

1 C. D. Michel - S.B.N. 144258
Glenn S. McRoberts - S.B.N. 144852
2 Clinton B. Monfort - S.B.N. 255609
Anna M. Barvir - S.B.N. 268728
3 MICHEL & ASSOCIATES, LLP
180 E. Ocean Boulevard, Suite 200
4 Long Beach, CA 90802
Telephone: 562-216-4444
5 Facsimile: 562-216-4445
Email: cmichel@michellawyers.com

6 Attorneys for Plaintiffs
7

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 ESPANOLA JACKSON, PAUL COLVIN,) CASE NO. C09-2143-RS
THOMAS BOYER, LARRY BARSETTI,)
12 DAVID GOLDEN, NOEMI MARGARET) **DECLARATION OF THOMAS BOYER IN**
ROBINSON, NATIONAL RIFLE) **SUPPORT OF MOTION FOR**
13 ASSOCIATION OF AMERICA, INC., SAN) **PRELIMINARY INJUNCTION**
FRANCISCO VETERAN POLICE)
14 OFFICERS ASSOCIATION,)
15 Plaintiffs)
16 vs.)
17 CITY AND COUNTY OF SAN)
FRANCISCO, THE MAYOR OF SAN)
18 FRANCISCO, AND THE CHIEF OF THE)
SAN FRANCISCO POLICE)
19 DEPARTMENT, in their official capacities,)
and DOES 1-10,)
20 Defendants.)
21

DECLARATION OF THOMAS BOYER

1
2 1. I, Thomas Boyer, am a plaintiff in the above-entitled action. I make this declaration of
3 my own personal knowledge and, if called as a witness, I could and would testify competently to
4 the truth of the matters set forth herein.

5 2. I reside in the City and County of San Francisco. I live in a relatively dangerous
6 neighborhood – one in which I occasionally hear gunshots. I am disabled, and I believe my only
7 option for effective self-defense is a handgun.

8 3. I am a law-abiding adult who is not prohibited from owning firearms under the laws of
9 the United States and the state of California.

10 4. I currently own at least one lawfully acquired and possessed handgun that I keep in my
11 home for self-defense.

12 5. In accordance with San Francisco Police Code section 4512, my handgun is presently
13 stored in a locked safe at all times when not carried on my person. I presently want to store my
14 handgun unlocked and operable for immediate self-defense and, but for section 4512, I would not
15 store my handgun in a locked container at all times. If this court declares section 4512 invalid or
16 otherwise enjoins its enforcement, I would keep my handgun operable within my home, i.e., not
17 disabled by a trigger lock or stored in a locked container.

18 6. My handgun is currently stored in my living room, in a battery-operated, electronic
19 safe that can only be opened with a code. In the event that I enter the wrong character sequence,
20 my safe imposes a delay before I may again attempt to enter the code. Further, if the safe is left
21 ajar for an extended period, the battery drains and I must use the safe’s key to gain access. I am
22 concerned about my ability to quickly and effectively retrieve my handgun in time to defend
23 myself against a violent intruder. For example, if I heard an intruder break into my home in the
24 middle of the night, I would have to rise from bed, move to the living room, remember the code
25 (under the stress of the emergency), pause for the safe’s delay in the case I enter the incorrect
26 code, re-enter the code, unlock the case, and retrieve my handgun before being in the position to
27 defend myself. In the case the safe’s battery had drained, I would be forced to search for and find
28 the key, insert it into the lock, and unlock the safe.

1 7. San Francisco Police Code section 4512 requires me to keep my handgun in a locked
2 container or disabled by a trigger lock at all times when not carried on my person. It is impractical
3 and dangerous to keep a loaded firearm attached to my body while I sleep. Storing my handgun in
4 a locked container or disabled by a trigger lock at all times when not carried as required by the
5 law greatly impedes my ability to access an operable firearm for immediate self-defense in my
6 home.

7 8. Because San Francisco Police Code section 4512 requires me to store my handgun in a
8 locked safe or disabled with a trigger lock at all times when not carried on my person, I am
9 currently, and will continue to be, irreparably harmed by the ongoing deprivation of my
10 individual, fundamental right to keep an unlocked and loaded firearm in my home for self-defense
11 purposes.

12 9. Because San Francisco Police Code section 4512 requires me to store my handgun in a
13 locked safe or disabled with a trigger lock at all times when not carried on my person, I am
14 currently, and will continue to be, irreparably harmed by the ongoing deprivation of my
15 individual, fundamental right to have an operable firearm available for immediate self-defense in
16 my home.

17 10. But for San Francisco Police Code section 613.10(g), I presently intend to purchase
18 expanding and fragmenting ammunition that is currently prohibited from sale and purchase under
19 section 613.10(g) within the City and County of San Francisco from a licensed firearms and/or
20 ammunition retailer for the purpose of self-defense in my home. If this court declares section
21 613.10(g) invalid or otherwise enjoins its enforcement, I would immediately purchase such
22 ammunition within the City and County of San Francisco for self-defense in my home.


23 11. Because San Francisco Police Code section 613.10(g) prohibits the sale and purchase
24 of expanding and fragmenting ammunition within the City and County of San Francisco, I am
25 currently, and will continue to be, irreparably harmed by the ongoing deprivation of my
26 individual, fundamental right to acquire ammunition commonly used for in-home self-defense.

27 12. But for San Francisco Police Code section 613.10(g), I presently intend to purchase
28 ammunition in the City and County of San Francisco from a licensed firearms and/or ammunition

1 retailer for the purpose of self-defense in my home regardless of whether such ammunition serves
2 a "sporting purpose" to City's satisfaction. If this court declares section 613.10(g) invalid or
3 otherwise enjoins its enforcement, I would purchase such ammunition within the City and County
4 of San Francisco for self-defense in my home.

5 13. Because San Francisco Police Code section 613.10(g) prohibits the sale and purchase
6 of ammunition that serves "no sporting purpose" in the City and County of San Francisco, I am
7 currently, and will continue to be, irreparably harmed by the ongoing deprivation of my
8 individual, fundamental right to acquire ammunition commonly used for in-home self-defense.

9 I declare under penalty of perjury that the foregoing is true and correct. Executed within the
10 United States on August 29, 2012.

11 
12 Thomas Boyer

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 ESPANOLA JACKSON, PAUL COLVIN,) CASE NO.: CV-09-2143-RS
5 THOMAS BOYER, LARRY BARSETTI,)
6 DAVID GOLDEN, NOEMI MARGARET)
7 ROBINSON, NATIONAL RIFLE) CERTIFICATE OF SERVICE
8 ASSOCIATION OF AMERICA, INC., SAN)
9 FRANCISCO VETERAN POLICE)
10 OFFICERS ASSOCIATION,)
11 Plaintiffs)
12 vs.)
13 CITY AND COUNTY OF SAN)
14 FRANCISCO, THE MAYOR OF)
SAN FRANCISCO, AND THE CHIEF OF)
THE SAN FRANCISCO POLICE)
DEPARTMENT, in their official capacities,)
and DOES 1-10,)
Defendants.)

15 IT IS HEREBY CERTIFIED THAT:

16 I, the undersigned, am a citizen of the United States and am at least eighteen years of age.
17 My business address is 180 E. Ocean Blvd., Suite 200, Long Beach, California, 90802.

18 I am not a party to the above-entitled action. I have caused service of:

19 **DECLARATION OF THOMAS BOYER IN SUPPORT OF**
20 **MOTION FOR PRELIMINARY INJUNCTION**

21 on the following party by electronically filing the foregoing with the Clerk of the District Court
22 using its ECF System, which electronically notifies them.

23 Wayne Snodgrass, Deputy City Attorney
24 Christine Van Aken, Deputy City Attorney
25 Office of the City Attorney
26 1 Drive Carlton B. Goodlett Place
27 City Hall, Room 234
28 San Francisco, CA 94102

29 I declare under penalty of perjury that the foregoing is true and correct. Executed on August
30, 2012.

31 /s/ C. D. Michel
32 C. D. Michel
33 Attorney for Plaintiffs