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7 Attorneys for Plaintiffs

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

11 SAN FRANCISCO VETERAN POLICE)
OFFICERS ASSOCIATION, LARRY)
12 BARSETTI, RAINERIO GRANADOS,)
ARTHUR RITCHIE, and RANDALL)
13 LOW,)

14 Plaintiffs,

15 v.

16 THE CITY AND COUNTY OF SAN)
FRANCISCO, THE MAYOR OF SAN)
17 FRANCISCO, EDWIN LEE in his official)
capacity, THE CHIEF OF THE SAN)
18 FRANCISCO POLICE DEPARTMENT,)
GREG SUHR, in his official capacity, and)
19 DOES 1-10,)

20 Defendants.

CASE NO: 13-CV-13-5351

DECLARATION OF JAMES
CURCURUTO IN SUPPORT OF
MOTION FOR PRELIMINARY
INJUNCTION

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DECLARATION OF JAMES CURCURUTO

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2 1. I, James Curcuruto, am not a party in the above-titled action. I am over the age of 18,
3 have personal knowledge of the facts and events referred to in this Declaration, and am
4 competent to testify to the matters stated below.

5 2. I am the Director, Industry Research and Analysis, at the National Shooting Sports
6 Foundation (“NSSF”). The NSSF is the trade association for the firearms industry. Its mission is
7 to promote, protect and preserve hunting and the shooting sports. Formed in 1961, NSSF has a
8 membership of 10,000 manufacturers, distributors, firearms retailers, shooting ranges,
9 sportsmen’s organizations and publishers.

10 3. In my position as Director, Industry Research and Analysis, I am responsible for
11 most of the research activities at NSSF, and I direct the activities of an internal research
12 coordinator and outside companies retained to conduct research and gather market and consumer
13 information useful to NSSF members.

14 4. Many NSSF members manufacture, distribute and/or sell firearms and shooting
15 and hunting-related goods and services, and as is usual and customary for trade associations, the
16 NSSF collects and disseminates industry-specific, non-sensitive data reflecting consumer
17 preferences, market trends and other information for use in their business decisions. Among the
18 shooting and hunting-related goods and services manufactured, distributed and sold by NSSF
19 members are ammunition magazines.¹ Research conducted by the NSSF and under my direction
20 demonstrates that detachable ammunition magazines are very popular and are commonly owned
21 by millions of persons in the United States for a variety of lawful purposes, including, but not
22 limited to, recreational and competitive target shooting, home defense, collecting and hunting.

23 5. In addition to ammunition magazines accompanying firearms that utilize them at
24

25 ¹ A “magazine” is a receptacle for a firearm that holds a plurality of cartridges or
26 shells under spring pressure preparatory for feeding into the chamber.
27 <http://saami.org/glossary/display.cfm?letter=M>, Glossary of Terms, Sporting Arms and
28 Ammunition Manufacturers’ Institute (SAAMI). While magazines take many forms –
box, drum, rotary, tubular, etc. and may be fixed or removable – from the materials I
considered and firearms industry professionals I consulted, the figures discussed in this
declaration generally (if not exclusively) concern detachable, box magazines.

1 the time of sale, such magazines are also widely available for sale as a stand-alone item to
2 individuals who need a replacement, different-capacity, and/or additional magazine.

3 6. I am not aware of any singular public source providing reliable figures identifying
4 exactly how many ammunition magazines are manufactured or imported for sale within the
5 United States each year. There are, however, data available to me from which estimations of the
6 amount of magazines that have been sold to the general population, as well as how many of those
7 have a capacity for ammunition exceeding ten rounds, can be calculated within a reasonable
8 degree of certainty.

9 7. Using such data, I have, in the normal scope of my duties on behalf of the NSSF,
10 calculated estimations of the total number of magazines possessed by consumers in the United
11 States, as well as how many of those have a standard capacity for ammunition exceeding ten
12 rounds. These estimations are published in the NSSF Magazine Report attached as Exhibit "A."

13 8. The NSSF Magazine Report estimates that 158 million pistol and rifle magazines
14 were in the possession of United States consumers between 1990 and 2012. The data supporting
15 the Report further shows magazines capable of holding more than 10 rounds of ammunition
16 accounted for approximately 75 million or approximately 47 percent of all magazines owned.

17 9. Sources used to compile the NSSF Magazine Report include the Bureau of
18 Alcohol, Tobacco, Firearms and Explosives (ATF) Annual Firearms Manufacturers and Exports
19 Reports (AFMER), U.S. International Trade Commission (ITC), as well as, opinions of firearms
20 industry professionals. To prepare the NSSF Magazine Report, only the number of pistols and
21 rifles was used while revolver and shotgun data was excluded as revolvers and the vast majority
22 of shotguns do not utilize magazines.

23 10. The ATF AFMER data provide historical figures for pistols by caliber (i.e., the
24 specific ammunition cartridge for which a firearm is chambered) and rifles produced in the
25 United States for consumer purchase. The ITC data provides historical figures for pistol and
26 rifles imported to and exported from the United States for consumer purchase. The total number
27 of firearms available for consumer purchase 1990 through 2012 was calculated by adding the
28 total U.S.-production of firearms with the total firearms imported and then subtracting total


1 firearms exported.

2 11. The ATF AFMER and ITC data provided estimates of approximately 50 million
3 pistols and 33 million rifles available to United States consumers between 1990 and 2012.
4 Firearms industry professionals with knowledge of the pistol and rifle magazine market then
5 allocated magazines to the totals to complete the data provided in the NSSF Magazine Report .

6 12. It can be assumed that many more such magazines were manufactured in the
7 United States or imported to the United States for sale in the commercial marketplace both prior
8 to 1990 as well as after 2012.

9 13. While the figure of 75 million standard capacity magazines holding over 10 rounds
10 in circulation is an estimation based on extrapolation from indirect sources and cannot be
11 confirmed as unequivocally accurate, it is safe to say that whatever the actual number of such
12 magazines in United States consumers' hands is, it is in the tens-of-millions, even under the most
13 conservative estimates.

14 I declare under penalty of perjury that the foregoing is true and correct. Executed within
15 the United States on December 19, 2013.

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18 James Curcuruto

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