

1 C. D. Michel - S.B.N. 144258
Don B. Kates - S.B.N. 39193
2 Glenn S. McRoberts - SBN 144852
Hillary J. Green - S.B.N. 243221
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@michelandassociates.com
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7 Attorneys for Plaintiffs
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9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO DIVISION**

<p>12 ESPANOLA JACKSON, PAUL COLVIN, THOMAS BOYER, 13 LARRY BARSETTI, DAVID GOLDEN, NOEMI MARGARET 14 ROBINSON, NATIONAL RIFLE ASSOCIATION OF AMERICA, 15 INC. SAN FRANCISCO VETERAN POLICE OFFICERS 16 ASSOCIATION,</p> <p style="text-align: center;">17 Plaintiffs</p> <p style="text-align: center;">18 vs.</p> <p>19 CITY AND COUNTY OF SAN 20 FRANCISCO, MAYOR GAVIN NEWSOM, in his official capacity; 21 POLICE CHIEF HEATHER FONG, in her official capacity, and Does 1- 22 10,</p> <p style="text-align: center;">23 Defendants.</p>	<p>) CASE NO. C09-2143 PJH)) DECLARATION OF C. D. MICHEL IN) SUPPORT OF MOTION TO STAY)) Hearing Date: October 21, 2009) Time: 9:00 a.m.) Place: Courtroom 5, 17th Fl.)) Hon. Phyllis J. Hamilton</p>
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25 I, C. D. Michel, declare as follows:

- 26 1. I am the attorney of record for Plaintiffs in the above-entitled action.
- 27 2. Attached hereto as Exhibit "A" is true and correct copy of a July 29, 2009
- 28 Order of the Ninth Circuit Court of Appeals in the matter of *Nordyke v. King* (No.

EXHIBIT A

FILED

FOR PUBLICATION

JUL 29 2009

UNITED STATES COURT OF APPEALS

**MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

**RUSSELL ALLEN NORDYKE; ANN
SALLIE NORDYKE, dba TS Trade
Shows; JESS B. GUY; DUANE DARR;
WILLIAM J. JONES; DARYL N.
DAVID; TASIANA WESTYSCHYN;
JEAN LEE; TODD BALTES; DENNIS
BLAIR, R.L. ADAMS; ROGER
BAKER; MIKE FOURNIER; VIRGIL
MCVICKER,**

Plaintiffs - Appellants,

v.

**MARY V. KING; GAIL STEELE;
WILMA CHAN; KEITH CARSON;
SCOTT HAGGERTY; COUNTY OF
ALAMEDA; COUNTY OF ALAMEDA
BOARD OF SUPERVISORS,**

Defendants - Appellees.

No. 07-15763

D.C. No. CV-99-04389-MJJ

ORDER

COPIY

KOZINSKI, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that this case be reheard en banc pursuant to Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.

Judge Rawlinson did not participate in the deliberations or vote in this case.

EXHIBIT B

FILED

NOT FOR PUBLICATION

JUL 29 2009

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

**RUSSELL ALLEN NORDYKE; ANN
SALLIE NORDYKE, dba TS Trade
Shows; JESS B. GUY; DUANE DARR;
WILLIAM J. JONES; DARYL N.
DAVID; TASIANA WESTYSCHYN;
JEAN LEE; TODD BALTES; DENNIS
BLAIR, R.L. ADAMS; ROGER
BAKER; MIKE FOURNIER; VIRGIL
MCVICKER,**

Plaintiffs - Appellants,

v.

**MARY V. KING; GAIL STEELE;
WILMA CHAN; KEITH CARSON;
SCOTT HAGGERTY; COUNTY OF
ALAMEDA; COUNTY OF ALAMEDA
BOARD OF SUPERVISORS,**

Defendants - Appellees.

No. 07-15763

D.C. No. CV-99-04389-MJJ

ORDER

 **COPY**

KOZINSKI, Chief Judge:

En banc oral argument will take place during the week of September 21, 2009, in San Francisco, California. The date and time will be determined by separate order. For further information or special requests regarding scheduling, please contact Deputy Clerk Paul Keller at paul_keller@ca9.uscourts.gov or (415) 355-8026.

Within seven days from the date of this order, the parties shall forward to the Clerk of Court thirty additional paper copies of the original briefs and excerpts of record.

EXHIBIT C

FILED

NOT FOR PUBLICATION

AUG 21 2009

UNITED STATES COURT OF APPEALS

**MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

**RUSSELL ALLEN NORDYKE; ANN
SALLIE NORDYKE, dba TS Trade
Shows; JESS B. GUY; DUANE DARR;
WILLIAM J. JONES; DARYL N.
DAVID; TASIANA WESTYSCHYN;
JEAN LEE; TODD BALTES; DENNIS
BLAIR, R.L. ADAMS; ROGER
BAKER; MIKE FOURNIER; VIRGIL
MCVICKER,**

Plaintiffs - Appellants,

v.

**MARY V. KING; GAIL STEELE;
WILMA CHAN; KEITH CARSON;
SCOTT HAGGERTY; COUNTY OF
ALAMEDA; COUNTY OF ALAMEDA
BOARD OF SUPERVISORS,**

Defendants - Appellees.

No. 07-15763

D.C. No. CV-99-04389-MJJ

ORDER

cc COPY

KOZINSKI, Chief Judge:

Oral argument in this en banc case will be held at 10:00 a.m. on Thursday, September 24, 2009, in Courtroom One at the James R. Browning Courthouse, located at 95 Seventh Street in San Francisco, California 94103.

<http://www.ca9.uscourts.gov/information/locations.php>

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**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,

CASE NO.: CV-09-2143-PJH

**DECLARATION OF C. D. MICHEL IN
SUPPORT OF MOTION TO STAY**

Plaintiffs

vs.

CITY AND COUNTY OF SAN
FRANCISCO, MAYOR GAVIN
NEWSOM, IN HIS OFFICIAL
CAPACITY; POLICE CHIEF
HEATHER FONG, in her official
capacity, and Does 1-10,

Defendants.

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: **DECLARATION OF C. D. MICHEL IN SUPPORT OF MOTION TO STAY** on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Sherri Kaiser, Deputy City Attorney
City and County of San Francisco
Office of the City Attorney
City Hall 1 Drive Carlton B. Goodlett Place
San Francisco, CA 94102 - 4682

I declare under penalty of perjury that the foregoing is true and correct.
Executed on August 27, 2009.

/S/
C. D. Michel
Attorney for Plaintiffs