

1 XAVIER BECERRA
Attorney General of California
2 MARK R. BECKINGTON
Supervising Deputy Attorney General
3 PETER H. CHANG
Deputy Attorney General
4 State Bar No. 241467
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 510-3776
6 Fax: (415) 703-1234
E-mail: Peter.Chang@doj.ca.gov
7 Attorneys for Respondents and Defendants

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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN DIEGO
11

12 **MAURO CAMPOS; et al.,**

13 Petitioners and Plaintiffs,

14 **v.**

15 **XAVIER BECERRA, Attorney General of
California, et al.,**

16 Respondents and Defendants.
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Case No. 37-2020-00030178-CU-MC-CTL

**RESPONDENTS AND DEFENDANTS'
ANSWER TO VERIFIED PETITION FOR
WRIT OF MANDATE AND COMPLAINT
FOR DECLARATORY, INJUNCTIVE,
AND OTHER RELIEF**

Courtroom: C-64

Judge: The Honorable John S. Meyer

Action Filed: 08/27/2020

1 **ANSWER TO VERIFIED PETITION FOR WRIT OF MANDATE**

2 Respondents and Defendants Xavier Becerra, Attorney General of California, the Director
3 of California Department of Justice Bureau of Firearms,¹ and the California Department of Justice
4 (collectively, Defendants), answer the Petition and Complaint, in the same numbered paragraphs
5 as those in the Petition and Complaint, as follows:

6 1. Defendants deny the allegations in the first and third sentences of paragraph 1.
7 Defendants lack sufficient knowledge or information to form a belief as to the truth of the
8 allegations in the second sentence of paragraph 1, and on that basis deny them. Defendants deny
9 the remaining allegations of paragraph 1.

10 2. Defendants admit that the cited statutory provisions restrict, among other things, the
11 delivery of a firearm within 10 days of an application to purchase (Cal. Pen. Code §§ 26815(a),
12 27540(a)). Defendants admit that the 10-day waiting period is imposed, in part, so a background
13 check can be conducted on the purchasers or transferee of the firearm before the firearm is
14 delivered. Defendants deny the remaining allegations of paragraph 2.

15 3. Defendants admit the allegations in paragraph 3.

16 4. Defendants admit that California Code of Regulations, title 11, § 4230 became
17 operative on January 1, 2014. The regulation speaks for itself. Defendants deny the remaining
18 allegations in paragraph 4.

19 5. California Code of Regulations, title 11, § 4230(b)(2)(A) speaks for itself. Paragraph
20 5 consists of conclusions of law and no answer is required. To the extent any part of Paragraph 5
21 is construed as allegations to be admitted or denied, Defendants deny them.

22 6. California Code of Regulations, title 11, § 4230(a) speaks for itself. Paragraph 6
23 consists of conclusions of law and no answer is required. To the extent any part of Paragraph 6 is
24 construed as allegations to be admitted or denied, Defendants deny them.

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¹ Brent E. Orick left his position as the Director of the Bureau of Firearms before this
lawsuit was filed and was misnamed as a defendant in the Petition and Complaint.

1 7. California Code of Regulations, title 11, § 4230(b)(2)(C) speaks for itself. Paragraph
2 7 consists of conclusions of law and no answer is required. To the extent any part of Paragraph 7
3 is construed as allegations to be admitted or denied, Defendants deny them.

4 8. California Code of Regulations, title 11, § 4230(b)(2)(B) speaks for itself. Paragraph
5 8 consists of conclusions of law and no answer is required. To the extent any part of Paragraph 8
6 is construed as allegations to be admitted or denied, Defendants deny them.

7 9. California Code of Regulations, title 11, § 4230 speaks for itself. Paragraph 9
8 consists of conclusions of law and no answer is required. To the extent any part of Paragraph 9 is
9 construed as allegations to be admitted or denied, Defendants deny them.

10 10. Defendants admit that it provided a statement on its website with the heading
11 “Firearms and Ammunition Purchaser Information.” The statement speaks for itself. Defendants
12 lack sufficient knowledge or information to form a belief as to the truth of the allegations in the
13 last two sentences of Paragraph 10, and on that basis deny them. Defendants deny the remaining
14 allegations of Paragraph 10.

15 11. Defendants admit that, in response to the current COVID-19 pandemic, the Governor
16 has utilized the Emergency Services Act to suspend the operation of certain laws and has issued
17 emergency orders. Defendants admit that the Governor did not suspend Penal Code section
18 28220. Defendants deny the remaining allegations of Paragraph 11.

19 12. Paragraph 12 consists of conclusions of law and no answer is required. To the extent
20 any part of Paragraph 12 is construed as allegations to be admitted or denied, Defendants deny
21 them.

22 13. Defendants deny the allegations in the first sentence of Paragraph 13. Defendants
23 lack sufficient knowledge or information to form a belief as to the truth of the allegations in the
24 second sentences of Paragraph 13, and on that basis deny them.

25 14-25. Defendants lack sufficient knowledge or information to form a belief as to the truth
26 of the allegations in Paragraphs 14-25, inclusive, and on that basis deny them.

27 26. Defendants admit that Respondent Becerra is the Attorney General of the State of
28 California and the chief law officer of the state, responsible for ensuring that the laws of the state

1 are uniformly and adequately enforced. Defendants admit that the California Attorney General is
2 vested with broad powers and carries out his responsibilities through the California Department of
3 Justice. Defendants admit that the Department of Justice and its Bureau of Firearms enforce state
4 laws relating to firearms. Defendants admit that Respondent Becerra has been sued in his official
5 capacity as the California Attorney General. Defendants admit that the Department of Justice
6 maintains an office in San Diego. Except as specifically admitted, Defendants deny the
7 allegations in paragraph 26.

8 27. Defendants deny that Brent E. Orick is the Chief of the Bureau of Firearms.

9 28. Defendants admit that the California Department of Justice and its Bureau of
10 Firearms enforce state laws relating to firearms. Defendants admit that the Department of Justice
11 maintains an office in San Diego. Except as specifically admitted, Defendants deny the
12 allegations in paragraph 28.

13 29. Paragraph 29 consists of recitations and conclusions of law and no answer is required.
14 The cited statutes speak for themselves. To the extent any part of Paragraph 29 is construed as
15 allegations to be admitted or denied, Defendants deny them.

16 30. Paragraph 30 consists of conclusions of law and no answer is required. To the extent
17 any part of Paragraph 30 is construed as allegations to be admitted or denied, Defendants deny
18 them.

19 31. Defendants admit that the cited statutory provisions (Cal. Pen. Code §§ 26815(a),
20 27540(a)) restrict, among other things, the delivery of a firearm within 10 days of an application
21 to purchase, including the delivery of a firearm by dealers.

22 32. Defendants admit that the 10-day waiting period is imposed, in part, so a background
23 check can be conducted on the purchasers or transferee of the firearm before the firearm is
24 delivered. Defendants admit that firearm-purchase applications are processed through the Dealer
25 Record of Sale Entry System, or “DES,” an electronic system that firearms dealers used to submit
26 firearm-purchase applications to the Bureau of Firearms. Defendants deny the remaining
27 allegations of paragraph 32.

1 33. Paragraph 33 consists of recitations and conclusions of law and no answer is required.
2 The cited statutes speak for themselves. To the extent any part of Paragraph 33 is construed as
3 allegations to be admitted or denied, Defendants deny them.

4 34. Defendants admit that a significant percentage of background checks are completed
5 within the first day of the waiting period and automatically approved. The remainder of
6 Paragraph 34 consists of recitations and conclusions of law and no answer is required. The cited
7 statutes speak for themselves. To the extent any part of Paragraph 34 is construed as allegations
8 to be admitted or denied, Defendants deny them.

9 35. Paragraph 35 consists of recitations and conclusions of law and no answer is required.
10 The cited statutes speak for themselves. To the extent any part of Paragraph 35 is construed as
11 allegations to be admitted or denied, Defendants deny them.

12 36. Paragraph 36 consists of recitations and conclusions of law and no answer is required.
13 The cited statutes speak for themselves. To the extent any part of Paragraph 36 is construed as
14 allegations to be admitted or denied, Defendants deny them.

15 37. Paragraph 37 consists of recitations and conclusions of law and no answer is required.
16 The cited statutes speak for themselves. To the extent any part of Paragraph 37 is construed as
17 allegations to be admitted or denied, Defendants deny them.

18 38. Paragraph 38 consists of recitations and conclusions of law and no answer is required.
19 The cited statutes speak for themselves. To the extent any part of Paragraph 38 is construed as
20 allegations to be admitted or denied, Defendants deny them.

21 39. Paragraph 39 consists of recitations and conclusions of law and no answer is required.
22 The cited statutes speak for themselves. To the extent any part of Paragraph 39 is construed as
23 allegations to be admitted or denied, Defendants deny them.

24 40. Defendants admit that the Department of Justice may delay a transaction if it is
25 unable to determine whether the applicant is eligible to receive a firearm after performing an
26 initial background check within the first 10 days of receiving a firearms-transaction application.
27 Defendants deny the remaining allegations of Paragraph 40.
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1 41. Defendants admit that, in or about April 2020, it provided a statement on its website
2 with the heading “Firearms and Ammunition Purchaser Information.” The statement speaks for
3 itself. Defendants deny the remaining allegations of Paragraph 41.

4 42. (The Petition and Complaint contains two Paragraph 42s. This paragraph responds to
5 the first Paragraph 42.) Defendants admit that, in or about April 2020, it provided a statement on
6 its website with the heading “Firearms and Ammunition Purchaser Information.” The statement
7 speaks for itself. Defendants deny the remaining allegations of Paragraph 42.

8 42. (The Petition and Complaint contains two Paragraph 42s. This paragraph responds to
9 the second Paragraph 42.) Paragraph 42 does not contain any allegation to admit or deny. The
10 quoted statement speaks for itself. To the extent any part of Paragraph 42 is construed as
11 allegations to be admitted or denied, Defendants deny them.

12 43. Defendants admit that the Department of Justice may delay a transaction if it is
13 unable to determine whether the applicant is eligible to receive a firearm after performing an
14 initial background check within the first 10 days of receiving a firearms-transaction application.
15 Defendants deny the remaining allegations of Paragraph 43.

16 44. Defendants deny the allegations in Paragraph 44.

17 45. Defendants admit that the Department of Justice has delayed firearm-purchase
18 transactions beyond the first 10 days of receiving a firearms-transaction application when it has
19 been unable to determine whether the applicant is eligible to receive a firearm after performing an
20 initial background check within that time period. Defendants admit that firearms dealers may not
21 complete delivery of a firearm until either the Department of Justice approves the transaction or
22 30 days after the initial submission of the DROS application, whichever occurs first. The
23 remainder of Paragraph 45 consists of recitations and conclusions of law and no answer is
24 required. The cited statutes speak for themselves. To the extent any part of the remainder of
25 Paragraph 45 is construed as allegations to be admitted or denied, Defendants deny them.

26 46. Defendants deny the allegations in Paragraph 46.

27 47. Defendants admit that the Department of Justice received two DROS applications for
28 Plaintiff Campos through Firearms Unknown on April 10, 2020. Defendants admit that both

1 applications were approved on April 28, 2020. Defendants admit that, as of the date of the filing
2 of this Answer, Plaintiff Campos holds a Certificate of Eligibility, has firearms registered in the
3 Automated Firearms System and is a Department of Justice certified firearms-safety instructor.
4 Defendants deny the remaining allegations of Paragraph 47.

5 48. Defendants admit that the Department of Justice received two DROS applications for
6 Plaintiff Callahan-Miller through Firearms Unknown on April 9, 2020. Defendants admit that
7 both applications were approved on April 25, 2020. Defendants lack sufficient knowledge or
8 information to form a belief as to the truth of the allegations in the second sentence of Paragraph
9 48, and on that basis denies them. Defendants deny the remaining allegations of Paragraph 48.

10 49. Defendants admit that the Department of Justice has delayed firearm-purchase
11 transactions beyond the first 10 days of receiving a firearms-transaction application when it has
12 been unable to determine whether the applicant is eligible to receive a firearm after performing an
13 initial background check within that time period. Defendants lack sufficient knowledge or
14 information to form a belief as to the truth of the allegations regarding the frequency in which
15 Plaintiff Firearms Unknown checks the DES, and on that basis denies them. Defendants deny the
16 remaining allegations of Paragraph 49.

17 50. Defendants admit that the Department of Justice has delayed firearm-purchase
18 transactions beyond the first 10 days of receiving a firearms-transaction application when it has
19 been unable to determine whether the applicant is eligible to receive a firearm after performing an
20 initial background check within that time period. Defendants lack sufficient knowledge or
21 information to form a belief as to the truth of the allegations regarding the Plaintiff PWG and its
22 customers, and on that basis denies them. Defendants deny the remaining allegations of
23 Paragraph 50.

24 51. Defendants deny the allegations in Paragraph 51.

25 52. Paragraph 52 consists of recitations and conclusions of law and no answer is required.
26 The cited statutes speak for themselves. To the extent any part of Paragraph 52 is construed as
27 allegations to be admitted or denied, Defendants deny them.
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1 53. The first sentence of Paragraph 53 consists of recitations and conclusions of law and
2 no answer is required. The cited statutes speak for themselves. To the extent that sentence is
3 construed as allegations to be admitted or denied, Defendants deny them. Defendants deny the
4 allegations in the second sentence of Paragraph 53.

5 54. Paragraph 54 consists of recitations and conclusions of law and no answer is required.
6 The cited statutes speak for themselves. To the extent any part of Paragraph 54 is construed as
7 allegations to be admitted or denied, Defendants deny them.

8 55. Paragraph 55 consists of recitations and conclusions of law and no answer is required.
9 The cited statutes speak for themselves. To the extent any part of Paragraph 55 is construed as
10 allegations to be admitted or denied, Defendants deny them.

11 56. Paragraph 56 consists of conclusions of law and Plaintiffs' request for relief, and no
12 answer is required. To the extent any part of Paragraph 56 is construed as allegations to be
13 admitted or denied, Defendants deny them.

14 57. Defendants incorporate here by reference their responses to Paragraph 1 through 56
15 as if fully set forth herein.

16 58. Defendants deny the allegations in Paragraph 58.

17 59. Paragraph 59 consists of recitations and conclusions of law and no answer is required.
18 The cited statutes speak for themselves. To the extent any part of Paragraph 59 is construed as
19 allegations to be admitted or denied, Defendants deny them.

20 60. Defendants deny the allegations in Paragraph 60.

21 61. Defendants deny the allegations in Paragraph 61.

22 62. Defendants incorporate here by reference their responses to Paragraph 1 through 56
23 as if fully set forth herein.

24 63. Defendants deny the allegations in the last three sentences of paragraph 64. The
25 remainder of Paragraph 63 consists of recitations and conclusions of law and no answer is
26 required. The cited statutes and regulations speak for themselves. To the extent they are
27 construed as allegations to be admitted or denied, Defendants deny them.

1 64. Defendants incorporate here by reference their responses to Paragraph 1 through 56
2 as if fully set forth herein.

3 65. Defendants deny the allegations in Paragraph 65.

4 66. Defendants deny the allegations in Paragraph 66.

5 67. Defendants deny the allegations in Paragraph 67.

6 Response to Plaintiffs' Prayer for Relief

7 Defendants deny that Plaintiffs are entitled to any relief whatsoever from Defendant or this
8 Court.

9 General Denial

10 Defendants deny each and every allegation contained in the Petition and Complaint that
11 Defendants have not specifically admitted.

12 Affirmative Defenses

13 1. The Petition's claims for declaratory and injunctive relief cannot be joined with a writ
14 of mandate.

15 2. All alleged acts of omissions by Defendants, their agents, employees, or
16 representatives were discretionary acts or omission such that a writ of mandate may not issue to
17 control the exercise of that discretion.

18 3. The requested relief is barred as a matter of law because granting such relief would
19 result in an unlawful order compelling Defendants to act contrary to their statutory duties.

20 4. All alleged acts done by Defendants, their agents, employees, or representatives were
21 performed fairly, in good faith and for a lawful purpose, and were reasonable and justified under
22 the circumstances.

23 5. The Petition, and each cause of action alleged therein, fails to state facts sufficient to
24 constitute a cause of action against Defendants.

1 WHEREFORE, Defendants respectfully request that:

- 2 1. The Verified Petition for Writ of Mandate and Complaint for Declaratory, Injunctive,
3 and Other Relief, and all claims and prayers therein, be denied in their entirety;
- 4 2. Plaintiffs take nothing from Defendants by this action;
- 5 3. Defendants be awarded costs in defending this action; and
- 6 4. Defendants be awarded such further relief as the Court may deem just and proper.
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9 Dated: October 5, 2020

Respectfully submitted,

10 XAVIER BECERRA
11 Attorney General of California

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15 PETER H. CHANG
16 Deputy Attorney General
Attorneys for Respondents and Defendants

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Mauro Campos, et al. v. Xavier Becerra, et al.**

Case No.: **37-2020-00030178-CU-MC-CTL**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004.

On October 5, 2020, I served the attached **DEFENDANTS' ANSWER TO VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY, INJUNCTIVE, AND OTHER RELIEF** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at San Francisco, California, addressed as follows:

Bradley A. Benbrook and
Steve M. Duvernay
Attorneys at Law
Benbrook Law Group, PC
400 Capitol Mall, Suite 2530
Sacramento, CA 95814

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on October 5, 2020, at San Francisco, California.

Robert Hallsey
Declarant

/s/ Robert Hallsey
Signature