XAVIER BECERRA
Attorney General

State of California
DEPARTMENT OF JUSTICE

FAX TRANSMISSION COVER SHEET

IMPORTANT/CONFIDENTIAL: This communication is intended only for the use of the individual or entity to which it is addressed. This message contains information from the State of California, Attorney General's Office, which may be privileged, confidential, and exempt from disclosure under applicable law. If the reader of this communication is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited.

DATE: **June 13, 2017** **TIME:** **9:27 AM** **NO. OF PAGES:** **12**
(Including Fax Cover Sheet)

TO:

NAME: **Brad A. Hakala, Esq.**

OFFICE: The Hakala Law Group, P.C.

LOCATION:

FAX NO.: **(562) 786-8606** PHONE NO.:

FROM:

NAME: **Jonathan E. Rich, Deputy Attorney General**

OFFICE: **Office of the Attorney General**

LOCATION: **Los Angeles**

FAX NO.: **(213) 897-2805** PHONE NO.: **(213) 897-2439**

MESSAGE/INSTRUCTIONS

Re: Love, Devon Torrey, et al. v. The State of California, et al.
Case No. SCV0039311

Please see attached pleading regarding the above-referenced matter.

LA2017603774
52446780.doc

XAVIER BECERRA
Attorney General of California
RICHARD T. WALDOW
Supervising Deputy Attorney General
JONATHAN E. RICH (SBN 187386)
JACQUELYN Y. YOUNG (SBN 306094)
Deputy Attorneys General
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2439
Fax: (213) 897-2805
E-mail: Jonathan.Rich@doj.ca.gov
Attorneys for Defendants

Fees Exempt per Gov't Code, § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF PLACER

DEVON TORREY LOVE; S.L.; ALISON HEATHER GRACE GATES; M.M.; K.M.; A.M.; COURTNEY BARROW; A.B.; MARGARET SARGENT; T.S,; W,S.; and A VOICE FOR CHOICE, INC. on behalf of its members,

Plaintiffs,

v.

STATE OF CALIFORNIA, DEPARTMENT OF EDUCATION; STATE OF CALIFORNIA, BOARD OF EDUCATION; TOM TORLAKSON, in his official capacity as Superintendent of the Department of Education; STATE OF CALIFORNIA, DEPARTMENT OF PUBLIC HEALTH; DR. KAREN SMITH, in her official capacity as Director of the Department of Public Health,

Defendants.

Case No. SCV0039311

DEFENDANTS' REPLY IN SUPPORT OF DEMURRER TO PLAINTIFFS' COMPLAINT

Date: June 20, 2017
Time: 8:30 a.m.
Dept: 40
Judge: TBD
Action Filed: April 4, 2017

INTRODUCTION

Plaintiffs' Opposition to Defendants' Demurrer is premised on the false supposition that they have somehow articulated an original attack on California's mandatory vaccination statute, never considered by any federal or state court over the last 100 years of this Nation's jurisprudence upholding such statutes. Because plaintiffs' supposition is patently wrong as a matter of law, and their claims cannot be cured by amendment, defendants' demurrer should be sustained without leave to amend.

Although this lawsuit is plaintiffs' second attempt to seek declaratory and injunctive relief from the state's enforcement of Senate Bill 277 (Cal. Stats 2015 Ch. 35) (SB 277), they contend that the issues before this Court are "of first impression" and that "no California court has ruled on this issue after the landmark *Serrano* cases in the 1970s." (Pls. Opp., at p. 2.) However, it was merely five months ago that the Central District of California dismissed plaintiffs' nearly identical complaint, asserting substantially similar causes of action. (See Defendants' Request for Judicial Notice (RJN), Exh. 7, *Torrey-Love, et al. v. State of California Department of Education et al.*, Case No. ED CV 16-2410-DMG (DTBx) (*Torrey-Love I*).) And it was less than a year ago that the Southern District of California published its decision in *Whitlow v. California* (S.D. Cal. 2016) 203 F.Supp.3d 1079, upholding the constitutionality of SB 277 against claims alleging violations of due process, privacy and the right to a public education. (See also RJN, Exh. 4.)

Indeed, plaintiffs' opposition fails to distinguish their Complaint from any of the four other actions challenging SB 277 that have been dismissed in state and federal courts in California. (See RJN, Exhs. 4-7.) To the contrary, plaintiffs' opposition is devoid of any legal authority that directly challenges the State's unquestioned interest in protecting public health and safety by mandating vaccinations for school children – a legitimate and compelling state interest that has been *unanimously* recognized by the U.S. Supreme Court, the California Supreme Court, and every other federal and state court that has addressed the issue. Mandatory vaccination laws have withstood various challenges predicated on the First Amendment, the Equal Protection Clause, the Due Process Clause, education rights, parental rights, privacy rights, and more. As defendants stated in their demurrer, this case is no different. (RJN, Exh. 7.)

Respectfully, defendants' demurrer should be sustained without leave to amend.

ARGUMENT

I. Plaintiffs' Reliance on the Unconstitutional Conditions Doctrine Is Unavailing to Their Facially Defective Claims

Plaintiffs' assertion that SB 277 forces them to choose between the exercise of their fundamental constitutional rights, *i.e.*, the right to privacy, the right to an education, and the right to direct the upbringing of one's children, is unfounded. (Pls. Opp., at p. 4.) This identical argument was expressly rejected by the Central District in plaintiff's federal action. (RJN, Exh. 7, at pp. 5-8.)

"To determine whether the government has violated the unconstitutional conditions doctrine, the court must look to whether the condition placed upon the receipt of a benefit 'further[s] the end advanced as the justification for the prohibition.'" (*Palmer v. Valdez* (9th Cir. 2009) 560 F.3d 965, 972 [quoting *Nollan v. Cal. Coastal Comm'n* (1987) 483 U.S. 825, 837].) Therefore, "the 'government cannot impose a condition for a reason not germane to one that would have justified denial' of the benefit." (*Ibid.*, at p. 972.) However, "*such limitations only arise when the condition attached infringes on a constitutionally protected interest.*" (*Parks v. Watson* (9th Cir. 1983) 716 F.2d 646, 651(italics added).)

A. SB 277 Does Not Unreasonably Compel Plaintiffs to Choose Between Competing Constitutional Rights

Plaintiffs essentially argue that they have the right to demand that their children attend school or childcare without first being vaccinated against serious but easily preventable diseases. No court has ever held that to be a fundamental right. Indeed, as confirmed by *Jacobson v. Commonwealth of Massachusetts* (1905) 197 U.S. 11, 32 (*Jacobson*) and the century of jurisprudence following it, mandatory vaccination laws do not infringe on a constitutionally protected right. (See, e.g., *Zucht v. King* (1922) 260 U.S. 174, 175-177 [rejecting plaintiffs' claim under the Equal Protection Clause, holding that "it is within the police power of a state to provide for compulsory vaccination"]; *Prince v. Massachusetts* (1944) 321 U.S. 158 [a parent "cannot

1 claim freedom from compulsory vaccination for the child more than for himself on religious
2 grounds. The right to practice religion freely does not include liberty to expose the community or
3 the child to communicable disease or the latter to ill health or death."]; *Phillips v. City of New*
4 *York* (2nd Cir. 2015) 775 F.3d 538, 543 [holding that "mandatory vaccination as a condition for
5 admission to school does not violate the Free Exercise Clause"]; *Workman v. Mingo County Sch.*
6 (S.D. W. Va. 2009) 667 F. Supp. 2d 679, 690-691 ["a requirement that a child must be vaccinated
7 and immunized before it can attend the local public schools violates neither due process nor . . .
8 the equal protection clause of the Constitution"], *affirmed Workman v. Mingo County Bd. of*
9 *Educ.* (4th Cir. 2011) 419 F. App'x 348, 353-54 (unpublished); *Boone v. Boozman* (E.D. Ark.
10 2002) 217 F. Supp. 2d 938, 956 (E.D. Ark. 2002) ["the question presented by the facts of this
11 case is whether the special protection of the Due Process Clause includes a parent's right to refuse
12 to have her child immunized before attending public or private school where immunization is a
13 precondition to attending school. The Nation's history, legal traditions, and practices answer with
14 a resounding 'no.'"].)[1]

15 1. The right to due process

16 It is indisputable that the right to refuse medical treatment and the right to direct the
17 upbringing of one's children are not beyond limitation, particularly within the context of
18 mandatory school immunization. In *Cruzan v. Director, Missouri Department of Health* (1990)
19 497 U.S. 261, analyzing the right to refuse certain medical treatment, the Supreme Court cited to
20 *Jacobson,* and recognized mandatory vaccination as an example where state interests outweigh a
21 plaintiff's liberty interest in refusing vaccination. (*Id.*, 497 U.S. at p. 279.) Well-prior to *Cruzan*,
22 the Supreme Court emphasized that "a state is not without constitutional control over parental
23

24 [1] Plaintiffs' assertion that "the federal district court [in *Boone*] explicitly stated that its ruling would be different if public education was a fundamental right in that jurisdiction," (Pls.
25 Opp. 10), is wrong. The court in *Boone* made no such statement. Instead, it observed correctly that there is no fundamental right to an education recognized in the U.S. Constitution. (*Boone*,
26 *supra*, 217 F. Supp. 2d at 957 ["[T]o the extent plaintiff asserts that [she] … has a fundamental constitutional right to a free and appropriate public education which outweighs the State's interest
27 in immunizing school children, plaintiff is incorrect. While the Court does not minimize the importance of education, it is firmly established that the right to an education is not provided
explicit or implicit protection under the Constitution and is not a fundamental right or liberty."].)
28

1 discretion in dealing with children when their physical or mental health is jeopardized." (*Parham*
2 *v. J. R.* (1979) 442 U.S. 584, 603.) And, as explained in *Prince*, "neither the rights of religion nor
3 rights of parenthood are beyond limitation[;] both can be interfered with when necessary to
4 protect a child." (*Prince*, *supra*, 321 U.S. at 166; see also *Pickup v. Brown* (9th Cir. 2014) 740
5 F.3d 1208, 1235 [citing *Prince* and stating that parents' right to make decisions regarding the
6 care, custody, and control of their children "is not without limitations," particularly in "the health
7 arena, [where] states may require the compulsory vaccination of children."].) "Unquestionably,
8 imposing a mandatory vaccine requirement on school children as a condition of enrollment does
9 not violate substantive due process." (*Whitlow*, *supra*, 203 F.Supp.3d at p. 1089.)

10 2. The right to privacy

11 As with due process, the right to privacy is not absolute. (See, e.g., *Coshow v. City of*
12 *Escondido* (2005) 132 Cal.App.4th 687, 712 ["[i]n the area of health and health care legislation,
13 there is a presumption both of constitutional validity and that no violation of privacy has
14 occurred"]; *Mathews v. Harris* (2017) 7 Cal.App.5th 334, 368 ["The privacy claim fails if there is
15 a reasonable exercise of California's broad police powers enacted to address 'problems of vital
16 local concern.'"].)

17 Indeed, Health and Safety Code section 120440 permits health care providers, schools and
18 child care facilities to disclose medical information such as the types and dates of immunizations
19 a child has received, to local health departments. (Health & Saf. Code, § 120440, subd. (c).)
20 Neither the disclosure of a student's immunization history nor a student's medical exemption is
21 made public record. As such, neither constitutes a "serious invasion of privacy" violating
22 plaintiffs' purported "right to control circulation of personal medical information." (Pls. Opp., at
23 pp. 4-5.)

24 3. The right to public education

25 Plaintiffs' reliance and emphasis on the "landmark *Serrano* cases in the 1970s" is
26 unavailing. (Pls. Opp., at p. 2.) In *Serrano*, the court considered education a fundamental right in
27 the face of disparate funding of public schools on the basis of race and poverty. There is no
28

1 discussion in *Serrano* of the State's inherent police power to protect the public health of school
2 children and others through mandatory childhood vaccinations. To the contrary, as discussed in
3 defendants' moving papers, the existence of such a fundamental right does not invalidate a school
4 vaccination mandate. In *French v. Davidson* (1904) 143 Cal. 658, which was decided 25 years
5 after the adoption of California's constitutional right to an education (*see* Cal. Const., Art. IX, §
6 5), the California Supreme Court expressly held that the State's mandatory school vaccination
7 statute "in no way interferes with the right of the child to attend school, provided the child
8 complies with its provisions." (143 Cal. at p. 662.) Similarly, in a case cited extensively in
9 *Jacobson*, the New York Court of Appeal in *Viemeister v. White* (1904) 179 N.Y. 235, held that
10 New York's mandatory school vaccination statute did not violate that state's constitutional right
11 to a free and public education, which is virtually identical to that contained in California's
12 Constitution. (179 N.Y. at p. 238 ["[t]he right to attend the public schools of this state is
13 necessarily subject to some restrictions and limitations in the interest of the public health."].)[2]
14 Thus, in the absence of an infringement of a constitutionally protected right, the so-called
15 unconstitutional conditions doctrine advanced by plaintiffs in their Opposition cannot apply here.
16 **B. SB 277 Furthers Legitimate and Compelling State Interests**
17 But even if the unconstitutional conditions doctrine applied to plaintiffs' claims, and it does
18 not, the doctrine permits a condition placed upon the receipt of a government benefit if the
19 condition "further[s] the end advanced as the justification for the prohibition." (*Palmer, supra*,
20 560 F.2d at p. 972.) In this regard, the analysis under the unconstitutional conditions doctrine is
21 conceptually indistinguishable from the balancing of states' legitimate and compelling interests in
22 mandatory vaccinations with various competing personal rights. Here, applying either rational
23
24
25 [2] Plaintiffs also claim that "*Slayton* [*v. Pomona Unified School District* (1984) 161 Cal.App.3d 538] is particularly insightful." (Pls. Opp., at p. 6.) However, "the only issue
26 presented by [*Slayton*] . . . is whether the trial court abused its discretion in failing to award attorney fees under the private attorney general doctrine codified in Code of Civil Procedure
27 section 1021.5." (*Slayton, supra*, 161 Cal.App.3d at p. 544.) Plaintiffs fail to explain how the "loyalty oath to a school district" in *Slayton* is in any way comparable to the State's interest in
28 mandating vaccination to protect public health and safety. (See Pls. Opp., at pp. 6-7.)

1 basis or strict scrutiny, there can be no question that the condition of vaccination furthers the end
2 advanced by prohibiting unvaccinated children from attending schools or day care centers.
3 Plaintiffs make no effort to refute or even distinguish this case from the California Supreme
4 Court's holding that "when danger to health exists . . . state regulation shall be tested under the
5 *rational basis* standard" and thus tacitly concede that even when a state "statute *restricts a*
6 *fundamental right*, when the state asserts important interests in safeguarding health, review is
7 under the rational basis standard." (*People v. Privitera* (1979) 23 Cal.3d 697, 703 [original
8 emphasis]; *Wilson v. California Health Facilities Com.* (1980) 110 Cal.App.3d 317, 324
9 [emphasis added].)[3]
10 As discussed in defendants' moving papers, SB 277 is rationally related to the "State's
11 interest in protecting public health and safety." (*Whitlow, supra*, 203 F. Supp.3d at p. 1088; see
12 also, *French, supra*, 143 Cal. at 662 ["the proper place to commence in the attempt to prevent the
13 spread of a contagion was among the young, where they were kept together in considerable
14 numbers in the same room for long hours each day . . . children attending school occupy a natural
15 class by themselves, more liable to contagion, perhaps, than any other class that we can think
16 of"]; *Love v. Superior Court* (1990) 226 Cal.App.3d 736, 740 ["the legislature is necessarily
17 vested with large discretion not only in determining what are contagious and infectious diseases,
18 but also in adopting means for preventing the spread thereof."].)
19 Even if strict scrutiny were to apply, *Jacobson* and its progeny have unequivocally held that
20 immunization laws are justified because they serve a compelling state interest in protecting public
21

22 [3] Instead, plaintiffs cite *Ian J. v. Peter M.* (2013) 213 Cal.App.4th 189 (*Ian J.*) and
erroneously claim that "'any infringement on a custodial parent's right to direct her child's
23 upbringing' is generally unconstitutional 'absent clear and convincing evidence.'" (Pls. Opp., at
p. 7, citing *Ian J., supra*, 213 Cal.App.4th at p. 206.) The court in *Ian J.* did not articulate, much
24 less apply, a "test and standard" of clear and convincing evidence to the state's legitimate and
25 compelling interest in protecting public health and safety. (Pls. Opp., at p. 7.) *Ian J.* concerned a
family court's visitation order under Family Code section 3102; the appellate court simply held
26 that, "a clear and convincing evidence standard of proof must be applied *in determining whether*
grandparent visitation should be ordered over the objection of a child's custodial parent." (*Ian*
27 *J.*, 213 Cal.App.4th at pp. 191, 207 (italics added).)
28

1 health and safety. (*Jacobson, supra*, 197 U.S. at p. 35 ["the legislature has the right to pass laws
2 which, according to the common belief of the people, are adapted to prevent the spread of
3 contagious diseases"]; see also *Sherr v. Northport-East Northport Union Free School Dist.*
4 (E.D.N.Y. 1987) 672 F. Supp. 81, 88 [holding there is a "compelling interest . . . in fighting the
5 spread of contagious diseases through mandatory inoculation programs"].
6 Furthermore, SB 277 is narrowly tailored to serve its interest in protecting children from the
7 spread of dangerous communicable and potentially fatal diseases. As discussed in defendants'
8 moving papers, SB 277 mandates vaccination only for those diseases that the Legislature
9 determined are "very serious" and that "pose very real health risks to children." (See RJN, Exh. 2
10 at 4.) The statute contains appropriate but limited exemptions for children with medical
11 conditions that would make vaccination unsafe, and children who would otherwise be
12 homeschooled or enrolled in independent study programs. (Health & Saf. Code, § 120335, subd.
13 (f) (West 2016).) Plaintiffs' assertions that a "massive education effort" or "incentivized
14 vaccination" are alternative means to protect the public health from contagious diseases are
15 baseless and, in any event, beside the point. (See Pls. Opp., at p. 9.) *Jacobson* held long ago that
16 "[i]t is no part of the function of a court or a jury to determine which one of two modes was likely
17 to be the most effective for the protection of the public against disease. That was for the
18 legislative department to determine in the light of all the information it had or could obtain."
19 (*Jacobson, supra*, 197 U.S. at p. 30.)
20 Plaintiffs' refusal to vaccinate their children was their decision, for which they alone are
21 responsible. SB 277 provides plaintiffs and their children with the alternative of home-schooling,
22 thereby preserving their right to a public education under the state Constitution, while at the same
23 time preserving the rights of the other children at school, particularly those children who have
24 medical exemptions. [4]
25
26 [4] Plaintiffs assert in their Opposition that vaccinations "cost money" and "can take large amounts of time and effort." (Pls. Opp., at p. 9.) But plaintiffs' claims are predicated on their
27 personal beliefs against vaccinations, not on their ability to pay to immunize their children. Even so, the California Department of Public Health Immunization Branch administers the California
28 Vaccines for Children Program, which provides "vaccines at no cost to . . . children from birth (continued…)

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

II. *JACOBSON* AND ITS PROGENY ARE BINDING PRECEDENT

Plaintiffs' attempt to mischaracterize *Jacobson* as outdated or inapplicable is misguided, and made without regard for the binding nature of Supreme Court precedent. (See Pls. Opp., at p. 11.) That California has since declared "public education to be a fundamental right" is inconsequential to invalidating the legitimate and compelling interest recognized in *Jacobson*, because SB 277 does not infringe upon the right to education, as plaintiffs suggest. SB 277 promotes the right to education by preventing the spread of serious, communicable diseases.

Contrary to plaintiffs' assertions, the legitimate and compelling interest recognized in *Jacobson* has been unanimously affirmed by federal and state courts across the country throughout the 20th and 21st centuries, including "recent landmark case[s] from other jurisdiction[s]," which have also consistently applied *Jacobson* well beyond the smallpox vaccine and the other specific circumstances from which *Jacobson* arose. (Pls. Opp., at p. 10; see, e.g., *Phillips* [New York law required school children to be vaccinated for poliomyelitis, mumps, measles, diphtheria, rubella, varicella, Haemophilus influenzae type b (Hib), pertussis, tetanus, pneumococcal disease, and hepatitis B]; *Workman* [West Virginia law required school child vaccination against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough]; *Boone* [Arkansas law required school child vaccination against poliomyelitis, diphtheria, tetanus, pertussis, red (rubeola) measles, rubella, and other diseases as designated by the State Board of Health]; *Sherr* [New York law at that time required school child vaccination against poliomyelitis, mumps, measles, diphtheria, and rubella]; *Hanzel v. Arter* (S.D. Ohio 1985) 625 F. Supp. 1259 [Ohio law required school children to be vaccinated against mumps, poliomyelitis, diphtheria, pertussis, tetanus, rubeola, and rubella]; see also *Vernonia School District 47J v. Acton* (1995) 515 U.S. 646 ["[f]or their own good and that of their classmates, public school children are routinely required to submit to various physical examinations, and to be vaccinated against various diseases"].)

(...continued)
through 18 years of age." (http://eziz.org/vfc/overview/.)

1 Moreover, *Jacobson* and the unbroken line of cases upholding mandatory vaccination
2 statutes have been expressly recognized as binding precedent by federal and state courts in
3 California that have affirmed the constitutionality of SB 277. Tellingly, the plaintiffs here ignore
4 and conveniently decline to address the attempts and subsequent failures of their first suit in the
5 Central District of California (*Torrey-Love I*) and the lawsuits filed by similarly-minded plaintiffs
6 in *Buck v. State of California*, Los Angeles County Superior Court Case No. BC617766;
7 *Middleton et al. v. Pan et al.*, U.S.D.C., Central District of California Case No. 2:16-cv-05224-
8 SVW-AGR; and *Whitlow*, *supra*. Trying to distinguish the U.S. Supreme Court's precedent in
9 *Jacobson* and the California Supreme Court's precedent in *French* by focusing on the
10 fundamental right to an education is unavailing when the *Whitlow* court clearly held that "[t]he
11 right of education, fundamental as it may be, is no more sacred than any of the other fundamental
12 rights that have readily given way to a State's interest in protecting the health and safety of its
13 citizens, and particularly, school children." (*Whitlow*, *supra*, 203 F.Supp.3d at p. 1091.) Even
14 applying strict scrutiny, the *Whitlow* court observed that "[c]onditioning school enrollment on
15 vaccination has long been accepted by the courts as a permissible way for States to inoculate
16 large numbers of young people and prevent the spread of contagious diseases." (*Ibid.* [citing
17 *Vernonia Sch. Dist. 47J*, *supra*, 515 U.S. at p. 656].)
18 Finally, in an ill-conceived effort to provide some legal support for their challenge to school
19 vaccination mandates, plaintiffs mischaracterize the ruling in *LePage v. State of Wyoming* (Wyo.,
20 2001) 18 P.3d 1177. (See Pls. Opp., at p. 10.) The *LePage* court did not "reform[] a broad
21 vaccine mandate to engraft on it a personal-beliefs waiver," as plaintiffs claim. (*Ibid.*) Rather,
22 the *LePage* court simply held that Wyoming's Department of Public Health exceeded its authority
23 under the Wyoming statute in denying certain personal belief exemptions. To the contrary, the
24 *LePage* court *expressly declined* to rule on the constitutional challenges to the statute, holding
25 instead that, "if problems regarding the health of Wyoming's schoolchildren develop because this
26 self-executing statutory exemption is being abused, it is the *legislature's* responsibility to act
27 within the constraints of the Wyoming and United States Constitutions." (*Id.*, at p. 1181 (italics
28

added).) In so doing, the court expressly recognized the continued viability of *Jacobson* as authority "that the state has the authority to enact a mandatory immunization program through the exercise of its police power." (*Id.*, at p. 1179.)

As discussed in defendants' moving papers, the unanimous holdings of *Jacobson* and the cases following it – *including four federal and state courts in California affirming the constitutionality of SB 277* – constitute settled law recognizing the states' legitimate and compelling interests to enact mandatory vaccination laws. The constitutionality of SB 277 is indisputable. Plaintiffs' claims fail as a matter of law. Therefore, there are no allegations of other facts that can cure the deficiencies in plaintiffs' Complaint.

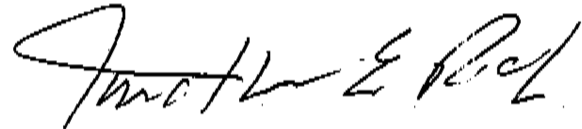
CONCLUSION

For the foregoing reasons, defendants respectfully request that the Court sustain its demurrer to plaintiffs' Complaint without leave to amend.

Dated: June 13, 2017

Respectfully Submitted,

XAVIER BECERRA
Attorney General of California
RICHARD T. WALDOW
Supervising Deputy Attorney General
JACQUELYN YOUNG
Deputy Attorney General



JONATHAN E. RICH
Deputy Attorney General
Attorneys for Defendants

LA2017603774
52518913.docx

DECLARATION OF SERVICE BY FACSIMILE AND MAIL

Case Name: **Love, Devon Torrey, et al. v. The State of California, et al.**

Case No.: **SCV0039311**

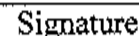
I declare:

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. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business. My facsimile machine telephone number is (213) 897-2805.

On June 13, 2017 at 9:25 AM., I served the attached **DEFENDANTS' REPLY IN SUPPORT OF DEMURRER TO PLAINTIFFS' COMPLAINT** by transmitting a true copy by facsimile machine, pursuant to California Rules of Court, rule 2.306. The facsimile machine I used complied with Rule 2.306, and no error was reported by the machine. Pursuant to rule 2.306(h)(4), I caused the machine to print a record of the transmission. In addition, I placed a true copy thereof enclosed in a sealed envelope in the internal mail system of the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

Brad A. Hakala, Esq.
Jeffrey B. Compangano, Esq.
Ryan N. Ostrowski, Esq.
The Hakala Law Group, P.C.
One World Trade Center, Suite 1870
Long Beach, California 90831
Facsimile: 562.786.8606

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on June 13, 2017, at Los Angeles, California.

Yesenia Palomarez	
Declarant	Signature

LA2017603774
52446491.doc