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7 Attorneys for Plaintiffs

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

11 LEONARD FYOCK, SCOTT
HOCHSTETLER, WILLIAM
12 DOUGLAS, DAVID PEARSON,
BRAD SEIFERS, and ROD
13 SWANSON,

14 Plaintiffs

15 vs.

16 THE CITY OF SUNNYVALE, THE
17 MAYOR OF SUNNYVALE,
ANTHONY SPITALERI in his
18 official capacity, THE CHIEF OF
THE SUNNYVALE DEPARTMENT
19 OF PUBLIC SAFETY, FRANK
20 GRGURINA, in his official capacity,
and DOES 1-10,

21 Defendants.
22

CASE NO: CV13-05807 RMW

**DECLARATION OF BRAD
SEIFERS IN SUPPORT OF
MOTION FOR PRELIMINARY
INJUNCTION**

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DECLARATION OF BRAD SEIFERS

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

5 2. I am a current resident of the City of Sunnyvale.

6 3. I am a law-abiding adult who is not prohibited from owning firearms
7 under the laws of the United States or the state of California. I have never been
8 found by any law enforcement agency, any court, or any other government agency
9 to be irresponsible, unsafe, or negligent with firearms in any manner.

10 4. Prior to December 6, 2013, I acquired a magazine capable of holding
11 more than ten rounds in accordance with state and federal law. This magazine has
12 not been permanently altered so as to be incapable of accommodating more than 10
13 rounds, its is not a .22 caliber tube ammunition feeding device, and it is not a
14 tubular magazine contained in a lever-action firearm. I currently own and possess
15 this magazine for in-home self-defense.

16 5. Prior to December 6, 2013, I lawfully acquired a handgun that came
17 equipped with a magazine capable of holding 15 rounds.

18 6. I acquired the handgun with the magazine capable of holding 15 rounds
19 for use in my home for self-defense.

20 7. I selected this particular firearm in part because I believe that a handgun
21 with a magazine capable of holding more than ten rounds best suits my needs for
22 in-home self-defense.

23 8. I am concerned that if multiple intruders attack me while at home, I will
24 require the use of more than ten rounds to effectively protect myself and others in
25 my home.

1 9. I fear that a home intruder will be carrying a firearm with a magazine
2 capable of holding more than ten rounds, or will be carrying multiple firearms, and
3 that I will require a firearm with a magazine capable of holding more than ten
4 rounds to effectively protect myself and others from such a threat in my home.

5 10. I believe that being forced to change my magazine after expending ten
6 rounds during any critical time that requires me to act in self-defense may impact
7 my ability to effectively defend myself and others in my home. Should I require
8 more than ten rounds to neutralize the threat of a home intruder or group of
9 intruders, I fear that I will be unable to re-load my handgun in time to effectively
10 defend myself and others in my home.

11 11. I fear that my firearm will malfunction when I need it most for
12 self-defense if I use a magazine that was not originally designed for use with my
13 handgun.

14 12. Due to the Defendants' enactment of Sunnyvale Municipal Code
15 (SMC) section 9.44.050, I am prohibited from continuing to possess, within the
16 City of Sunnyvale, any magazine capable of holding more than ten rounds that has
17 not been permanently altered so that it cannot accommodate more than 10 rounds,
18 is not a .22 caliber tube ammunition feeding device, and is not a tubular magazine
19 that is contained in a lever-action firearm.

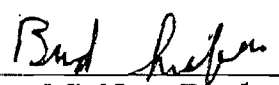
20 13. In accordance with SMC section 9.44.050, I intend to cease possessing
21 any magazine prohibited by SMC section 9.44.050 within the City of Sunnyvale on
22 or before March 6, 2013.

23 14. But for SMC section 9.44.050, I would immediately and continuously
24 possess a magazine capable of holding more than ten rounds within the City of
25 Sunnyvale for lawful purposes, including in-home self-defense. If this court
26 declares SMC section 9.44.050 invalid or otherwise enjoins its enforcement, I will
27 continue to possess any magazine prohibited by SMC section 9.44.050 within the
28 City of Sunnyvale.

1 15. Because SMC section 9.44.050 requires that I cease possessing within
2 the City of Sunnyvale any magazine prohibited by SMC section 9.44.050, I will be
3 continuously and irreparably harmed by the ongoing deprivation of my individual,
4 fundamental right to possess and use commonly possessed firearm magazines for
5 lawful purposes, including in-home self-defense, without risking criminal
6 prosecution.

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

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Brad Seifers, Declarant