevented from
13 complying with the law. Defendants’ actions and failures alleged herein have caused FPC to
14 dedicate resources that would otherwise be available for other purposes to protect the rights and
15 property of its members, supporters, and the general public, including by and through this action.

16 20. Plaintiff Firearms Policy Foundation, Inc. (“FPF”) is a 501(c)(3) non-profit
17 organization incorporated under the laws of Delaware with its principal place of business in
18 Sacramento, California, with members residing both within and outside of this state, including in
19 Shasta County, California. FPF serves to defend and advance constitutional rights through
20 charitable purposes, with a focus on the fundamental, individual right to keep and bear arms.
21 FPF represents its members and supporters, who include California firearm retailers and gun
22 owners, and brings this action on behalf of itself, its members, supporters who possess all the
23 indicia of membership, and similarly situated members of the public. Many of FPF’s individual
24 California members have been adversely and directly affected by Defendants’ failure to permit
25 registrations of “bullet button assault weapons” as required by statute, and all of FPF’s individual
26 members have been and continue to be adversely and directly affected by Defendants’ ongoing
27 deliberate indifference to the resulting plight of law-abiding California gun owners who have
28 been prevented from complying with the law. Defendants’ actions and failures alleged herein

1 have caused FPF to dedicate resources that would otherwise be available for other purposes to
2 protect the rights and property of its members, supporters, and the general public, including by
3 and through this action.

4 21. Plaintiff Second Amendment Foundation, Inc. (“SAF”) is a 501(c)(3) non-profit
5 organization incorporated under the laws of Washington with its principal place of business in
6 Bellevue, Washington. SAF has over 650,000 members and supporters nationwide, including
7 many in California. The purposes of SAF include education, research, publishing, and legal
8 action focusing on the constitutional right to privately own and possess firearms under the
9 Second Amendment, and the consequences of gun control. SAF brings this action on behalf of
10 itself, its members, supporters who possess all the indicia of membership, and similarly situated
11 members of the public. Many of SAF’s individual California members have been adversely and
12 directly affected by Defendants’ failure to permit registrations of “bullet button assault weapons”
13 as required by statute, and all of SAF’s individual members have been and continue to be
14 adversely and directly affected by Defendants’ ongoing deliberate indifference to the resulting
15 plight of law-abiding California gun owners who have been prevented from complying with the
16 law. Defendants’ actions and failures alleged herein have caused SAF to dedicate resources that
17 would otherwise be available for other purposes to protect the rights and property of its
18 members, supporters, and the general public, including by and through this action.

19 22. Plaintiff Madison Society Foundation (“MSF”) is a (501)(c)(3) non-profit
20 organization whose purpose is preserving and protecting the legal and constitutional right to keep
21 and bear arms for its members and all responsible law-abiding citizens. MSF believes that
22 individual constitutional rights should not be infringed to deny citizens their life, liberty, and
23 pursuit of happiness. MSF is headquartered in Stanislaus County, and the majority of its
24 members are California residents. The focus of MSF’s litigation efforts is challenging violations
25 of the right to keep and bear arms. Many of MSF’s individual California members have been
26 adversely and directly affected by Defendants’ failure to permit registrations of “bullet button
27 assault weapons” as required by statute, and all of MSF’s individual members have been and
28 continue to be adversely and directly affected by Defendants’ ongoing deliberate indifference to

1 the resulting plight of law-abiding California gun owners who have been prevented from
2 complying with the law. Defendants' actions and failures alleged herein have caused MSF to
3 dedicate resources that would otherwise be available for other purposes to protect the rights and
4 property of its members, supporters, and the general public, including by and through this action.

5 22. Individual Plaintiffs Sharp, Ajirogi, Gilardy, Prince, Feltman, Kuehl, and Jahraus
6 are bringing this claim on behalf of themselves, and as representatives of a class of similar
7 individuals consisting of law-abiding California residents too numerous to individually name or
8 include as parties to this action. These are: California citizens who are not otherwise prohibited
9 or exempt under the "assault weapon" registration laws, and who lawfully and legally possessed
10 firearms that the State of California has retroactively classified as "assault weapons" under Penal
11 Code § 30515(a) that must be registered as such pursuant to Penal Code sections 30680 and
12 30900(b), but who have been precluded from doing so due to the Defendants' actions and
13 failures, including but not limited to the inaccessibility, defects, and/or non-functionality of the
14 DOJ's CFARS-based registration system during the registration period ending at midnight on
15 June 30, 2018.

16 23. Institutional Plaintiffs CGF, FPC, PPF, SAF, and MSF are bringing this claim as
17 public interest organizations, whose California members similarly lawfully possessed
18 retroactively-defined "bullet button assault weapons" in this state, prior to December 31, 2016,
19 and who represent the interests of those similarly situated individuals too numerous to
20 individually name or include as parties to this action. These are: California citizens who are not
21 otherwise prohibited or exempt under the "assault weapon" registration laws, and who lawfully
22 and legally possessed firearms that the State of California has retroactively classified as "assault
23 weapons" under Penal Code § 30515(a) that must be registered as such pursuant to Penal Code
24 sections 30680 and 30900(b), but who have been precluded from doing so due to the Defendants'
25 actions and failures, including but not limited to the inaccessibility, defects, and/or non-
26 functionality of the DOJ's CFARS-based registration system during the registration period
27 ending at midnight on June 30, 2018.

28 24. As to all claims made in a representative capacity herein, there are common

1 questions of law and fact that substantially affect the rights, duties, and liabilities of many
2 similarly situated California residents who knowingly or unknowingly are subject to the statutes.
3 The relief sought in this action is declaratory, injunctive, and mandamus in nature, and the action
4 involves matters of substantial public interest. Considerations of necessity, convenience, and
5 justice justify relief to Individual and Institutional Plaintiffs in a representative capacity.
6 Furthermore, to the extent it becomes necessary or appropriate, the Institutional Plaintiffs are
7 uniquely able to communicate with and provide notice to their thousands of California members
8 and constituents who are or would be part of any identifiable class of individuals for whose
9 benefit this Court may grant such relief.

10 **C. Defendants**

11 25. Defendant Xavier Becerra is the Attorney General of the State of California, and
12 he is sued herein in his official capacity. The Attorney General is the chief law enforcement
13 officer of the state, and the head of the DOJ. It is his duty to ensure that California's laws are
14 uniformly and adequately enforced. The DOJ and its Bureau of Firearms regulate and enforce
15 state law related to firearms, and the registration of statutorily-classified "assault weapons."

16 26. Defendant Brent E. Orick is Acting Chief of the DOJ's Bureau of Firearms. Upon
17 information and belief, Orick reports to Attorney General Becerra, and he is responsible for the
18 various operations of the Bureau of Firearms, including the implementation and enforcement of
19 the statutes and regulations governing sales, use, ownership, transfer, and "assault weapon"
20 registration of firearms. He is sued herein in his official capacity.

21 27. Defendant Joe Dominic is Chief of the DOJ's California Justice Information
22 Services (CJIS) Division. Upon information and belief, Dominic reports to Attorney General
23 Becerra, and he is responsible for the various technology operations of the DOJ, including the
24 implementation and maintenance of the technology systems used by the Bureau of Firearms and
25 the public. He is sued herein in his official capacity.

26 28. The California Department of Justice (DOJ) is a state agency charged with
27 responsibility of enforcing state statutes and promulgating and enforcing rules and regulations
28 authorized by and designed to effectuate the law related to the registration of firearms as

1 statutorily-classified “assault weapons.”⁴

2 29. Plaintiffs are unaware of the true names and capacities of those defendants sued
3 herein as DOES 1 through 20 inclusive, and therefore sue such defendants by fictitious names.
4 Plaintiffs are informed and believe and based upon such information and belief allege that each
5 of the defendants designated as DOES 1 through 20, inclusive, is responsible in some manner for
6 promulgating, administering, enforcing, or otherwise implementing the DOJ systems at issue
7 herein. Plaintiffs will amend this complaint to include the true names of DOES 1 through 20
8 inclusive as soon as is practicable after such names and capacities become known to them.

9 **OVERVIEW OF THE RELEVANT STATUTORY AND REGULATORY SCHEMES**
10 **AND SUMMARY OF PLAINTIFFS’ CLAIMS**

11 **A. The General Scheme of the AWCA**

12 30. Since the dawn of the Roberti-Roos Assault Weapons Control Act in 1989
13 (AWCA), California gun owners have undoubtedly faced significant and growing restrictions
14 upon their ability to acquire and use many popular firearms, in common use for lawful purposes
15 like self-defense and sport, as certain lawmakers have succeeded in branding specified types or
16 configurations of firearms as “assault weapons” and then incrementally expanding that list to
17 include more and more firearms. (Pen. Code § 30505(a).) The product of these gun control
18 legislative campaigns is that – subject to very limited exceptions (e.g., §§ 30625-30630, 30645-
19 30655, 31000-31005) – for the vast majority of ordinary citizens in California, it is generally
20 illegal to manufacture, distribute, transport, sell, give, lend, or otherwise transfer an increasingly
21 expansive list of firearms (on pain of a felony conviction and prison time (§ 30600, subd. (a)),
22 and even to simply “possess” one of these legislatively-classified “assault weapons” (§ 30605,
23 subd. (a)).

24 31. The State Legislature has indeed built a statutory scheme especially onerous and
25 hostile to the millions of California gun owners simply seeking to exercise their constitutionally-

26
27 _____
28 ⁴Because Defendants Becerra, Orick, and Dominic are sued in their official capacities as heads of the DOJ, all references herein to “DOJ” should be construed to include each and all of them.

1 protected fundamental right to keep and bear arms for lawful purposes. But along the way, the
2 Legislature has engrafted into the scheme a few inherent limitations on the reach of the various
3 prohibitions, establishing the four corners of the State’s statutory power to restrict the ability of
4 private citizens in their access and use of firearms deemed “assault weapons.” Each time the
5 Legislature has succeeded in achieving statutory amendments expanding the list of “assault
6 weapons,” it has made the minimal concession of leaving a small “grandfathering” window for
7 lawful owners of those guns that the legislation retroactively deemed constitutional artifacts that
8 they prefer their citizens not acquire – but only if they register the firearm with the DOJ as an
9 “assault weapon” within a specified period time, can they continue to maintain “possession” or
10 use of it.

11
12 **B. The Pre-Existing Categories of “Assault Weapons”**

13 32. These different phases of restrictions over time have led to the development of
14 three generally recognized categories of “assault weapons,” the first two of which (“Category 1”
15 and “Category 2” assault weapons) were created based upon specific makes, models, or series of
16 firearms. (See Pen. Code §§ 30510, 30960(a); former §§ 12275.5, 12276, 12276.5; 11 CCR §
17 5499.)⁵ “Category 3” firearms, established in 1999, targeted semiautomatic centerfire rifles,
18 pistols, and shotguns based upon certain features, configurations, and/or functionalities, as
19 opposed to certain makes, models, or series. (Pen. Code § 30515; former § 12276.1.)

20
21 **C. The Registration Mandate for the New Category of “Assault Weapons”**

22 33. In June of 2016, through Assembly Bill 1135 and Senate Bill 880 (2015-2016
23 Reg. Sess.), the Legislature once again amended the AWCA statutory scheme, changing the
24 definitional terms regarding magazines for semiautomatic rifles and pistols in section 30515 to

25 _____
26 ⁵The “Category 2” classification includes certain makes and models that the DOJ itself had at
27 one point added to the list through 11 CCR § 5499. However, in 2006, the Legislature repealed
28 the DOJ’s authority to unilaterally add firearms to the list of “assault weapons” (Pen. Code §
30520(b)(1); A.B. 2178, 2005-2006 Reg. Sess.), and the classification of such firearms by
makes, models, or series has since remained static.

1 create new “assault weapon” classifications for those firearms, and adding sections 30680 and
2 30900 to create a concomitant registration requirement for any continued possession of these
3 newly classified firearms. The amendments became effective January 1, 2017. (Stats. 2016, ch.
4 40 § 3 (AB 1135); Stats. 2016, ch. 48 § 3 (SB 880).) As so modified, the new “assault weapon”
5 classification now applies to any semiautomatic centerfire rifle and pistol that (1) “does not have
6 a *fixed magazine*” and (2) possesses one of the other previously specified features. For these
7 purposes, “fixed magazine” is now defined as “an ammunition feeding device contained in, or
8 permanently attached to, a firearm in such a manner that the device cannot be removed without
9 disassembly of the firearm action.” (Pen. Code § 30515, subd. (b).)

10 34. The Legislature specifically incorporated section 30515’s assault weapon
11 classifications into the registration requirement of section 30900, subdivision (b)(1), which
12 expressly states that it applies only to a “person who, from January 1, 2001, to December 31,
13 2016, inclusive, lawfully possessed an assault weapon that does not have a fixed magazine, *as*
14 *defined in Section 30515*, including those weapons with an ammunition feeding device that can
15 be readily removed from the firearm with the use of a tool.” (Pen. Code § 30900(b)(1), emphasis
16 added.) In other words, “bullet button assault weapons” could be kept, but must be registered, in
17 accordance with the regulations that the DOJ was required adopt pursuant to section 30900,
18 subdivision (b)(5). This section further and specifically required the DOJ to establish an
19 electronic, Internet-based system through which the public could register these firearms by
20 providing the statutorily-required firearm identifying information and pay a fee necessary to
21 cover “the reasonable processing costs.” (§§ 30900, subs. (b)(2)-(4).) The statutory deadline to
22 register such firearms, and avoid criminal liability for their continued possession without such
23 registration, was June 30, 2018 (after an extension of the original deadline of December 31,
24 2017, under AB 103 (2017). (§ 30680).

25
26 **FACTS COMMON TO ALL CLAIMS**

27 35. According to the DOJ’s data tracking the “Dealer’s Record of Sale” (DROS)
28 transactions (online at <https://openjustice.doj.ca.gov/firearms/overview>), more than 5.1 million

1 long guns have been sold in California since the last registration period closed in 2000. It is
2 estimated that a substantial number of those firearms are subject to the now retroactively-
3 expanded definition of “assault weapon” under AB 1135 and SB 880, i.e., semiautomatic
4 firearms with “bullet button” devices. On information and belief, tens of thousands of
5 Californians (and perhaps more) possessed in the State hundreds of thousands of firearms during
6 the period of January 1, 2001, and December 31, 2016, that have now been reclassified as “bullet
7 button assault weapons” subject to the requirements of Penal Code § 30900(b), rendering all
8 their possessors potentially subject to significant criminal liabilities for failure to comply with
9 the registration mandate.

10 36. Pursuant to the clear statutory mandate described above, Defendants established
11 an Internet-based registration system, ostensibly to permit the required registration of those
12 bullet-buttoned firearms now retroactively deemed as “assault weapons” pursuant to AB 1135
13 and SB 880. This system was created to exist within a pre-existing system created, maintained,
14 and serviced by the DOJ—the California Firearms Application Reporting System (CFARS).
15 Using CFARS, in theory, would and should have allowed a user to access a separate link to the
16 “Assault Weapon Registration Form (Assembly Bill 1135/Senate Bill 880).” On information
17 and belief, the DOJ’s Assault Weapon Registration Form system “went live” (i.e., was made
18 available to the public) on or about August 3, 2017 – leaving less than twelve months for
19 potentially hundreds of thousands of California gun owners to discover the laws and perform
20 their duties required thereunder.

21 37. Those with firearms retroactively branded “bullet button assault weapons”
22 originally had until January 1, 2018, to register them. However, given the DOJ’s substantial
23 delays in getting its registration-related regulations issued, the registration deadline was extended
24 to July 1, 2018, by virtue of Assembly Bill 103. See Pen. Code § 30680(c).⁶

25 38. The Office of the Attorney General itself emphasized the importance of citizens’
26 compliance with the June 30, 2018 deadline, with a dramatic “countdown clock” display on the

27 _____
28 ⁶And since their issuance, these regulations have been challenged as illegally promulgated. (See
e.g., *Villanueva v. Becerra*, Fresno County Superior Court Case No. 17CECG03093.)

1 Attorney General’s website, showing the number of weeks, days, hours, minutes, and seconds
2 ticking away until literally the last second of the registration period (i.e., June 30, 2018 at
3 11:59:59 PST). A true and correct copy of the DOJ’s “countdown clock” illustrating this
4 countdown is attached hereto as **Exhibit A**. The DOJ’s website further contained a direct link to
5 the CFARS web page, ostensibly as the vehicle for citizens to “beat the clock” and avoid the
6 serious consequences of failing to timely register, at <https://cfars.doj.ca.gov/login.do>. And,
7 according to the DOJ’s website, the registration window would close on June 30, 2018 at
8 11:59:59 p.m. PST.

9 39. Defendants knew or reasonably should have known that the CFARS-based
10 “assault weapon” registration system was substantially understaffed and incapable of properly
11 and timely accepting and processing the registration applications the DOJ was charged with
12 processing. Even before the statutory deadline was extended, the DOJ had requested \$2,588,000
13 and 27 positions to implement the statutorily-mandated Internet-based assault weapons
14 registration system. These funds were approved, in the form of a “loan” from the Firearms
15 Safety and Enforcement Special Fund, to be repaid by June 30, 2021, in part, from the \$15.00
16 per-person fees to be assessed to each registrant and other funds from the DROS Special Fund.

17 40. But in a declaration filed under oath in a separate civil action challenging the
18 assault weapons regulations generally, DOJ Special Agent Supervisor Blake Graham, who
19 “helped to design the public-facing application for submitting registration of bullet button assault
20 weapons electronically via the Internet,” declared that as of March 2018, all “[t]he programmers
21 who [had] created this system for DOJ [were] [then] working on other legislatively mandated
22 projects that [were] also on tight deadlines.” In addition, Agent Graham explained that the “DOJ
23 d[id] not have funding for [any] modification of the electronic registration system” and the DOJ
24 had received funding for only 24 analysts and two managers to process registration applications.
25 Graham described these as temporary positions that would be eliminated after one year.

26 41. This situation inevitably led to a backlog of assault weapons registration forms
27 and processing, even well before the statutory deadline. In response to a Public Record Act
28 (PRA) request, the DOJ admitted that as early as February 1, 2018, more than five months after

1 the system had gone “live,” the system was already backlogged with 4,653 applications to
2 register “bullet button assault weapons,” of which it had only been able to approve about 2,500.
3 (See **Exhibit B.**) Thus, even then, Defendants knew that only a small fraction of the expected
4 intended registrants had used the system up to that point in time, and did or reasonably should
5 have known that an increasing number of registrants would be using the system throughout the
6 end of the registration period and that many of those registrants would therefore encounter
7 insurmountable technical obstacles in attempting to properly and timely register.

8 42. DOJ acknowledged that by the end of the registration deadline, June 30, 2018, a
9 total of 68,848 applications to register “bullet button assault weapons” had been submitted for
10 registration in CFARS, and of those only 13,519 had been registered. As of June 30, 2018, the
11 DOJ was experiencing a backlog of 52,443 applications which were still in process. (See
12 **Exhibit C.**) Therefore, it is clear that a substantial increase in the number of “bullet button
13 assault weapon” registrations was being experienced as the statutory deadline approached and
14 Defendants knew or reasonably should have known that their continuing failure or refusal to
15 establish, implement, and maintain a functional registration system in accordance with their
16 statutorily-mandated duties would effectively prevent Plaintiffs and those similarly situated from
17 properly and timely registering their firearms on or before July 1, 2018, as required by law.

18 43. This situation, predictably, came to a head during the end of the registration
19 period, and particularly the last week of June 2018, when thousands of gun owners, desiring to
20 comply with the law – the importance of which the Attorney General had so dramatically
21 emphasized with his intimidating “countdown clock” – attempted to use the registration system
22 in CFARS, either directly or through the link provided in the DOJ Bureau of Firearms website,
23 only to be shut out by acts, defects, and failures of Defendants in connection with the registration
24 system. For many, the system simply “timed out” and failed while they were attempting to
25 access it, denying access altogether. Others got as far as filling out some or all of the DOJ-
26 required form submissions (including providing multiple digital photographs that were not
27 required by statute, but for some reason, were required by the DOJ), only to have the system fail
28 when clicking the “submit” application action button to complete registration – blocking the

1 registrations at the last second after their lengthy and good faith efforts to submit their completed
2 applications that complied with all requirements of the registration process.

3 44. On information and belief, Plaintiffs allege that many (perhaps hundreds of)
4 Californians sent the DOJ communications about and reports of various problems with and
5 defects in its systems and the performance of their statutorily-required duties throughout the
6 registration period. Defendants thus knew or reasonably should have known of the material
7 defects, flaws, and limitations (including but not limited to capacity) of the registration system.
8 But Defendants failed or refused to remedy such defects, failures, and limitations, thus causing
9 many California gun owners to be prevented from registering their eligible “bullet button assault
10 weapon” firearms before the end of the registration period.

11 45. And thus, on June 29, 2018, while plaintiff Harry Sharp was able to log onto
12 CFARS from his home in Redding, California, and even successfully submit a registration form
13 for one of four his “bullet button assault weapon” firearms, when he attempted to register the
14 remaining three immediately thereafter at approximately 3:30 p.m., he was prevented from doing
15 so. Specifically, after plaintiff Sharp had attached the required pictures of his other registration-
16 eligible firearms and attempted to “submit” them, the system “froze up,” and failed, and he could
17 not complete these applications. Plaintiff Sharp attempted to complete the remaining three
18 registrations the following day, on June 30, 2018. He made at least 50 attempts to use the DOJ’s
19 registration systems (in CFARS) for this purpose, investing most of his day attempting these
20 registrations, but to no avail because the DOJ’s defective systems remained inaccessible or
21 inoperable. Plaintiff Sharp attempted to obtain help or technical support from DOJ on at least
22 four occasions, each time being met with an automated, “canned” auto-responder message
23 stating that he had to simply resubmit the forms after clearing out his web browsers and deleting
24 “cookies.” He could not reach a live person at the time. Plaintiff Sharp followed these
25 automated instructions, and continued attempting to register the remaining firearms, even into
26 the next day, July 1, 2018, but all to no avail. Finally, Plaintiff Sharp was able to reach someone
27 at the DOJ by phone on Monday, July 2, 2018. However, this person just told him that it was his
28 responsibility to have complied with the registration mandate by the deadline, and the DOJ

1 would not extend the deadline to submit registration applications. Thus, as a result of
2 Defendants' fundamentally defective systems and failures, Plaintiff Sharp was unable to submit
3 three of the four registration applications that were necessary for him to comply with the laws
4 and avoid being in violation of the applicable criminal statutes carrying extraordinary penalties,
5 including prison time and loss of property.

6 46. On June 28, 2018, plaintiff David Ajirogi attempted to register three "bullet
7 button assault weapon" firearms, from his home in Sacramento, California. All of these firearms
8 had been legally acquired and possessed prior to January 1, 2017, and all information relevant
9 and necessary to uniquely identify these firearms, including the make, model, manufacturer, and
10 serial numbers, was and has been already on file with the DOJ. However, when he attempted to
11 access the DOJ's registration system on June 28, 2018, after attempting to use an established
12 CFARS account, the crucial link to the Assault Weapons Registration Form was inoperable and
13 he was thus unable to access the required registration form. Plaintiff Ajirogi continued
14 attempting to access the registration form page/link for approximately 20-30 minutes. He made
15 several additional attempts on June 29, 2018, but continued to experience the same fundamental
16 problem: the CFARS system would "time out" and fail in the process of attempting to access it.
17 Plaintiff Ajirogi contacted the DOJ for assistance on Friday, June 29, 2018. The DOJ did not
18 respond to his email inquiry, ever.

19 47. Approximately *one month* before the statutory registration deadline, Plaintiff
20 Ryan Gilardy contacted the DOJ about his concerns regarding the CFARS system, and the
21 registration process generally. He spoke to an official at the DOJ who told him that they
22 expected to receive a large number of registrations in the weeks before the deadline. In fact, the
23 DOJ official had told Plaintiff Gilardy that he could even expect the system to "time out" and fail
24 during the registration process, but was told that if that happened, he would be able to "get
25 through" after several more attempts. Thus, in anticipation of doing the three firearm
26 registrations he intended, Plaintiff Gilardy gathered all of the required information and
27 paperwork necessary for a joint registration of his "bullet button assault weapon" firearms with
28 his eligible family members, including the photographs required for each firearm. All of these

1 firearms had been legally acquired and possessed prior to January 1, 2017. On or about June 22,
2 2018, Plaintiff Gilardy began the registration process through CFARS. However, upon
3 attempting to submit the information required for joint registration (including proof of residency
4 required for joint registrants), the system “timed out”, failed, and prevented him from completing
5 the registration process. Thereafter, and throughout the entire following week of June 25, 2018,
6 Plaintiff Gilardy made many more attempts to complete the registration process. Plaintiff
7 Gilardy, who was formerly an information technology (“IT”) professional, made sure that he was
8 using up-to-date computer systems and fully-updated web browsers, and he attempted to
9 complete the registration process through multiple computer devices (including “smart” phones
10 easily capable of processing pictures) from multiple locations, including his home in Contra
11 Costa County, using multiple Internet browsers, Internet service providers, and networks, all to
12 no avail. Plaintiff Gilardy also performed tests of his Internet connections and determined that
13 they were stable and more than technically adequate to perform the registration process.
14 Notwithstanding these repeated and extensive efforts to complete the registration process, he was
15 only able to submit one of the three registrations he had prepared, and that was only after he had
16 abandoned efforts to submit the joint registration (requiring additional information/documents),
17 and only after making at least 14 attempts to register that firearm. The submission for the other
18 two semiautomatic firearms never went through, due to the system’s defects and failures,
19 including “time outs” which would not allow the information to be submitted. Plaintiff Gilardy
20 spent all week attempting these registrations, including approximately five hours on June 30,
21 2018, alone, to no avail. As a result of the DOJ system’s failures and defects, Plaintiff Gilardy
22 was unable to register two of his firearms that he intended to register jointly with eligible family
23 members.

24 48. On June 30, 2018, plaintiff Darin Prince attempted to register several “bullet
25 button assault weapon” firearms from his home in San Diego County, California. All of these
26 firearms had been legally acquired and possessed prior to January 1, 2017, and all information
27 relevant and necessary to uniquely identify these firearms, including the make, model,
28 manufacturer, and serial numbers, was and had already been on file with the DOJ. However,

1 when he attempted to access the DOJ’s systems on June 30, 2018, after using an established
2 CFARS account and after uploading the photographs required for such registration, he was given
3 error messages, due to no fault of his own, and then was unable to proceed further. Plaintiff
4 Prince then made several additional attempts to register the firearms, but each time was denied
5 by the system (including through “timing out”) without being able to submit the registration
6 forms. He spent a total of approximately six (6) hours attempting to register through CFARS, to
7 no avail. Plaintiff Prince contacted the DOJ for assistance, but DOJ did not respond to his
8 inquiry. As a result of Defendants’ acts, omissions and failures, and system defects, Plaintiff
9 Prince was unable to register any of the eligible firearms that he intended to register.

10 49. On June 30, 2018, plaintiff Todd Feltman attempted to register several “bullet
11 button assault weapon” firearms from his home in San Diego County, California. All of these
12 firearms had been legally acquired and possessed prior to January 1, 2017, and all information
13 relevant and necessary to uniquely identify these firearms, including the make, model,
14 manufacturer, and serial numbers, was and has been already on file with the DOJ. However,
15 when he attempted to access the DOJ’s registration system on June 30, 2018, utilizing an
16 established CFARS account, and after filling out all required information for the first of several
17 firearms, the CFARS system failed upon his attempt to upload and submit the four photographs
18 of the firearms that the DOJ required as a precondition of registration. Plaintiff Feltman
19 attempted three times to submit the required forms and pictures, only to have the system fail and
20 crash upon submission, requiring him to start over each time. He even attempted to use different
21 web browsers and different Internet connections, but still to no avail. Plaintiff Feltman further
22 attempted to contact DOJ regarding its system failures prior to the registration deadline. The
23 DOJ did not respond to his email inquiry, ever. As a result of Defendants’ acts, omissions, and
24 failures in connection with the system defects, Plaintiff Feltman was unable to register any of the
25 eligible firearms that he intended to register.

26 50. On June 30, 2018, plaintiff David Kuehl attempted to register a “bullet button
27 assault weapon” from his home in Fresno County, California. This firearm had been legally
28 acquired and possessed prior to January 1, 2017, and all information relevant and necessary to

1 uniquely identify it, including the make, model, manufacturer, and serial number, was therefore
2 already on file with the DOJ. However, when he attempted to access the CFARS system on June
3 30, 2018, he was unable to do so, as he received error messages about the website not being
4 available, and he was unable to proceed further. Plaintiff Kuehl made several attempts to access
5 CFARS on that day, but each time received error messages and could not access the site due to
6 these technical difficulties. As a result of Defendants' acts, omissions, and failures in connection
7 with the system defects, Plaintiff Kuehl was unable to register his firearm.

8 51. On June 30, 2018, plaintiff Terry Jahraus learned from watching the news on
9 television that he was required to register "bullet button assault weapons" as such with the DOJ.
10 This was the first he had heard about it. His firearm, which falls under this new classification,
11 had been legally acquired and possessed prior to January 1, 2017, and all information relevant
12 and necessary to uniquely identify it, including the make, model, manufacturer, and serial
13 number, was therefore already on file with the DOJ. Nevertheless, he sought to register his
14 firearm as required by this new law. However, when he attempted to utilize the DOJ's
15 registration systems on June 30, 2018, using an established CFARS account, after he uploaded
16 the required photographs he received error messages, due to no fault of his own, and was unable
17 to proceed further. Plaintiff Jahraus then made several additional attempts to register the firearm,
18 but each time was denied by the faulty system (including through "timing out") without being
19 able to submit the registration forms. He spent a total of approximately three (3) hours
20 attempting to register through CFARS, to no avail. The following Monday, July 2, 2018,
21 Plaintiff Jahraus contacted the DOJ for assistance, but the DOJ official told him, essentially, "it
22 was [his] responsibility to comply with the law [and] that he had all year to do so." In other
23 words, DOJ blamed him for failing to register, even though its own statutorily-mandated
24 registration system was inaccessible and defective throughout the entire period he had attempted
25 to register it well before the deadline. As a result of Defendants' acts, omissions, and failures in
26 connection with the system defects, Plaintiff Jahraus was unable to register his firearm.

27 52. On information and belief, the DOJ received many other requests for such
28 technical assistance and support from those attempting to complete the required registrations

1 during the last week of June 2018, due to the critical failures and technical issues with the
2 registration system and CFARS throughout this period. On information and belief, in the vast
3 majority of cases, the inquiries to and pleas for help from DOJ were to no avail in attempting to
4 comply with the registration mandate, and the DOJ did not make sufficient staff and technical
5 resources available to address such inquiries and appeals until after the deadline, if at all. And in
6 some cases, DOJ simply advised the concerned prospective registrants, after the deadline, that it
7 was too late to register because the deadline had already passed.

8 53. At all times during this last week of June 2018, therefore, Defendants, and each of
9 them, were on clear notice of the critical technical defects blocking an untold number of gun
10 owners not otherwise prohibited from possessing or acquiring firearms from registering their
11 firearms in compliance with the law, including the Plaintiffs herein and many members of the
12 Institutional Plaintiffs. Yet, they failed and refused to rectify the situation in accordance with
13 their statutorily-imposed duties in carrying out the registration process. Then, immediately after
14 the deadline had passed, right after midnight on July 1, 2018, the DOJ completely shut down the
15 online registration system and refused to extend the registration period notwithstanding the
16 untold number of registrations that could not be completed as a direct result of Defendants' acts,
17 omissions, and failures in connection with the system defects.

18 54. For past "assault weapon" registration periods, the DOJ was required to "conduct
19 a public education and notification program regarding the registration of assault weapons and the
20 definition of the weapons set forth in Section 30515 and former Section 12276.1," for purposes
21 of facilitating "outreach to local law enforcement agencies and utilization of public service
22 announcements in a variety of media approaches, to ensure maximum publicity..." (Pen. Code §
23 31115.)

24 55. Institutional Plaintiff FPC, during the legislative cycle, used its own resources to
25 advocate for such education and outreach to help their members and the public know and
26 understand their duties under the new laws that would be enacted by Senate Bill 880 and
27 Assembly Bill 1135. (See e.g., Senate Committee of Public Safety analysis of SB 880 ["By
28 moving the goal posts on millions of its own residents, California would create new criminal

1 liability for hundreds of thousands of Californians and California visitors -- including shooting
2 sports competitors -- without so much as a simple outreach program, public service
3 announcement, or mandate that DOJ update the years-outdated (and, in some cases, grossly
4 misleading) information it promulgates in its publications and on its website but refuses to
5 correct in spite of the real consequences to law-abiding people.”]; Assembly Public Safety
6 Analysis of SB 880 (original formatting modified) [“SB 880 contains no provision for outreach
7 to the millions of Californians who have lawfully acquired firearms that would be subject to SB
8 880’s reach. SB 880 contains no provision for educating law enforcement officers or
9 prosecutors—the very people who will have to interpret and enforce it—which will lead to false
10 arrests and ruined lives.”].)

11 56. For this new “bullet button assault weapon” registration requirement, however,
12 there was no mandate or appropriation for outreach or education for gun owners or law
13 enforcement alike. Defendants did not undertake any meaningful or sufficient steps to help
14 Californians understand the laws and their requirements to comply with them – beginning with
15 registration – other than the “countdown” timer and a few sentences on a “Firearms” sub-page of
16 its website, of which many of the affected citizens were likely unaware. Thus, the fate of
17 California gun owners and their legal compliance were largely left to “word of mouth.”

18 57. Because of these and other considerations, on information and belief, many gun
19 owners were not able to or did not undertake efforts to begin compliance through registration
20 until the final weeks of the registration period. And then, they were met with the fundamental
21 failures and defects of the DOJ’s registration system that it failed and refused to rectify before
22 the deadline.

23 **FIRST CAUSE OF ACTION**

24 **VIOLATION OF 42 U.S.C. § 1983 (FOURTEENTH AMENDMENT)**

25 **Against All Defendants**

26 58. Plaintiffs incorporate paragraphs 1 through 58 as if fully set forth herein.

27 59. “Every person who, under color of [state law] ... subjects, or causes to be
28 subjected, any citizen of the United States ... to the deprivation of any rights, privileges, or

1 immunities secured by the Constitution ... shall be liable to the party injured in an action at law,
2 suit in equity, or other proper proceeding for redress.” 42 U.S.C. § 1983.

3 60. As the chief law enforcement officer of the state, and the head of the DOJ, it is the
4 duty of Defendant Attorney General Becerra to ensure that California’s laws are uniformly and
5 properly enforced, including the registration of statutorily-classified “assault weapons.” As the
6 Acting Chief of the DOJ’s Bureau of Firearms, Defendant Orick reports to Attorney General
7 Becerra and is responsible for the various operations of the Bureau of Firearms, including the
8 implementation and enforcement of the statutes and regulations governing sales, use, ownership,
9 transfer, and “assault weapon” registration of firearms. Defendant Dominic, Chief of the DOJ’s
10 California Justice Information Services (CJIS) Division, reports to Attorney General Becerra and
11 is responsible for the various technology operations of the DOJ, including the implementation
12 and maintenance of the technology systems used by the Bureau of Firearms and the public, like
13 the online registration system that Defendants were required to establish and maintain. And
14 Defendant DOJ itself is the state agency charged with the responsibility of enforcing statutes and
15 promulgating and enforcing rules and regulations authorized by and designed to effectuate the
16 law related to the registration of firearms as statutorily-classified “assault weapons.”

17 61. DOJ, and Defendants Becerra, Orick, and Dominic in their respective official
18 capacities, were individually and collectively responsible for properly establishing,
19 implementing, and maintaining a consistently reliable and functional registration system, for
20 properly supervising, training, and directing those under their charge who were involved in
21 establishing, implementing, and maintaining a registration system actually capable of timely
22 processing all statutorily-required “assault weapon” registrations.

23 63. The Fourteenth Amendment to the United States Constitution guarantees that no
24 person shall be deprived of life, liberty, or property without due process of law.

25 64. An actual controversy has arisen and now exists between Plaintiffs, and others
26 similarly situated, and Defendants, and each of them as to the validity and enforceability of
27 certain statutes prohibiting the possession of unregistered “assault weapons” as defined by
28 California law, and as to whether such statutes are void and unenforceable as applied as to them.

1 Specifically, Plaintiffs, and the class of similarly situated persons they represent, claim that they
2 have been and are continuing to be deprived of due process under the law secured by the
3 Constitution of the United States, and that they have been and are continuing to be otherwise
4 deprived of such rights and benefits of the law by Defendants’ failure and refusal to operate,
5 provide, or otherwise allow for a functional “assault weapons” registration system, as required
6 by Penal Code § 30900(b)(2), because such actions and omissions have deprived them of their
7 right and/or ability to register their firearms as “assault weapons” by July 1, 2018, as required by
8 Pen Code §§ 30680(c) and 30900(b), which registration is necessary in order to otherwise
9 maintain lawful possession and transportation of their firearms.

10 65. Pursuant to 28 U.S.C. § 2201, Plaintiffs desire a judicial declaration that
11 Defendants’ flawed registration system has unfairly and improperly prevented Plaintiffs, and the
12 class of similarly-situated individuals they represent, from complying with the law, in violation
13 of their rights to due process under 42 U.S.C. § 1983, and, as a result, that certain statutes
14 otherwise subjecting them to criminal sanctions – to wit: Penal Code §§ 30600, 30605, 30615,
15 30800, 30900(b) – are invalid and unenforceable as applied to them.

16 WHEREFORE, Plaintiffs seek the declaratory and injunctive relief as set forth below.

17 **SECOND CAUSE OF ACTION**

18 **WRIT OF MANDATE OR OTHER APPROPRIATE RELIEF**

19 **Against All Defendants**

20 66. Plaintiffs incorporate paragraphs 1 through 65 as if fully set forth herein.

21 67. California Penal Code § 30900(b)(1) provides that any person who lawfully
22 possessed a firearm retroactively defined as an “assault weapon,” including those weapons
23 containing bullet button devices, “*shall register* the firearm before July 1, 2018, but not before
24 the effective date of the regulations adopted pursuant to paragraph (5), with the department
25 pursuant to those procedures that the department may establish by regulation pursuant to
26 paragraph (5).” (Emphasis added). Subdivision (b)(2) of this section further provides that
27 “Registrations shall be submitted electronically via the Internet utilizing a public-facing
28 application made available by the [DOJ].” Concomitantly, section 30680 provides an exception

1 to the general prohibition against the possession of “assault weapons” for those, and only those,
2 who lawfully own such firearms *and* register them “by July 1, 2018, in accordance with
3 subdivision (b) of Section 30900.” (§ 30680, subd. (c).)

4 68. Individual Plaintiffs, as discussed above, and the class of similarly-situated
5 individuals they represent – i.e., those California residents who are otherwise eligible to own
6 firearms, lawfully owned and possessed a legislatively-defined “assault weapon” from January 1,
7 2001, to December 31, 2016, “including those weapons with an ammunition feeding device that
8 can be readily removed from the firearm with the use of a tool,” and attempted registration using
9 the only authorized method of registration – were deprived by Defendants of their right and
10 ability to register such firearms in compliance with Pen. Code §§ 30900(b) and 30680(c). On
11 information and belief, and as will be demonstrated at trial, a substantial number of other,
12 similarly-situated members of such class of persons were deprived of, and thereby denied, their
13 right and ability to register such firearms solely due to the acts, omissions, constraints, failures,
14 and technical defects on the part of Defendants, and each of them, in connection with their
15 Internet-based “bullet button assault weapon” registration system.

16 69. Defendants had a clear, present, and ministerial duty to establish and implement
17 policies, practices, and regulations that comply with the requirements of the statutes, as well as
18 the California Constitution and United States Constitution, within the purview of their rule-
19 making and enforcement authority, and to provide its citizens with the ability to properly and
20 timely comply with the law – particularly when the DOJ’s registration system was the sole
21 available means to do so.

22 70. Plaintiffs, and each of them, and the class of similarly situated individuals
23 described herein, all have a beneficial interest in the proper discharge of the duties that
24 Defendants must faithfully execute in connection with the “assault weapons” registration
25 process. Plaintiffs, and each of them, and the class of similarly situated individuals described
26 herein, have a beneficial interest in application of the laws in a fair, just and reasonable manner
27 that gives each similarly situated citizen the opportunity to comply with the registration
28 requirements.

1 and benefits of the law by Defendants’ failure and refusal to operate, provide, or otherwise allow
2 for a functional “assault weapons” registration system, as required by Penal Code § 30900(b)(2).

3 75. The Fourteenth Amendment to the United States Constitution and article I, section
4 7 of the California Constitution both guarantee that no person shall be deprived of life, liberty, or
5 property without due process of law.

6 76. An actual controversy has further arisen and now exists between Plaintiffs, and
7 the class of similarly situated individuals previously identified, on the one hand, and Defendants,
8 and each of them, on the other hand, as to whether Plaintiffs and the class of persons they
9 represent were deprived of their right or ability to register their firearms as assault weapons by
10 July 1, 2018, as required by Penal Code §§ 30680(c) and 30900(b) and the DOJ’s own
11 regulations, and as to whether that deprivation has resulted in a deprivation of due process.

12 77. Plaintiffs desire a judicial declaration that certain statutes otherwise subjecting
13 them to criminal sanctions – to wit: Penal Code §§ 30600, 30605, 30615, 30800, 30900(b) – are
14 invalid and unenforceable as applied to them, and to the class of similarly-situated individuals
15 they represent, because Defendants’ flawed registration system has unfairly and improperly
16 prevented them from complying with the law in violation of their rights to due process.

17 WHEREFORE, Plaintiffs seek declaratory relief as set forth below.

18 **FOURTH CAUSE OF ACTION**

19 **INJUNCTIVE RELIEF**

20 **Against All Defendants**

21 78. Plaintiffs incorporate paragraphs 1 through 77 as if fully set forth herein.

22 79. Plaintiffs, and each of them, individually, as representatives of the previously
23 identified class of similarly situated individuals, and the similarly-situated members of the
24 Institutional Plaintiffs and the public, the interests of whom are at the core of the institutions’
25 organizational purposes, seek injunctive relief in Plaintiffs’ favor, against Defendants, and each
26 of them, prohibiting all Defendants and their agents from enforcing Penal Code §§ 30600,
27 30605, 30615, 30800, 30900(b) as to each of them, and those similarly situated, until said
28 Plaintiffs, the class of individuals they represent, and the affected members of the Institutional

1 Plaintiffs identified herein, are granted a reasonable opportunity to register their firearms through
2 a functional and reliable registration system.

3 80. Temporary and permanent injunctive relief are therefore necessary and proper, as
4 plaintiffs have been and will continue to be irreparably injured without such injunctive relief, and
5 the balance of harms weighs heavily in Plaintiffs' favor – particularly as Defendants' failures and
6 refusal to provide a reliable and functional registration system has left Plaintiffs in jeopardy of
7 criminal liability.

8 WHEREFORE, Plaintiffs seek injunctive relief as set forth below.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiffs pray for relief as follows:

11 1. For judgment in Plaintiffs' favor, against Defendants, that Defendants' actions
12 and omissions in connection with the "assault weapons" registration system have prevented and
13 are continuing to prevent Plaintiffs and the class of persons they represent from complying with
14 the law, in violation of their rights to due process under 42 U.S.C. § 1983, and, as a result, that
15 certain statutes otherwise subjecting them to criminal sanctions – to wit: Penal Code §§ 30600,
16 30605, 30615, 30800, 30900(b) – are invalid and unenforceable as applied to them.

17 2. For judgment in Plaintiffs' favor, against Defendants, and the Court's issuance of
18 a writ of mandate, or other appropriate relief, commanding Defendants, and each of them, and
19 others acting pursuant to their authority or control, to permit Individual Plaintiffs, and those
20 similarly situated, and in an identifiable class, to register their legally-possessed, qualified
21 firearms as "assault weapons" through a reliable and functional registration system pursuant to
22 Penal Code § 30900(b) for a reasonable period of time beyond the statutory deadline of July 1,
23 2018, and, until such time as that period has expired, command Defendants, and each of them,
24 and others acting pursuant to their authority or control, to refrain from enforcing against
25 Individual Plaintiffs Penal Code §§ 30600, 30605, 30615, 30800, 30900(b), and any related
26 agency regulations enforcing or implementing the mandate of registration by July 1, 2018.

27 3. For declaratory relief in Plaintiffs' favor, against Defendants, that Defendants,
28 and each of them, have deprived and are continuing to deprive Individual Plaintiffs and others

1 similarly situated of due process under the law, and under the Constitution of the United States
2 and the State of California, and have otherwise deprived and are continuing to deprive them of
3 their statutory rights and benefits of the law by failing to establish, operate, maintain, or
4 otherwise provide for a properly-functioning public-facing Internet-based registration system, as
5 required by Penal Code § 30900(b)(2).

6 4. For declaratory relief in Plaintiffs' favor, against Defendants, that the Individual
7 Plaintiffs, and others similarly situated, have been deprived of their right and/or ability to register
8 their firearms as assault weapons by July 1, 2018, as required by Penal Code § 30680(c) and the
9 DOJ's own regulations, and that Defendants, and each of them, have failed in their statutorily-
10 mandated duties to establish, implement, maintain, or otherwise provide for a properly-
11 functioning public-facing Internet-based registration system for registrations of "bullet button
12 assault weapons" as required by Penal Code § 30900(b)(2).

13 5. For injunctive relief in Plaintiffs' favor, against Defendants, and each of them,
14 prohibiting all Defendants from enforcing Penal Code §§ 30600 (specifically, the prohibition
15 against transportation), 30605, 30615, 30800, 30900(b), and any related agency regulations, as to
16 each of them, and those similarly situated, until said Plaintiffs and members of the class of
17 similarly situated individuals have been permitted a reasonable amount of time to register their
18 firearms through a properly-functioning public-facing Internet-based registration system, as
19 required by Penal Code § 30900(b)(2).

20 6. That Plaintiffs be awarded their costs of suit incurred in this action, and costs
21 including their attorneys' fees pursuant to 42 U.S.C. § 1988, California Code of Civil Procedure
22 §§ 1021.5 and 1095; and any other applicable law.

23 7. For other such relief as this court may deem to be just and proper.
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Dated: September 21, 2018

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