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

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

ESPANOLA JACKSON, PAUL COLVIN, THOMAS BOYER, LARRY BARSETTI, DAVID GOLDEN, NOEMI MARGARET ROBINSON, NATIONAL RIFLE ASSOCIATION OF AMERICA, INC. ,SAN FRANCISCO VETERAN POLICE OFFICERS ASSOCIATION, Plaintiffs vs. CITY AND COUNTY OF SAN FRANCISCO, THE MAYOR OF SAN FRANCISCO, AND THE CHIEF OF THE SAN FRANCISCO POLICE DEPARTMENT, in their official capacities, and DOES 1-10, Defendants.	**CASE NO. C09-2143-RS** **PLAINTIFFS' REPLY TO OPPOSITION TO MOTION TO STRIKE PORTIONS OF ANSWER** Hearing: December 15, 2011 Time: 1:30 p.m. Place: Courtroom 3 - 17th Floor 450 Golden Gate Ave. San Francisco, CA 94102

INTRODUCTION

Plaintiffs' Motion to Strike is part of an ongoing effort[1] to separate the wheat from the chaff in this matter, and prevent Defendants from misdirecting (regardless of intent) the Court's attention and resources, whether by including affirmative defenses that do not apply or seeking discovery on irrelevant or undisputed matters. This case is about important constitutional legal issues. The essential facts are not in dispute. Or they should not be. Do Defendants seriously believe – or expect this Court to believe – that none of its residents own legal handguns? Or that none seek to keep their firearms unlocked and loaded with commonly used self-defense ammunition - even though Plaintiffs went to the great extent to file a lawsuit to have laws preventing them from doing so overturned? Do Defendants really dispute that some NRA members seek to exercise their Second Amendment rights? These facts cannot, in good faith, be denied.

This case is not about what type of handgun Sheila Jackson owns, when and where she bought it, what its serial number is, what sort of firearms training she's had, or similar minutiae about which Defendants have already indicated they will inquire to investigate Plaintiffs' jurisdictional allegations. (*See, e.g.*, Defs.' Interrogs. to Pl. David Golden attached hereto as Exhibit "A.") Moreover, this case is not really about whether she or the other individual plaintiffs or the numerous handgun owners represented by the associational plaintiffs have standing to bring a pre-enforcement challenge to laws that burden rights recognized by the Supreme Court as individual and fundamental. Of course they do.

Rather, this case is about the law. It should be a robust legal debate over whether the challenged ordinances violate Plaintiffs' rights under the Second Amendment. Defendants' laws are at the extreme end of the continuum when compared to laws with similar purposes in almost all other jurisdictions – that is why they are being challenged. The question in this case is whether they are too extreme to survive the judicial scrutiny generally applied to laws restricting protected

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[1] This point was alluded to in Plaintiffs' Memorandum of Points and Authorities in Support of Motion to Strike, whereby Plaintiffs notify the Court and Defendants of their intention to soon file a Motion for Judgment on the Pleadings.

conduct, especially conduct at the core of a fundamental right enumerated in our Bill of Rights. That question, as part of a facial challenge, does not implicate the particular situation of any individual plaintiff. *Ezell v. City of Chicago*, 651 F.3d 684, 697 (7th Cir. 2011) ["In a facial constitutional challenge, individual application facts do not matter."]

ARGUMENT

I. BECAUSE THE EXCISION OF DEFENDANTS' FIRST AND SECOND AFFIRMATIVE DEFENSES WILL STREAMLINE THE LITIGATION, THE COURT SHOULD GRANT PLAINTIFFS' MOTION TO STRIKE

Defendants correctly note that jurisdictional questions may be raised at any point up to and including trial. (Defs.' Opp'n Mot. to Strike ["Opp'n"] 1:4-7.) They can even be raised *after* trial, e.g. for the first time on appeal, as Plaintiffs state in their moving papers. (Pls.' Mem. Supp. Mot. to Strike ["Mot. to Strike"] 8:8-10 (citing *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1119 (9th Cir. 2009).) But this is exactly why lack of jurisdiction is not properly raised as an affirmative defense. It is also why Plaintiffs' motion to strike is well-taken and should be granted. Defendants attempt to minimize their error by calling it a "technicality," but it is not. It is a matter of law. Lack of jurisdiction is simply not an affirmative defense. *J&J Sports Productions, Inc. v. Vizcarra*, No. 11-1151, 2011 WL 4501318, at *2 (N.D. Cal. Sept. 27, 2011.) And it should be stricken, regardless of the prejudice to Plaintiffs by Defendants pursuing it as one. *See id.*

To reiterate, "motions to strike are proper, *even if the material is not prejudicial to the moving party*, if granting the motion would make trial less complicated or otherwise streamline the ultimate resolution of the action." *Ganley v. County of Mateo*, No. C06-3923, 2007 WL 902551, at *2 (N.D. Cal. Mar. 22, 2007) (emphasis added) (citing *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1528 (9th Cir. 1993); *California ex rel. State Lands Comm'n v. United States*, 512 F. Supp. 36, 38 (N.D. Cal. 1981)). Plaintiffs' Motion to Strike serves that very purpose.

As Plaintiffs describe above, their Motion to Strike is part of a broader effort to clarify the real issues presented in this litigation and to prevent Defendants from continuing to misdirect the Court's attention and resources, by including affirmative defenses that do not apply and by

seeking discovery on factual matters that are wholly irrelevant to ripeness and standing[2] and others not genuinely in dispute.[3] Continued pursuit of these "affirmative" defenses only muddies the issues and requires the expenditure of significant time and money on spurious factual issues. In short, striking Defendants' first and second "affirmative" defenses streamlines this litigation by refocusing the Court and the parties' attention to matters actually in dispute – namely, the legal question of the constitutionality of Defendants' burden on Plaintiffs' Second Amendment rights.

Further, Defendants' claim that they know of only one case "to have insisted on striking an affirmative defense of lack of jurisdiction solely because it was technically a negative defense, without any showing of prejudice or confusion" is simply not credible. (Opp'n 5:10-13 (citing *Gilbert v. Eli Lilly Co., Inc.*, 56 F.R.D. 116, 124 (D. Puerto Rico 1972).) Plaintiffs very clearly provided in their moving papers one such case *from this district*. (Mot. to Strike 6:5-9, 8:5-8 (quoting *J&J Sports Productions*, No. 11-1151, 2011 WL 4501318, *2).) Defendants, rather than address that case and attempt to distinguish it, completely ignore it. Defendants instead point to two cases, one prior to *J&J Sports Productions*, and another from the Southern District, that generally require a showing of prejudice before a motion to strike will be granted to support their position that, in *this* district, negative averments improperly pled as affirmative defenses should

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[2] In their Opposition to Plaintiffs' Motion to Strike, Defendants appear to abandon their belief that imminent enforcement or threat of enforcement of the challenged ordinances remains a relevant factual issue for purposes of standing and ripeness, but Defendants' first affirmative defense (i.e., ripeness) illustrates Defendants' belief that the issue remains. (*See* Opp'n 4:13-16 (discussing facts allegedly still in dispute, but nowhere raising issues of enforcement); *see also* Defs.' Answer 9:21-26 ("Plaintiffs have never been subjected to enforcement or even a threat of enforcement of [the challenged ordinances], ...").) There is thus no reason to believe that Defendants will not seek discovery on that very issue, regardless of the Court's indication that the resolution of that "dispute" is irrelevant to matters of standing and ripeness in the context of Plaintiffs' Second Amendment challenge. (Order 4:10-7:2, Sept. 27, 2011.)

[3] Defendants have already propounded a number of special interrogatories on each of the individual plaintiffs, largely aimed at determining whether Plaintiffs in fact own firearms and intend to keep them in a manner consistent with their rights under the Second Amendment. (*See, e.g.*, Defs.' Interrogs. to Pl. David Golden.) Many of these interrogatories are harassing and overly burdensome because they strike at factual issues not seriously in dispute, and they seek private information regarding each Plaintiff that is not necessary to determining whether Plaintiffs do own firearms and intend to use them in the manner alleged in the Complaint.

not be stricken without a showing a prejudice. (Opp'n 5:6-7 (citing *Marley v. Jetshares Only, LLC*, No. C10-23178, 2011 WL 2607095, at *7 (S.D. Fla. June 30, 2011); *Fesnak & Assocs., LLP v. U.S. Bank Nat'l Assn.*, 722 F. Supp. 2d 1167, 1174 (N.D. Cal. 2010).)

The more recent case from this district, wholly ignored by Defendants, counsels against Defendants' position. In *J&J Sports Productions, Inc. v. Vizcarra*, the court granted plaintiff's motion to strike defendants' jurisdictional lack of standing defense *solely* on the grounds that it "is not an affirmative defense at all." *J&J Sports Productions, Inc.*, No. 11-1151, 2011 WL 4501318, at *2. No discussion of prejudice took place, likely because such is *not* required before a court may strike a portion of the pleading in the Ninth Circuit. *Id.*; *see also Ganley*, No. C06-3923, 2007 WL 902551, at *2. And *J&J Sports Productions* is far from alone in striking jurisdictional lack of standing challenges improperly pled as affirmative defenses . (*See, e.g.*, *Quintana v. Baca*, 233 F.R.D. 562, 566 (C.D. Cal. 2005); *Rudzinski v. Metropolitan Life Ins. Co.*, No. C05-0474, 2007 WL 2973830, at *1 (N.D. Ill. Oct. 7, 2007); *Bd. of Educ. of Thorton Twp. High School Dist. v. Bd. of Educ. of Argo Cmty. High School Dist.*, No. C06-2005, 2006 WL 2460590, at *5 (N.D. Ill. Aug. 21, 2006); *Huthwaite, Inc. v. Randstad General Partner (US)*, No. C06-1548, 2006 WL 3065470, at *8 (N.D. Ill. Oct. 4, 2006); *Ocean Atl. Woodland Corp. v. DRH Cambridge Homes, Inc.*, No. C02-2523, 2003 WL 1720073, at *4 (N.D. Ill. Mar. 31, 2003); *Cohn v. Taco Bell Corp.*, No. C92-5852, 1995 WL 247996, at *5 (N.D. Ill. April 24, 1995).)

As the Court noted in *Torres v. Goddard*, No. C06-2482, 2007 WL 4287812, at *5 (D. Ariz. Dec. 3, 2007), "Defendants' contention that Plaintiffs must show that they would be prejudiced if the challenged material remained is not supported by any authority from within the Ninth Circuit." Although the courts may be split as to whether motions to strike should be granted without a showing of irreparable harm depending on the nature of the challenge, the Court should follow the general rule in cases such as this in the Ninth Circuit, the Northern District, and elsewhere and strike Defendants' improperly pled first and second "affirmative" defenses.

Finally, even if the court were to require prejudice to strike Defendants' improper affirmative, such any requisite harm is present in this case. If the Court were to permit these affirmative defenses to survive, Plaintiffs would be required to conduct expensive, unnecessary

and irrelevant discovery – thus prejudicing Defendants and preventing streamlining of the litigation. *Fantasy, Inc. v. Fogarty*, 984 F.2d 1524, 1528 (C.D. Cal. 2002). Accordingly, Defendants' arguments regarding prejudice are unpersuasive and do not save their improperly pled affirmative defenses.

II. LACK OF RIPENESS AND STANDING ARE INSUFFICIENT DEFENSES AND SHOULD BE STRICKEN IN THIS CASE BECAUSE NO RELEVANT OR GENUINELY DISPUTED FACT REMAINS AT ISSUE

Plaintiffs do not argue that a motion to dismiss always "eliminates any further inquiry into jurisdiction for the remainder of the litigation." (*See* Opp'n 2:16-17.) Rather, Plaintiffs maintain that, *in this instance*, the Court's denial of Defendants' Motion to Dismiss for Lack of Standing does have the effect of precluding further litigation of standing and ripeness because no issue of fact remains that is relevant to the Court's inquiry or is sincerely disputed.

As an initial matter, the case Defendants rely on to discredit Plaintiffs' position that, in this case, the Court's previous denial of Defendants' lack of jurisdiction claims precludes the re-litigation of the issue cannot be cited as authority in this district under Local Rules 3-4(e) and 7-14, as it is designated as "NOT FOR CITATION." *Butler v. Adoption Media, LLC*, No. 04-0135, 2005 WL 1513142, at *1 (N.D. Cal. June 21, 2005).

Regardless, that case is inapposite. There, the facts underlying the court's finding of personal jurisdiction in denying a motion to dismiss went to *significant and genuine* questions of whether minimum contacts existed such that plaintiffs' claims were rightly asserted against defendants in federal court. *Id.* at *3. Here, genuine disputes over whether sufficient enforcement or threat of enforcement exists have been deemed irrelevant by the Court's Order Denying Motion to Dismiss, and the only factual question remaining is one that cannot seriously be considered in dispute – namely that Plaintiffs intend to keep their guns and ammo in the manner alleged in their complaint.

Defendants then cite *D'Lil v. Best Western Encina Lodge & Suites*, 538 F.3d 1031, 1037 (9th Cir. 2008) as an example illustrating that "desire and intent" injury is subject to evidentiary proof. While Plaintiffs generally agree with this proposition, Plaintiffs' "desire and intent" to exercise their Second Amendment right to self-defense cannot be considered seriously in dispute.

That was not the case in *D'Lil*. *D'Lil* presents an odd fact pattern, in which the district court did believe there was a significant and genuine dispute as to whether plaintiff *D'Lil* held a legitimate intent to return to the Best Western Encina, noting concerns over her credibility due to her involvement in multiple ADA lawsuits. *D'Lil*, 538 F.3d at 1044-35.[4]

Finally, Plaintiffs note the extremity to which Defendants attempt to push the envelope in litigating uncontroverted factual issues regarding standing. Plaintiffs' intentions to exercise the rights they filed a lawsuit to vindicate are beyond dispute. To this end, in a similar case involving Second Amendment litigants who alleged local ordinances chilled constitutionally protected conduct, the Seventh Circuit Court of Appeals dispensed with the issue of standing in cursory fashion:

> [t]he district court did not address the individual plaintiffs' standing, probably because it is not in serious doubt. Ezell, Hespen, and Brown are Chicago residents who own firearms and want to maintain proficiency in their use via target practice at a firing range. . . . The very "existence of a statute implies a threat to prosecute, so pre-enforcement challenges are proper, because a probability of future injury counts as 'injury' for the purpose of standing. The City did not question the individual plaintiffs' standing; their injury is clear.

Ezell v. City of Chicago, 651 F.3d 684, 695, 696 (7th Cir. 2011).

CONCLUSION

Regardless of whether the County intends to drag the parties and this Court through discovery battles over matters not genuinely in dispute, the defenses Plaintiffs now challenge are nonetheless invalid. Accordingly, in the interest of keeping this case focused on the important legal issues it presents, Plaintiffs ask this Court to grant their motion and strike from Defendants'

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[4] The appellate court looked upon plaintiff D'Lil's sworn testimony regarding her intent and found that the district court's concerns were unfounded, and that plaintiff D'Lil had sufficiently established her intent to return. *Id.* at 1039. In this case, if the County insists on pressing the point – i.e., seeking proof that at least one Plaintiff (or local NRA member) owns a handgun and seeks to keep it unlocked at certain times when it is not being "carried on the person" – and the Court believes it best to indulge that point, Plaintiffs can provide a declaration (as done in *D'Lil*), and transform Plaintiffs' upcoming Motion for Judgment on the Pleadings into one for summary judgment or summary adjudication. But again, the facts in *D'Lil* suggested the possibility of a prevaricating plaintiff. That is not the case, here, where demanding proof that some NRA members seek to exercise their Second Amendment rights is more akin to demanding proof that the sun rises in the East.

Answer the first and second affirmative defenses and paragraph 10, lines 10-11 ("Plaintiffs lack standing, their claims against Section 4512 and 613.10(g) are unripe, and").

Date: November 28, 2011

MICHEL & ASSOCIATES, P.C.

s/ C. D. Michel
C. D. Michel
Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

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

IT IS HEREBY CERTIFIED THAT:

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

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

PLAINTIFFS' REPLY TO OPPOSITION TO MOTION TO STRIKE PORTIONS OF ANSWER

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

Wayne Snodgrass, Deputy City Attorney
Sherri Kaiser, Deputy City Attorney
City and County of San Francisco
Office of the City Attorney
City Hall 1 Drive Carlton B.
San Francisco, CA 94102

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 28, 2011.

/S/
C. D. Michel
Attorney for Plaintiffs

EXHIBIT A

DENNIS J. HERRERA, State Bar #139669
City Attorney
WAYNE SNODGRASS, State Bar #148137
SHERRI SOKELAND KAISER, State Bar #197986
Deputy City Attorneys
1 Dr. Carlton B. Goodlett Place
City Hall, Room 234
San Francisco, California 94102-4682
Telephone: (415) 554-4691
Facsimile: (415) 554-4747
E-Mail: sherri.kaiser@sfgov.org

Attorneys for Defendants
CITY AND COUNTY OF SAN FRANCISCO,
THE MAYOR OF SAN FRANCISCO and
THE CHIEF OF THE SAN FRANCISCO POLICE DEPARTMENT

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ESPANOLA JACKSON, PAUL COLVIN, THOMAS BOYER, LARRY BARSETTI, DAVID GOLDEN, NOEMI MARGARET ROBINSON, NATIONAL RIFLE ASSOCIATION OF AMERICA, INC., and SAN FRANCISCO VETERAN POLICE OFFICERS ASSOCIATION,

Plaintiffs,

vs.

CITY AND COUNTY OF SAN FRANCISCO, THE MAYOR OF SAN FRANCISCO, and THE CHIEF OF THE SAN FRANCISCO POLICE DEPARTMENT, in their official capacities,

Defendants.

Case No. CV-09-2143-RS

DEFENDANT CITY AND COUNTY OF SAN FRANCISCO'S INTERROGATORIES TO PLAINTIFF DAVID GOLDEN (SET ONE)

REQUESTING PARTY: CITY AND COUNTY OF SAN FRANCISCO

RESPONDING PARTY: DAVID GOLDEN

SET NUMBER: ONE

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant City and County of San Francisco hereby requests that Plaintiff David Golden answer in writing and under oath the following Interrogatories within thirty (30) days of the date of service.

INSTRUCTIONS

1. Answers and objections must conform to the requirements of Rule 33(b) of the Federal Rules of Civil Procedure and N. D. Cal. Civil Local Rule 33-1.

2. Objections on the basis of privilege or work-product protection must be made expressly, and the responsive information or materials withheld on the basis of such an objection must in a log in accordance with Rule 26(b)(5) of the Federal Rules of Civil Procedure and governing case law. The privilege log should be served simultaneously with the answers and objections.

3. Words used in the Interrogatories should be given their common meaning unless the word or words appear in the following list of definitions, in which case the provided definition should be used.

4. To the extent required by Rule 26(e) of the Federal Rules of Civil Procedure, you must promptly furnish, in the form of supplemental answers, any information requested in these interrogatories that first becomes known to you after the date of your response.

DEFINITIONS

A. Unless otherwise stated, the terms "**and**" and "**or**" are to be read in both the conjunctive and disjunctive and shall encompass all information that would be responsive under a conjunctive reading and all information that would be responsive under a disjunctive reading.

B. "**Any**" is understood to include and encompass "**all**." "**All**" also includes "**each**," and vice versa.

C. "**Concerning**" means and includes constituting, referencing, explaining, stating, describing, containing, relating to, referring to, reflecting, evidencing, memorializing, repeating, incorporating, reporting, confirming, discussing, listing, summarizing, showing, supporting, refuting, depicting, connected with, embodying, or mentioning.

D. "**You**" and "**your**" mean David Golden, plaintiff in the above-captioned lawsuit, his employees, agents, representatives or anyone else acting on his behalf.

INTERROGATORIES

INTERROGATORY NO. 1:

Describe the circumstances in which you first became aware of San Francisco Police Code sections 4512 and 613.10(g), including, but not limited to, the date on which you first became aware of each ordinance, the speaker or document from which you learned of each ordinance, and the content of that communication.

INTERROGATORY NO. 2:

Identify each firearm that has been in your private residence while in your possession, custody or control at any time since August 2007, including but not limited to its make, model and serial number and the period of time during which you kept that firearm in your home.

INTERROGATORY NO. 3:

Identify every type of ammunition you have purchased for or used in each of the firearms you identified in response to Interrogatory No. 2, including but not limited to its manufacturer or brand name, caliber, jacket construction, place of purchase and date of purchase.

INTERROGATORY NO. 4:

Identify by manufacturer or brand name and model every trigger lock, lockbox, or other locking device you have used at any time to secure a firearm while it was in your possession, custody or control, whether in your home or elsewhere.

INTERROGATORY NO. 5:

Describe every communication, whether written or verbal, between you and any employee or official of the City and County of San Francisco concerning the subject matter of your complaint in this action, including but not limited to the date, medium, participants in and content of the communication.

INTERROGATORY NO. 6:

If you have ever been arrested in any jurisdiction for any reason, identify the date, the arresting agency, the alleged offense(s), the charge(s) brought, and the disposition of any charge(s).

INTERROGATORY NO. 7:

List every permit, license or registration issued to you concerning the possession or use of firearms or ammunition, including its type, date of issue, the issuing agency, the expiration date (if any), any conditions or restrictions it imposes, any period during which it was suspended or revoked, and the reason given for the suspension or revocation.

INTERROGATORY NO. 8:

List every permit, license or registration concerning the use or possession of firearms for which you have applied but which application was denied, including its type, the issuing agency, the date you applied, and the reason given for the denial.

INTERROGATORY NO. 9:

Identify every person and organization other than your counsel with whom you have discussed or otherwise communicated about the subject matter of this lawsuit or your participation in it at any time, whether such discussion or communications were verbal or written, the subject matter of those discussions or communications, and the date or dates on which such discussions or communications took place.

INTERROGATORY NO. 10:

Describe any training you have had in gun safety, including its date, the person or agency that provided the training, the length of the training, and its general content.

INTERROGATORY NO. 11:

Describe any training you have had in using a firearm in self defense, including its date, the person or agency that provided the training, the length of the training, and its general content.

INTERROGATORY NO. 12:

Identify every residence in which you have lived during the last ten years, including its address, its owner, and the period of time in which you lived at that location.

INTERROGATORY NO. 13:

For each residence you identified in response to Interrogatory No. 12, provide the full name of any person who lived with you in that residence at any time, that person's approximate age at the time,

and the most recent address, telephone number, email address or other contact information you have for that person.

Dated: November 17, 2011

DENNIS J. HERRERA
City Attorney
WAYNE SNODGRASS
SHERRI SOKELAND KAISER
Deputy City Attorneys

By: _____
SHERRI SOKELAND KAISER

Attorneys for Defendants CITY AND COUNTY OF SAN FRANCISCO, THE MAYOR OF SAN FRANCISCO and THE CHIEF OF THE SAN FRANCISCO POLICE DEPARTMENT

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

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

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Plaintiffs

vs.

CITY AND COUNTY OF SAN FRANCISCO, THE MAYOR OF SAN FRANCISCO, AND THE CHIEF OF THE SAN FRANCISCO POLICE DEPARTMENT, in their official capacities, and DOES 1-10,

Defendants.

CASE NO. C09-2143-RS

DECLARATION OF CLINTON B. MONFORT IN SUPPORT OF PLAINTIFFS' REPLY TO OPPOSITION TO MOTION TO STRIKE PORTIONS OF ANSWER

Hearing: December 15, 2011
Time: 1:30 p.m.
Place: Courtroom 3 - 17th Floor
450 Golden Gate Ave.
San Francisco, CA 94102

DECLARATION OF CLINTON B. MONFORT

I , Clinton B. Monfort, declare as follows:

1. I am over the age of eighteen and not a party to this action. I am the attorney licensed to practice law before all district courts in the State of California. I am an associate attorney at the law firm Michel & Associates, P.C., attorneys of record for Plaintiffs in this action.

2. On or about November 17, 2011 Plaintiffs David Golden, Espanola Jackson, Tom Boyer, Larry Barsetti, Noemi Margaret Robinson and Paul Colvin were served with Special Interrogatories, Set One.

3. As an example of the discovery propounded on Plaintiffs in this case, attached hereto as " Exhibit A"is a true and correct copy of the Special Interrogatories Set One served on Plaintiff David Golden.

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 28, 2011.

Clinton B. Monfort

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

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

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

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

DECLARATION OF CLINTON B. MONFORT IN SUPPORT OF PLAINTIFFS' REPLY TO OPPOSITION TO MOTION TO STRIKE PORTIONS OF ANSWER

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

Wayne Snodgrass, Deputy City Attorney
Sherri Kaiser, Deputy City Attorney
City and County of San Francisco
Office of the City Attorney
City Hall 1 Drive Carlton B.
San Francisco, CA 94102

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 28, 2011.

/S/
C. D. Michel
Attorney for Plaintiffs