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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
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15 **MICHELLE NGUYEN, et al.,**

16 Plaintiffs,

17 v.

18 **ROB BONTA, in his official capacity**
19 **as Attorney General of California, et**
20 **al.,**

21 Defendants.

Case No. 3:20-cv-02470-WQH-MMP

**DEFENDANTS' REPLY IN
SUPPORT OF *DAUBERT* MOTION
TO PRECLUDE TESTIMONY OF
GEORGE A. MOCSARY**

Date: To be set by the Court
Judge: Hon. William Q. Hayes
Courtroom: 14B
22 Action Filed: Dec. 18, 2020
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INTRODUCTION

No opposition to Defendants’ *Daubert* motion (Dkt. No. 58) to preclude the testimony of Plaintiffs’ expert George A. Mocsary (“Mocsary”) has been filed. Thus, Plaintiffs essentially consented to the granting of the motion. Moreover, as discussed in the *Daubert* motion, Mocsary’s opinions do not meet the requirements under Federal Rule of Evidence 702 to be admitted as expert testimony. Therefore, the Court should grant Defendants’ *Daubert* Motion.

ARGUMENT

Civil Local Rule 7.1(f)(3)(c) provides that “[i]f an opposing party fails to file the papers in the manner required by Civil Local Rule 7.1.e.2, that failure may constitute a consent to the granting of a motion or other request for ruling by the court.” Accordingly, this Court should construe Plaintiffs’ failure to oppose Defendants’ *Daubert* motion as a consent to the granting of the motion.

On the merits, as discussed in the *Daubert* motion, Mocsary is not a historian, does not have “specialized knowledge,” and his declaration largely consists of citations to cases and statutes that goes beyond the function of expert testimony. Dkt. No. 58 at 3-4. In addition, Mocsary’s opinions are not based on sufficient facts or reliable research given the limited references and time spent research historical sources as well as the errors in his analysis of laws. *Id.* at 4-5.

CONCLUSION

For these reasons, and the reasons stated in their motion, Defendants respectfully request that the Court preclude Mocsary’s testimony and opinions.

1 Dated: October 27, 2023

Respectfully submitted,

2 ROB BONTA
3 Attorney General of California
4 ANTHONY R. HAKL
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6 */s/ Jerry T. Yen*

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12 *official capacity as Director of the*
13 *Department of Justice Bureau of*
14 *Firearms*

CERTIFICATE OF SERVICE

Case Name: **Nguyen, Michelle, et al. v. Rob
Bonta, et al.**

No. **3:20-cv-02470**

I hereby certify that on October 27, 2023, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**DEFENDANTS' REPLY IN SUPPORT OF *DAUBERT* MOTION TO
PRECLUDE TESTIMONY OF GEORGE A. MOCSARY**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

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 27, 2023, at Sacramento, California.

Eileen A. Ennis
Declarant


Signature

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