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7 Attorneys for Plaintiffs Jackson et al.,

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

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

16 Plaintiffs,

17 vs.

18 CITY AND COUNTY OF SAN
19 FRANCISCO, MAYOR GAVIN
NEWSOM, in his official capacity;
20 POLICE CHIEF HEATHER FONG,
in her official capacity, and Does 1-
21 10,

22 Defendants.

CASE NO. C-09-2143

Related Case:

CASE NO. C-09-4493-CW

NOTICE OF RELATED CASES

[CIV.L.R. 3-12]

23
24 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

25 Pursuant to Local Rule 3-12, notice is hereby given that the following cases
26 pending in the Northern District of California are related:

27 *Jackson v. Newsom, et al*, Case No. C-09-2143 PJH, filed May 15, 2009

28 *Pizzo v. Newsom, et al*, Case No. C-09-4493 CW, filed September 23, 2009

1 **I. Applicable Standard under Civil L.R. 3-12**

2 Under Civil Local Rule 3-12, an action is related to another when:

3 (1) the actions concern substantially the same parties, property, transaction,
4 event, or question of law; and

5 (2) it appears likely that there will be an unduly burdensome duplication of
6 labor and expense or conflicting results if the cases are conducted before different
7 judges. Civil L.R. 3-12(a)

8 A notice of related case must include: “(1) The title and case number of each
9 related case; (2) A brief statement of the relationship of the actions according to the
10 criteria set forth in Civil L.R. 3-12(b); and (3) A statement addressing whether
11 assignment to a single Judge is or is not likely to conserve judicial resources and
12 promote an efficient determination of the action(s).

13 **II. Related Cases**

14 The cases are related in each of the following respects:

15 1. Four of the defendants are common in each of the cases.

16 2. In both cases, the plaintiffs are bringing suit to challenge the validity
17 of San Francisco Police Code §§ 4512, 1290, and 613.10(g) asserting that each of
18 these code sections violates the Second Amendment.

19 3. Most, of the factual allegations, causes of action, legal issues, and legal
20 arguments are the same.

21 4. Both cases raise legal issues and claims that are dependent upon a
22 ruling by the United States Supreme Court in two companion pending cases,
23 *McDonald v. Chicago* (08-1521), and *NRA v. Chicago* (08-1497). These
24 companion cases will be decided by the Supreme Court this term. They address,
25 and the Supreme Court will resolve, whether the Second Amendment of the
26 Constitution should be incorporated into the 14th Amendment through the due
27 process clause and thereby restrict state and local governments from infringing on
28 the Second Amendment right to keep and bear arms. In June 2008 the Supreme

1 Court held that the Second Amendment protects a fundamental individual right.
2 *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008).

3 **III. Conclusion**

4 The *Jackson* case has been stayed pending a decision from the Ninth Circuit
5 *en banc* panel in *Nordyke v. King*, 575 F.3d 890 (9th Cir., 2009). *Nordyke* is in turn
6 effectively stayed pending the Supreme Court's ruling in the above mentioned
7 cases. The *Pizzo* case should also be stayed pending a ruling from the Supreme
8 Court and a subsequent ruling from the *en banc* panel in *Nordyke* in response to the
9 Supreme Court's decision.

10 Litigating either of these cases now would be a waste of time. Conducting
11 these cases before different Judges would create an unduly burdensome duplication
12 of labor and expense and a risk of conflicting results.

13 These cases should be deemed related, and possibly consolidated. *Pizzo*
14 should be stayed.

15 Date: November 2, 2009

MICHEL & ASSOCIATES, P.C.

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C. D. Michel
Attorney for Plaintiff

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