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7

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

11 ESPANOLA JACKSON, PAUL COLVIN,) **CASE NO.: CV-09-2143-RS**
THOMAS BOYER, LARRY BARSETTI,)
12 DAVID GOLDEN, NOEMI MARGARET) **DECLARATION OF ANNA M. BARVIR IN**
ROBINSON, NATIONAL RIFLE) **SUPPORT OF MOTION FOR**
13 ASSOCIATION OF AMERICA, INC., SAN) **PRELIMINARY INJUNCTION**
FRANCISCO VETERAN POLICE)
14 OFFICERS ASSOCIATION,)
Plaintiffs)
15 vs.)
16)
17 CITY AND COUNTY OF SAN)
FRANCISCO, THE MAYOR OF)
18 SAN FRANCISCO, AND THE CHIEF)
OF THE SAN FRANCISCO POLICE)
19 DEPARTMENT, in their official capacities,)
and DOES 1-10,)
20 Defendants.)
21)

Hearing: October 4, 2012
Time: 1:30 p.m.
Place: Courtroom 3 - 17th Floor
450 Golden Gate Ave.
San Francisco, CA 94102

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DECLARATION OF ANNA M. BARVIR

1
2 I, Anna M. Barvir, declare as follows:

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

6 2. On or about August 29, 2012, I visited the official website of the U.S. Supreme
7 Court, on which transcripts of oral argument before the Supreme Court are posted for public
8 viewing. From that website, I reviewed and printed a copy of the March 18, 2008, transcript of
9 oral argument in *District of Columbia v. Heller*, 554 U.S. 570 (2008). Attached hereto and
10 marked as "Exhibit A" is a true and correct copy of Oral Argument Transcript, *District of*
11 *Columbia v. Heller*, 554 U.S. 570 (No. 07-290), available at [http://www.supremecourt.gov/](http://www.supremecourt.gov/oral_arguments/argument_transcripts/07-290.pdf)
12 [oral_arguments/argument_transcripts/07-290.pdf](http://www.supremecourt.gov/oral_arguments/argument_transcripts/07-290.pdf) (last accessed August 29, 2012).

13 3. On or about September 7, 2011, I sent a request for public records to the
14 City and County of San Francisco Clerk of the Board of Supervisors, pursuant to the
15 California Public Records Act, Government Code section 6250, et seq., and the San Francisco
16 Sunshine Ordinance, Chapter 67 of the San Francisco Administrative Code. The request sought all
17 writings concerning the drafting and consideration of Ordinance No. 206-11 (File No. 110901).
18 On or about September 16, 2011, Ms. Madeleine Licavoli, Deputy Director, responded to my
19 request on San Francisco Board of Supervisors letterhead. Enclosed with her response was a copy
20 of correspondence from the California Rifle & Pistol Association (CRPA) to the San Francisco
21 Board of Supervisors regarding CRPA's opposition to Ordinance No. 201-11 (File No. 110901).
22 Attached hereto and marked as "Exhibit B" is a true and correct copy of Letter from California
23 Rifle & Pistol Association, to San Francisco Board of Supervisors (Sept. 26, 2011) provided to
24 my office by Ms. Licavoli.

25 4. On or about September 7, 2011, I sent a request for public records to the
26 City and County of San Francisco Clerk of the Board of Supervisors, pursuant to the California
27 Public Records Act, Government Code section 6250, et seq., and the San Francisco Sunshine
28 Ordinance, Chapter 67 of the San Francisco Administrative Code. The request sought all writings

1 concerning the drafting and consideration of Ordinance No. 206-11 (File No. 110901). On or
2 about September 16, 2011, Ms. Madeleine Licavoli, Deputy Director, responded to my request on
3 San Francisco Board of Supervisors letterhead. Enclosed with her response was a copy of a *New*
4 *York Times* article by Clifford Krauss, entitled *Experts Support Hollow Point Bullets*. Attached
5 hereto and marked as “Exhibit C” is a true and correct copy of Clifford Krauss, *Experts Support*
6 *Hollow Point Bullets*, N.Y. Times, Mar. 6, 1997, provided to my office by Ms. Licavoli.

7 5. On or about September 7, 2011, my office sent a request for public records to the
8 City and County of San Francisco Clerk of the Board of Supervisors, pursuant to the California
9 Public Records Act, Government Code section 6250, et seq., and the San Francisco Sunshine
10 Ordinance, Chapter 67 of the San Francisco Administrative Code. The request sought all writings
11 concerning the drafting and consideration of Ordinance No. 206-11 (File No. 110901). On or
12 about September 16, 2011, Ms. Madeleine Licavoli, Deputy Director, responded to our request on
13 San Francisco Board of Supervisors letterhead. Enclosed with her response was a copy of the
14 Statement of Martin Fackler, M.D. submitted to the San Francisco Board of Supervisors in
15 opposition to Ordinance No. 206-11 (File No. 110901). Attached hereto and marked as “Exhibit
16 D” is a true and correct copy of Statement of Martin Fackler, M.D. (Sept. 23, 2011) provided
17 to my office by Ms. Licavoli.

18 6. On or about September 7, 2011, my office sent a request for public records to the
19 City and County of San Francisco Clerk of the Board of Supervisors, pursuant to the California
20 Public Records Act, Government Code section 6250, et seq., and the San Francisco Sunshine
21 Ordinance, Chapter 67 of the San Francisco Administrative Code. The request sought all writings
22 concerning the drafting and consideration of Ordinance No. 206-11 (File No. 110901). On or
23 about September 16, 2011, Ms. Madeleine Licavoli, Deputy Director, responded to our request on
24 San Francisco Board of Supervisors letterhead. Enclosed with her response was a copy of the
25 Statement of Stephen Helsley submitted to the San Francisco Board of Supervisors in opposition
26 to Ordinance No. 206-11 (File No. 110901). Attached hereto and marked as “Exhibit E” is a true
27 and correct copy of Statement of Stephen Helsley (Sept. 23, 2011) provided to my office by Ms.
28 Licavoli.

1 7. On or about August 29, 2012, I visited the official website of San Francisco
2 Government Television, on which videos and transcripts of the hearings of the San Francisco
3 Board of Supervisors, Public Safety Committee, are posted for public viewing. From that website,
4 I reviewed and printed a copy of the September 15, 2011, transcript of testimony before the Public
5 Safety Committee. Attached hereto and marked as “Exhibit F” is a true and correct copy of
6 Transcript, San Francisco Board of Supervisors, Public Safety Committee Hearing (Sept. 15,
7 2011), *available at* http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=44 (Click
8 “Caption Notes” for Sept. 15, 2011) (last accessed August 29, 2012).

9 8. On or about August 29, 2012, I visited the official website of San Francisco
10 Government Television, on which videos and transcripts of the hearings of the San Francisco
11 Board of Supervisors are posted for public viewing. From that website, I reviewed and printed a
12 copy of the September 27, 2011, transcript of testimony before the San Francisco Board of
13 Supervisors. Attached hereto and marked as “Exhibit G” is a true and correct copy of Transcript,
14 San Francisco Board of Supervisors, Board of Supervisors Hearing (Sept. 27, 2011), *available at*
15 http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=10 (Click “Caption Notes” for
16 Sept. 27, 2011) (last accessed August 29, 2012).

17 9. On or about August 29, 2012, I visited the official website of San Francisco
18 Government Television, on which videos and transcripts of the hearings of the San Francisco
19 Board of Supervisors are posted for public viewing. From that website, I reviewed and printed a
20 copy of the October 4, 2011, transcript of testimony before the San Francisco Board of
21 Supervisors. Attached hereto and marked as “Exhibit H” is a true and correct copy of Transcript,
22 San Francisco Board of Supervisors, Board of Supervisors Hearing (Oct. 4, 2011), *available at*
23 http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=10 (Click “Caption Notes” for Oct.
24 4, 2011) (last accessed August 29, 2012).

25 10. On or about August 29, 2012, I visited the official website of the American Bar
26 Association (ABA), on which sample products and publications of the ABA are posted for free
27 public viewing. From that website, I reviewed and printed a copy of Chapter 1 of *Science for*
28 *Lawyers*, a publication of the ABA Section of Science and Technology Law. Attached hereto

1 and marked as “Exhibit I” is a true and correct copy of Lisa Steele, *Ballistics*, in *Science for*
2 *Lawyers* (Eric York Drogin ed., A.B.A. Sec. of Sci. & Tech. Law 2008), *available at*
3 http://apps.americanbar.org/abastore/products/books/abstracts/5450051chap1_abs.pdf (last
4 accessed August 29, 2012).

5 11. On or about August 29, 2012, I visited the official website of the *New York Times*,
6 on which archived copies of articles from the *New York Times* are posted for public viewing.
7 From that website, I reviewed and printed a copy of Kit R. Roane’s article, *In Many Cities, New*
8 *Bullets Have Not Brought Complaints*. Attached hereto and marked as “Exhibit J” is a true and
9 correct copy of Kit. R. Roane, *In Many Cities, New Bullets Have Not Brought Complaints*, N.Y.
10 Times, July 9, 1998, *available at* [http://www.nytimes.com/1998/07/09/nyregion/in-many-cities-](http://www.nytimes.com/1998/07/09/nyregion/in-many-cities-new-bullets-have-not-brought-complaints.html)
11 [new-bullets-have-not-brought-complaints.html](http://www.nytimes.com/1998/07/09/nyregion/in-many-cities-new-bullets-have-not-brought-complaints.html) (last accessed August 29, 2012).

12 12. On or about September 7, 2011, my office sent a request for public records to the
13 City and County of San Francisco Clerk of the Board of Supervisors, pursuant to the California
14 Public Records Act, Government Code section 6250, et seq., and the San Francisco Sunshine
15 Ordinance, Chapter 67 of the San Francisco Administrative Code. The request sought all writings
16 concerning the drafting and consideration of Ordinance No. 206-11 (File No. 110901). On or
17 about September 16, 2011, Ms. Madeleine Licavoli, Deputy Director, responded to our request on
18 San Francisco Board of Supervisors letterhead. Enclosed with her response was a copy of a
19 *Washington Post* article, entitled *More Powerful Ammo Studied By D.C. Police*. Attached hereto
20 and marked as “Exhibit K” is a true and correct copy of Stephen J. Lynton & Alfred E. Lewis,
21 *More Powerful Ammo Studied By D.C. Police*, Wash. Post, Nov. 5, 1976, provided to my office
22 by Ms. Licavoli.

23 13. On or about September 7, 2011, my office sent a request for public records to the
24 City and County of San Francisco Clerk of the Board of Supervisors, pursuant to the California
25 Public Records Act, Government Code section 6250, et seq., and the San Francisco Sunshine
26 Ordinance, Chapter 67 of the San Francisco Administrative Code. The request sought all writings
27 concerning the drafting and consideration of Ordinance No. 206-11 (File No. 110901). On or
28 about September 16, 2011, Ms. Madeleine Licavoli, Deputy Director, responded to our request on

1 San Francisco Board of Supervisors letterhead. Enclosed with her response was a copy of a
2 *Washington Star* article, entitled *District Police Moving To Get Bullets With More Stopping*
3 *Action*. Attached hereto and marked as “Exhibit L” is a true and correct copy of Early Byrd &
4 Zofia Smardz, *District Police Moving To Get Bullets With More Stopping Action*, Wash. Star.,
5 Nov. 27, 1976, provided to my office by Ms. Licavoli.

6 14. On or about August 29, 2012, I visited the official website of New York City, New
7 York, which provides public access to hundreds of City services, forms, jobs, and resources.
8 Certain official public records are also posted for public viewing. From that website, I reviewed
9 and printed a copy of Report of the Committee on Hollow-Point Bullets Presented to the Civilian
10 Complaint Review Board on July 8, 1998. Attached hereto and marked as “Exhibit M” is a true
11 and correct copy of Report of the Committee on Hollow-Point Bullets Presented to the Civilian
12 Complaint Review Board on July 8, 1998, *available at* [http://www.nyc.gov/html/ccrb/pdf/](http://www.nyc.gov/html/ccrb/pdf/hollow.pdf)
13 [hollow.pdf](http://www.nyc.gov/html/ccrb/pdf/hollow.pdf) (last accessed August 29, 2012).

14 15. On or about August 29, 2012, I visited the official website of the Arkansas State
15 Game and Fish Commission, on which the Commission’s Code Book is posted for public
16 viewing. From that website, I reviewed and printed a copy of *Certain Firearms and Ammunition*
17 *Prohibited During Modern Gun Deer Seasons*, 002 Arkansas Code of Regulations section 6.02.
18 Attached hereto and marked as “Exhibit N” is a true and correct copy of *Certain Firearms and*
19 *Ammunition Prohibited During Modern Gun Deer Seasons*, 002 Ark. Code R. § 6.02, *available at*
20 http://www.agfc.com/enforcement/Documents/agfc_code_of_regulations.pdf (last accessed
21 August 29, 2012).

22 16. On or about August 29, 2012, I reviewed Michie’s Legal Resources at
23 www.michie.com, a product of LexisNexis.com, on which the New Jersey Administrative Code is
24 posted for free public viewing. From that website, I reviewed and printed a copy of New Jersey
25 Administrative Code section 7:25-5:23. Attached hereto and marked as “Exhibit O” is a true and
26 correct copy of N.J. Admin. Code § 7:25-5:23, *available at* [http://www.michie.com/newjersey/](http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp=)
27 [lpext.dll?f=templates&fn=main-h.htm&cp=](http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp=) (last accessed August 29, 2012).

28 17. On or about August 29, 2012, I visited the official website of the New Mexico

1 Department of Game & Fish, on which official notices and publications of the Department are
2 posted for public viewing. From that website, I reviewed and printed a copy of *New Mexico Big-*
3 *Game and Furbearer Rules & Information 2012-2013 License Year*. Attached hereto and marked
4 as “Exhibit P” is a true and correct copy of N.M. Dep’t of Game & Fish, *New Mexico Big-Game*
5 *and Furbearer Rules & Information 2012-2013 License Year* 16 (2012), available at
6 <http://www.wildlife.state.nm.us/publications/documents/rib/2012/2012BIGGame.pdf> (last
7 accessed August 29, 2012).

8 18. On or about August 29, 2012, I visited LAWriter® Ohio Laws and Rules, a
9 website on which the Ohio Revised and Ohio Administrative Codes are posted for free public
10 viewing. From that website, I reviewed and printed a copy of Ohio Administrative Code section
11 901.12-1-04. Attached hereto and marked as “Exhibit Q” is a true and correct copy of Ohio
12 Admin. Code 901.12-1-04, available at <http://codes.ohio.gov/oac/> (Click “901:12 Ohio Livestock
13 Care Standards Board,” Click “901:12-1 Euthanasia”) (last accessed August 29, 2012).

14 19. On or about August 29, 2012, I visited the official website of the Washington State
15 Legislature, on which the Washington Administrative Code (WAC) is posted for free public
16 viewing. From that website, I reviewed and printed a copy of WAC section 16-24-040. Attached
17 hereto and marked as “Exhibit R” is a true and correct copy of Wash. Admin. Code § 16-24-040,
18 available at <http://apps.leg.wa.gov/wac/default.aspx?cite=16-24-040> (last accessed August 29,
19 2012).

20 20. On or about August 29, 2012, I visited the official website of California’s Office of
21 Administrative Law, on which the California Code of Regulations are posted for free public
22 viewing. From that website, I reviewed and printed a copy of Title 14 of the California Code of
23 Regulations section 353. Attached hereto and marked as “Exhibit S” is a true and correct copy of
24 Title 14 of California Code of Regulations section 353, available at [http://government.westlaw.](http://government.westlaw.com/linkedslice/default.asp?Action=TOC&RS=GVT1.0&VR=2.0&SP=CCR-1000)
25 [com/linkedslice/default.asp?Action=TOC&RS=GVT1.0&VR=2.0&SP=CCR-1000](http://government.westlaw.com/linkedslice/default.asp?Action=TOC&RS=GVT1.0&VR=2.0&SP=CCR-1000) (Click “Title
26 14,” Click “Division 1,” Click “Subdivision 2,” Click “Chapter 3”) (last accessed August 29,
27 2012).

28 21. On or about August 29, 2012, I visited the official website of Federal Cartridge

1 Company, the manufacturer of Federal Hydra-Shok ammunition. From that website, I reviewed
2 and printed a copy of the brochure entitled “Ammunition Basics.” Attached hereto and marked as
3 “Exhibit T” is a true and correct copy of Federal Cartridge Company’s brochure, “Ammunition
4 Basics,” *available at* http://www.federalpremium.com/pdf/Ammo_Basics.pdf (last accessed
5 August 29, 2012).

6 22. On or about August 29, 2012, I visited the official website of Corbon & Glaser,
7 LLC, the manufacturer of the Glaser Safety Slug. From that website, I reviewed and printed a
8 copy of the Glaser Safety Slug marketing advertisement. Attached hereto and marked as “Exhibit
9 U” is a true and correct copy of the Glaser Safety Slug marketing advertisement, *available at*
10 <http://www.shopcorbon.com/Glaser-Safety-Slug/500/500/dept> (last accessed August 29, 2012).

11 23. On or about August 29, 2012, I visited the official website of Speer Ammunition,
12 the manufacturer of Speer Gold Dot® ammunition. From that website, I reviewed and printed a
13 copy of the Gold Dot Personal Protection Ammunition marketing advertisement. Attached hereto
14 and marked as “Exhibit V” is a true and correct copy of the Gold Dot Personal Protection
15 Ammunition marketing advertisement, *available at* [http://www.speer-ammo.com/products/
16 gold_dot_prsnl.aspx](http://www.speer-ammo.com/products/gold_dot_prsnl.aspx) (last accessed August 29, 2012).

17 24. On or about August 29, 2012, I visited the official website of Hornady
18 Manufacturing Company, the manufacturer of the Hornady FTX® (Flex Tip Expanding) bullet.
19 From that website, I reviewed and printed a copy of Hornady’s “Critical Defense” ammunition
20 marketing advertisement from Hornady’s 2012 Product Catalogue. Attached hereto and marked as
21 “Exhibit W” is a true and correct copy of Hornady’s “Critical Defense” ammunition marketing
22 advertisement from Hornady’s 2012 Product Catalogue, *available at* [http://www.hornady.com/
23 assets/ files/catalog/2012/2012-catalog-full.pdf](http://www.hornady.com/assets/files/catalog/2012/2012-catalog-full.pdf) (last accessed August 29, 2012).

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ESPANOLA JACKSON, PAUL COLVIN,) CASE NO.: CV-09-2143-RS
THOMAS BOYER, LARRY BARSETTI,)
DAVID GOLDEN, NOEMI MARGARET)
ROBINSON, NATIONAL RIFLE) CERTIFICATE OF SERVICE
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.)

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 ANNA M. BARVIR IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION

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
Christine Van Aken, Deputy City Attorney
Office of the City Attorney
1 Drive Carlton B. Goodlett Place
City Hall, Room 234
San Francisco, CA 94102

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 30, 2012.

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