

1 C. D. Michel - S.B.N. 144258
Glenn S. McRoberts - S.B.N. 144852
2 Clinton B. Monfort - S.B.N. 255609
Anna M. Barvir - S.B.N. 268728
3 MICHEL & ASSOCIATES, P.C.
180 E. Ocean Boulevard, Suite 200
4 Long Beach, CA 90802
Telephone: 562-216-4444
5 Facsimile: 562-216-4445
Email: cmichel@michellawyers.com

6 Attorneys for Plaintiffs
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. C09-2143-RS**
THOMAS BOYER, LARRY BARSETTI,)
12 DAVID GOLDEN, NOEMI MARGARET) **PLAINTIFFS' REPLY TO DEFENDANTS'**
ROBINSON, NATIONAL RIFLE) **OPPOSITION TO MOTION FOR PARTIAL**
13 ASSOCIATION OF AMERICA, INC., SAN) **JUDGMENT ON THE PLEADINGS;**
FRANCISCO VETERAN POLICE) **EXHIBITS "A - I"**
14 OFFICERS ASSOCIATION,)
) Fed. R. Civ. P. 12(c)
15 Plaintiffs)
) Hearing: July 12, 2012
16 vs.) Time: 1:30 p.m.
) Place: Courtroom 3 - 17th Floor
17 CITY AND COUNTY OF SAN) 450 Golden Gate Ave.
FRANCISCO, THE MAYOR OF) San Francisco, CA 94102
18 SAN FRANCISCO, AND THE CHIEF)
OF THE SAN FRANCISCO POLICE)
19 DEPARTMENT, in their official capacities,)
and DOES 1-10,)
20 Defendants.)
21)
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1 **I. INTRODUCTION**

2 The City characterizes its locked-storage requirement as “modest” and having “no impact at
3 all on the ability of handgun owners to use their firearms in case of a self-defense emergency.”
4 (Defs.’ Opp’n 1:1-4.) As noted in Plaintiffs’ motion, however, the City’s “modest requirements”
5 are among the most severe in the nation, forcing residents to keep their handguns locked up unless
6 “carried on the person” – under *all* circumstances. Further, the “impact” on one’s ability to use
7 firearms in a self-defense emergency is obvious, especially in the case of a late-night attack – as
8 shown at oral argument in *Heller*, where the Supreme Court found the “no impact” argument
9 humorous. (Pls.’ Mot. 13:11-21, 14:1-13.) Yet the City repeats that claim here. The City’s
10 response to this obvious problem is that: “If Plaintiffs fear nighttime burglary and wish to sleep
11 with their guns holstered to their bodies, they are free to do so under the plain terms of the
12 ordinance.” (Defs.’ Opp’n 10:5-7.) While the Court found the “no impact” claim humorous, it no
13 doubt would find the “sleeping with loaded guns” argument absurd.

14 In similar fashion, the City defends its ammunition ban by claiming Plaintiffs cannot prove
15 that the ammunition in question is “the most commonly used” for self-defense. But Plaintiffs
16 never made that assertion, nor is that the test. The question is whether the ammunition is in
17 “common use.” And it is. That is a fact that the City cannot, and does not, dispute. The City thus
18 flatly bans the sale of protected ammunition – a prohibition that cannot withstand *any* sort of
19 judicial scrutiny in light of *Heller*. Here too, the City’s “modest” restrictions are extreme.

20 There are only two material facts at issue in this case: (1) whether a gun in a locked box is
21 “inoperable” and (2) whether the ammunition law bans sales of ammunition in “common use” for
22 lawful purposes. Both are indisputably true. Because the City cannot explain how to operate a gun
23 in a locked box, or deny that the ammunition banned is in common use, it raises irrelevant facts –
24 some disputed, some not – and demands that this Court balance them. The Supreme Court did not
25 engage in such balancing of facts or “findings” in *Heller* or *McDonald*, nor should this Court do
26 so, here. The City’s laws infringe upon the exercise of a fundamental, enumerated right by law-
27 abiding adults for a lawful purpose – the right’s *core* purpose – within the sanctity of their own
28 homes. Such laws cannot survive any judicial review.

1 **II. JUDGMENT ON THE PLEADINGS IS APPROPRIATE BECAUSE THERE IS NO**
2 **ISSUE OF MATERIAL FACT AND THE CITY ASSERTS NO VIABLE DEFENSE**

3 When brought by a plaintiff, judgment on the pleadings is appropriate when the answer fails
4 to assert a *viable* affirmative defense. *Qwest Commc'ns Corp. v. City of Berkeley*, 208 F.R.D. 288,
5 291 (N.D. Cal. 2002). But, as the City would have it, it should prevail if it asserts *any* affirmative
6 defense, regardless of whether it is supported by the law or by *material* facts. (Defs.' Opp'n 5:1-
7 2.) The City's defenses are supported by neither.

8 Instead, the City has continued its attempt to turn this case into a debate over irrelevant
9 factual issues. The City's efforts thus far include inquiries into whether the challenged ordinances
10 have been enforced against Plaintiffs, the details of every firearm Plaintiffs have possessed since
11 2007, including the serial numbers of those guns, and requests for gun manufacturers' liability
12 disclaimers regarding the storage of firearms. (*See* Defs.'s Interrogs. to Pls. Jackson, Colvin,
13 Boyer, Barsetti, and Golden, attached as Exs. A through E; Defs.' Subpoenas to Produc. Docs. to
14 Winchester Repeating Arms, Smith & Wesson Corp., and Beretta USA Corp., attached as Exs. F
15 through H.) The City now raises the accessibility of gun lockboxes, the sufficiency of fully-
16 jacketed ammunition, and the availability of ammunition in other jurisdictions. And it introduces
17 studies and legislative findings of "fact" to justify its restrictions on core protected conduct.

18 Plaintiffs are not asking the Court to reject factual contentions made by the City. Rather,
19 Plaintiffs note that such facts are not relevant to a determination of whether the government can
20 demand that, if law-abiding adults desire to keep an unlocked firearm in their homes at night, they
21 must sleep with it in a holster attached to their bodies. The City's factual claims are also irrelevant
22 to a determination of whether the government may flatly ban the sale of protected ammunition.

23 It is wholly irrelevant whether Plaintiffs are capable of opening a gun lockbox quickly, of
24 purchasing other ammunition "sufficient" for self-defense purposes, or of traveling outside the
25 city to acquire the banned ammunition. It is further unnecessary for Plaintiffs to show that the
26 banned ammunition is the "*most* commonly used" ammunition; the test is "common use." The
27 validity of the City's laws does not require resolution of any of these factual debates. *See infra*
28 Part III (discussing analysis of Second Amendment challenges); Pls.' Mot. Parts II.A-B (same).

1 The only “factual” issues relevant to whether the City’s gun laws violate the Second
2 Amendment, i.e., that a locked firearm is inoperable and that the banned ammunition is in
3 “common use” for lawful purposes, are not in controversy. It is beyond dispute that a locked
4 firearm is not “operable” (i.e., it is not capable of being fired), and the City does not counter this
5 seemingly obvious point. It is also beyond dispute that the banned ammunition is in “common
6 use” for lawful purposes. Plaintiffs submitted ample judicially noticeable information on this
7 point – and the City itself does not dispute that the ammunition is in “common use.”

8 Looking again to the City’s “findings,” the City cannot legislatively conclude that their
9 justifications are sufficient as a matter of law. Any attempt by the City to rely on those findings
10 that state that the challenged ordinances pose no substantial burden on the right to self-defense in
11 the home, or that the City has a “legitimate, important, and compelling” interest in the regulation,
12 is inappropriate even upon a motion for judgment on the pleadings. Such findings are purely
13 conclusions of law. The Court should not permit the legislature to usurp its authority to resolve
14 the legal questions presented. *See Kelo v. City of New London, Conn.*, 545 U.S. 469, 517-18
15 (2005) (Thomas, J., dissenting) (citing *Payton v. New York*, 445 US. 573, 589-90 (1980)).

16 Finally, the standard for facial challenges set out in *United States v. Salerno*, 481 U.S. 739
17 (1987) does not preclude Plaintiffs’ facial claim. The challenged ordinances are not merely invalid
18 under *some* circumstances or as applied to *some* individuals. They proscribe protected activities
19 *regardless of the circumstances*. The government simply cannot require residents to keep their
20 firearms inoperable in their homes or ban the sale of protected ammunition.

21 **III. STANDARD OF REVIEW**

22 *Heller* and *McDonald*, while not settling on a framework for all Second Amendment
23 challenges, leave little doubt that courts are to assess gun laws based on history and tradition, and
24 not by resorting to interest-balancing tests. To be sure, *Heller* rejects the tiers-of-scrutiny approach
25 the City advocates. *Heller*, 554 U.S. at 628 n.27, 634-35; *see also Heller v. District of Columbia*
26 (*Heller II*), 670 F.3d 1244, 1271-74 (D.C. Cir. 2011) (Kavanaugh, J., dissenting). But if this court
27 adopts a means-end approach, strict scrutiny must apply. There are no factors militating in favor
28 of a lesser standard, so the general rule demanding strict scrutiny of laws that “impinge upon”

1 fundamental rights controls. *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 16-17 (1973).

2 **A. *Heller* Endorses a Scope-Based Analysis, Not a Means-End Approach That**
3 **Necessarily Entails a Balancing of Interests**

4 *Heller* advances a scope-based analytical approach that determines first whether the law
5 restricts activity within the scope of the right as originally understood, and second whether the
6 regulation is so commonplace in our history and traditions that the scope of the fundamental right
7 to keep and bear arms must be understood in light of it. *See Heller v. District of Columbia*, 554
8 U.S. 570, 634-35 (2008); Oral Arg. at 44, *Heller*, 554 U.S. 570 (No. 07-290).

9 The Court's later decision in *McDonald* further underscores the notion that history and
10 tradition, rather than burdens and benefits, should guide analyses of Second Amendment
11 challenges. Like *Heller*, *McDonald* did not use balancing tests and expressly rejected judicial
12 assessment of "the costs and benefits of firearms restrictions," stating that courts should not make
13 "difficult empirical judgments" about the efficacy of particular gun regulations. *McDonald v.*
14 *City of Chicago*, 130 S. Ct. 3020, 3050 (2010). This language is compelling. Means-end tests, like
15 strict or intermediate scrutiny, necessarily require the assessment of the "costs and benefits" of
16 government regulations, as well as "difficult empirical judgments" about their effectiveness.¹ The
17 Court's clear rejection of such inquiries is incompatible with the means-end approach that the City
18 advances. The City's opposition wholly ignores this framework and Plaintiffs' application of it.

19 Instead, the City advances a two-step approach that "asks whether the challenged law
20 burdens conduct that falls within the scope of the Second Amendment right, as historically
21 understood" and, if it does, applies a means-end test chosen based on the severity of the burden on
22 the right to keep and bear arms. (Defs.' Opp'n. 8:1-7.) Under the City's framework, history and
23 tradition serve only as a threshold to determine whether the challenged law implicates the
24 individual right. (*Id.*) But, as explained in Plaintiffs' moving papers, *Heller* and *McDonald* set

25
26 ¹ The City's reliance on "studies" to justify the challenged ordinances' restriction on core
27 conduct "creates exactly the type of problem identified by Justice Scalia in *Heller I*, since when
28 reviewing the constitutionality of an ordinance under a balancing test, as opposed to under a text,
history, and tradition approach, for every study, there can be a credible or convincing rebuttal
study." *See Gowder v. City of Chicago*, No. 11-1304, slip op. at 15 (N.D. Ill. June 19, 2012).

1 forth a test based wholly on text, history, and tradition. (Pls.' Mot. 7:17-21, 9:19-25.)

2 The City's reliance on election law cases, like *Clingman v. Beaver*, 544 U.S. 581 (2005), to
3 bolster its two-step approach is misplaced. The United States Constitution explicitly grants states
4 the broad authority to prescribe reasonable regulations to govern the electoral process. *See*
5 *Tashjian v. Republican Party of Conn.*, 479 U.S. 208, 217 (1986). As such, "States may, and
6 inevitably must, enact reasonable regulations of parties, elections, and ballots to reduce election-
7 and campaign-related disorder." *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358
8 (1997). While the City is correct to cite *Clingman* for the general proposition that *all* laws
9 regulating core fundamental rights need not survive the most exacting scrutiny, it overlooks the
10 constitutionally granted authority that justifies the sliding-scale approach to determining the
11 standard of review applied in each election law case. In the Second Amendment context, however,
12 there is no explicit countervailing constitutional interest that necessitates a lesser standard.

13 This is not to say that a number of circuit courts have not adopted an approach that requires
14 means-end analysis, the vigor of which depends on the severity of the burden. (Defs.' Opp'n 8:1-
15 13.) But they have done so in error. Neither *Heller* nor *McDonald* support adoption of such an
16 approach. And doing so requires those courts to ignore or discount the many passages from *Heller*
17 and *McDonald* that rely on history and tradition and largely condemn the use of interest-balancing
18 tests, and in no event advocate for the adoption of a particular means-end approach. The Ninth
19 Circuit seems to understand the folly of adopting this analysis, having vacated the opinion of a
20 three-judge appellate panel engaging in a similar discussion. *Nordyke v. King*, 664 F.3d 774 (9th
21 Cir. 2011). With no controlling framework in the Ninth Circuit, this Court has the chance to
22 straighten course and choose an analysis more faithful to the guidance of *Heller* and *McDonald*.

23 **B. If the Court, However, Chooses to Adopt a Means-End Test for Second**
24 **Amendment Challenges, Strict Scrutiny Must Apply**

25 Should the Court hold that restrictions on the core right of law-abiding citizens to self-
26 defense in the home are subject to means-end analysis, strict scrutiny must be the test. The City
27 claims that intermediate scrutiny (or less) is appropriate "for all but the most severe of Second
28

1 Amendment deprivations.” (Defs.’ Opp’n 13:16-19.)² But this argument conflicts with the
 2 protection courts afford to core areas of other fundamental, enumerated rights. And it rests on
 3 cases involving some countervailing factor not present in *Heller* (e.g., prohibited person, sensitive
 4 place, unprotected firearm). Here, no such factors are in play.

5 Just as “any law regulating the content of speech is subject to strict scrutiny, . . . any law
 6 that would burden the ‘fundamental,’ core right of self-defense in the home by a law-abiding
 7 citizen would be subject to strict scrutiny.” *United States v. Masciandaro*, 638 F.3d 458, 470 (4th
 8 Cir. 2011). Courts uniformly apply strict scrutiny when restrictions on *core* First Amendment
 9 conduct is concerned, including regulations on the content of speech, *United States v. Playboy*
 10 *Entertainment Group, Inc.*, 529 U.S. 803, 813 (2000),³ political expenditures, *Citizens United v.*
 11 *Fed. Election Comm’n*, __ U.S. __, 130 S. Ct. 876, 898 (2010), and expressive association,
 12 *Roberts v. U.S. Jaycees*, 468 U.S. 609, 623 (1984). In these contexts, courts consider the severity
 13 of the burden a regulation places on core protected conduct *only* in weighing whether the
 14 regulation survives strict scrutiny – *not* in determining the applicable standard of review. *See*
 15 *Citizens United*, 130 S. Ct. at 898-99; *Playboy Entm’t Grp., Inc.*, 529 U.S. at 812-13; *Boy Scouts*
 16 *of America v. Dale*, 530 U.S. 640, 658-59 (2000); *Roberts*, 468 U.S. at 658-59. Here too, where
 17 the laws restrict the *core* Second Amendment right to self-defense in the home by law-abiding
 18 adults, strict scrutiny must apply regardless of the severity of the burden imposed. In short, “strict
 19 scrutiny [is] important to protect the core right of self-defense of a law-abiding citizen in his
 20 home[.]” *Masciandaro*, 638 F.3d at 471.

21 The City argues that Plaintiffs’ challenge is at most entitled to intermediate scrutiny because
 22 the degree of burden on Plaintiffs’ rights is minimal. (Defs.’ Opp’n 15:3-16, 20:1-16.) But this
 23 argument rests on the incorrect premise that the severity of a burden on Plaintiffs’ core protected
 24

25 ² Laws restricting Second Amendment conduct demand more than rational basis review.
 26 Whatever else *Heller* left for future courts to decide, it is clear on this point. 554 U.S. at 628 n.27.

27 ³ The City points to a single speech case in which the court applied intermediate scrutiny.
 28 (Defs.’ Opp’n 8:19-21 (citing *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm’n of N.Y.*, 447
 U.S. 557, 561-65 (1980).) That case, however, is inapposite in that it dealt with the regulation of
 commercial speech – activity not at the core of the First Amendment.

1 conduct is relevant to the level of scrutiny that should be applied. As described above, this
 2 approach derives no support from *Heller* or *McDonald*, and it stands in direct opposition to the
 3 protection courts afford to core areas of enumerated, fundamental rights. In any event, the City’s
 4 restrictions place a heavy burden on Plaintiffs’ Second Amendment rights because they restrict
 5 conduct at the very core of the right, triggering the most exacting standard of review.

6 Further, those courts that have applied intermediate scrutiny have done so in cases
 7 presenting vastly different questions than those presented here – where conduct undoubtedly at the
 8 very core of the Second Amendment is directly implicated. Almost without exception, these cases
 9 do not involve the right to armed self-defense by law-abiding citizens within the home.⁴ In fact,
 10 most involve conduct decidedly *outside* the core Second Amendment right, including possession
 11 by violent criminals, *United States v. Booker*, 644 F.3d 12, 25 (1st Cir. 2011), *United States v.*
 12 *Chester*, 628 F.3d 673, 680, 682-83 (4th Cir. 2010), *United States v. Williams*, 616 F.3d 685, 692
 13 (7th Cir. 2010), *United States v. Skoien*, 614 F.3d 638, 641 (7th Cir. 2010), possession in places
 14 the court determined to be “sensitive,” *Masciandaro*, 638 F.3d at 471, and possession of arms the
 15 court determined are not in “common use” for lawful purposes, *United States v. Marzarella*, 614
 16 F.3d 85 (3d Cir. 2010). The clear implication is that laws that do restrict the core right to armed
 17 self-defense in the home by law-abiding citizens with protected arms, like the laws at issue here,
 18 require *more* exacting scrutiny. Strict scrutiny is that test.

19 **IV. SECTION 4512 VIOLATES THE SECOND AMENDMENT**

20 **A. The City’s Requirement That Handguns Be Kept Locked Up When Not Being** 21 **“Carried” Restricts the Right to Keep and Bear Arms for the “Core Lawful** 22 **Purpose” of Self-Defense in the Home**

23 The City’s locked-storage law plainly restricts the right to keep and bear operable arms
 24 within the home for the “core lawful purpose” of self-defense. The restriction is obvious and
 25 significant. The City fails to address any *material* fact in its answer or opposition that establishes

26 ⁴ The only cases involving firearm possession in the home at all dealt with challenges to mere
 27 permitting or registration laws. Those laws do not directly conflict with core conduct in the
 28 manner of City’s laws, which ban the sale of protected arms and prohibit residents from keeping
 operable firearms in their homes for self-defense. *Heller II*, 670 F.3d at 1254; *Ezell v. City of*
Chicago, 651 F.3d 684 (7th Cir. 2011); *Kwong v. Bloomberg*, No. 11-2356, 2012 WL 995290, at
 *11 (S.D. N.Y. Mar. 26, 2012).

1 otherwise. And no amount of legislative “fact” finding can rationalize away the restriction that the
2 City imposes on conduct at the core of the Second Amendment.

3 It is in the dead of night, when robberies of occupied dwellings are most prevalent, that the
4 City’s locked-storage requirement presents the most obvious restriction. (Pls.’ Mot. 13:2-21
5 (citing Oral Arg. at 83-84, *Heller*, 554 U.S. 570 (No. 07-290).) The law requires Plaintiffs, under
6 threat of criminal penalty, to choose between locking up their handguns through the night when
7 they are at highest risk for attack, or sleep with their loaded guns strapped to their bodies. (Defs.’
8 Opp’n 10:2-7.) The “choice” is as false as it is absurd.

9 It is irrelevant that the City has determined that “there are affordable lockboxes with
10 numeric keypads that provide ready access to a stored gun ‘in just two to three seconds’ and are
11 ‘easy to open in the dark.’ ” (Defs.’ Opp’n 10:8-10.) How quickly one’s firearm might be
12 *rendered* operable (with the right technology) simply has no bearing on whether the City’s
13 requirement infringes Plaintiffs’ core right to keep their arms operable for immediate self-defense
14 in the home. To be sure, physical impossibility to exercise the right to self-defense is not the test
15 for determining whether a firearm restriction is valid. (*See* Pls.’ Mot. 14 n.16.) If it were, *Heller*
16 would have upheld the District’s handgun ban, for long guns remained readily available for armed
17 self-defense. But, as *Heller* found, the District could not save its law just because exercise of the
18 right remained “possible.” 554 U.S. at 629. Similarly, the City’s locked-storage law is not valid
19 because it might be possible to render a firearm operable in time to save one’s life.

20 Further, *Heller* does *not* suggest that locked-storage laws like the City’s are “categorically
21 valid” or even within any of the “categories signaled by the Supreme Court as constitutional.”
22 (Defs.’ Opp’n 12:8-17.) The Court’s statement that its “analysis does [not] suggest the invalidity
23 of laws regulating the storage of firearms to prevent accidents[.]” *Heller*, 554 U.S. at 632, merely
24 reassures state and local governments that storage ordinances are not *necessarily* invalidated by its
25 holding. Such language certainly does not insulate from meaningful judicial review one of the
26 most extreme storage laws remaining in the country – especially considering that *Heller* itself
27 invalidated the only locked-storage law it had the opportunity to consider.

28 ///

1 **B. The City’s Locked-Storage Requirement Cannot Survive *Heller’s* Scope-Based**
2 **Approach; Neither the City’s Answer Nor Its Opposition Refute This**

3 The City has not met its burden to establish that laws requiring people to keep their
4 handguns locked up when in their own homes regardless of the circumstances were part of the
5 historical narrative surrounding the Second Amendment when it was drafted. And Plaintiffs
6 submit that it cannot, for there is no such history or tradition regarding mandatory locked storage.

7 In reviewing potentially relevant history and tradition, both Plaintiffs and the City have
8 referenced the same three Framing-era regulations. (Pls.’ Mot. 14:22-15:12; Defs.’ Opp’n 10:20-
9 11:21.) Not one of those laws, however, establishes a history and tradition of laws that, like the
10 City’s, mandate locked storage of firearms in the home regardless of the circumstances. Two of
11 the ordinances regulated only the storage of large quantities of gunpowder, and were motivated by
12 an expressed desire to prevent widespread fires. *Heller*, 554 U.S. at 631. And the only ordinance
13 that did prohibit the taking of loaded firearms into buildings was similarly aimed at reducing the
14 risk of fire. *Id.* Unlike the City’s generalized interest in preventing accidents, those ordinances do
15 not claim some amorphous regulatory interest in public safety, nor do they reference the harm
16 posed by unsecured firearms. Rather, they are targeted at a specific harm – entirely unrelated to
17 the storage and possession of firearms for self-defense. *See id.* at 632. Plaintiffs assert that there is
18 no history and tradition justifying ordinances like the City’s that mandate the locked storage of
19 firearms in the home regardless of the circumstances, and the City cites to none.

20 In any event, the City cannot justify its extreme locked-storage requirement on so few
21 marginally relevant Framing-era ordinances. *See Heller*, 554 U.S. at 632. This is especially clear
22 considering that the gun storage provisions of nearly every other jurisdiction come no where close
23 to the restriction the City imposes in requiring locked storage at all times. They instead permit gun
24 owners to keep their firearms operable for self-defense as they see fit, but absolve them of liability
25 if an unauthorized person gains access to and misuses their firearms. (Pls.’ Mot. 16:20-24, n.19.)
26 The storage law most similar to the City’s was struck down in *Heller*. 554 U.S. at 635.

27 **C. The City’s Locked-Storage Law Cannot Survive Any Heightened Scrutiny**

28 To pass muster under even intermediate scrutiny, which is not appropriate in this case, the

1 City must show that its locked-storage law is “*substantially* related to an important governmental
 2 objective.” *Clark v. Jeter*, 486 U.S. 456, 461 (1988) (emphasis added). That is, the City must
 3 establish a tight “fit” between the locked-storage requirement and a substantial governmental
 4 interest, a fit “that employs not necessarily the least restrictive means but . . . a means *narrowly*
 5 *tailored* to achieve the desired objective.” *Bd. of Trustees of State Univ. of N.Y. v. Fox*, 492 U.S.
 6 469, 480 (1989) (emphasis added). “The requirement of narrow tailoring is satisfied so long as the
 7 regulation promotes a substantial governmental interest that would be achieved less effectively
 8 absent the regulation, and the means chosen are not substantially broader than necessary to
 9 achieve that interest.” *Ward v. Rock Against Racism*, 491 U.S. 781, 799-800 (1989).

10 Here, examples abound of narrowly tailored laws that promote the same governmental
 11 interest, but do so in a way that at least attempts to respect the rights of law-abiding citizens to
 12 keep their firearms operable for immediate self-defense. (Pls.’ Mot. 16 n.19.) The City’s law is
 13 not so tailored. It instead broadly sweeps up all gun owners and requires they keep their handguns
 14 inoperable regardless of the circumstances. And nothing in the City’s answer, opposition, or
 15 “fact” finding legislation indicates that those more narrowly tailored laws are less effective means
 16 for achieving the City’s governmental interest. Indeed, by absolving gun owners of criminal
 17 and/or civil liability in the case one’s firearms are misused by an unauthorized person, such laws
 18 provide *substantial* incentive to keep guns locked when they are not under the owners’ control.

19 Because the City’s locked-storage requirement cannot survive even intermediate scrutiny,
 20 and because the City makes no serious attempt to justify its regulation under strict scrutiny,⁵ it is
 21 unnecessary to revisit the many reasons it must likewise fail under that test. (Pls.’ Mot. 16-17.)

22 **V. SECTION 613.10(g) VIOLATES THE SECOND AMENDMENT**

23 **A. The City’s Ammunition Sales Ban Restricts Second Amendment Conduct**

24 Section 613.10(g) plainly restricts Plaintiffs’ rights by banning the sale of ammunition in
 25

26 ⁵ The City half-heartedly argues that its “findings that locking guns prevents accidents, thefts,
 27 and suicides” saves its locked-storage regulation even under the exacting strict scrutiny test.
 28 (Defs.’ Opp’n 16:10-12.) The argument is wrong. Nowhere does the City even attempt to establish
 that its regulation is narrowly tailored to its interests in accident, theft, and suicide prevention, as
 it must under strict scrutiny.

1 “common use” for self-defense and by banning civilian purchases of ammunition that does not
 2 “serve a sporting purpose.” The City does so despite *Heller*’s express instruction that the Second
 3 Amendment protects “arms that are in common use” for the “core lawful purpose of self-defense.”
 4 (Pls.’ Mot. 18:12-24.) Regardless, the City claims its ban does not restrict Second Amendment
 5 conduct because the “historic scope of the right tolerates [such] prohibitions” and due to the
 6 availability of fully-jacketed and “sporting purpose” ammunition. (Defs.’ Opp’n 18:19-22.) The
 7 City’s arguments miss the mark on both counts.

8 The existence of any historical, commonplace restrictions is relevant to a determination of
 9 whether a challenged law is a permissible restriction under *Heller*’s scope-based approach, *see*
 10 *supra* Part III.A, not whether the restricted conduct is outside the scope of the right altogether.

11 As for the City’s contention that other types of ammunition are available, this is equally
 12 irrelevant to a determination of whether the restricted conduct falls within the scope of the Second
 13 Amendment. In any event, impossibility is *not* the test. *Heller* is clear that just because some other
 14 arm may “suffice” for self-defense – that does not save a ban on arms in “common use.” “It is no
 15 answer to say, as petitioners do, that it is permissible to ban the possession of handguns so long as
 16 the possession of other firearms (i.e., long guns) is allowed.” *Heller*, 554 U.S. at 629. The court of
 17 appeal in *Heller* made a nearly identical ruling:

18 The District contends that since it only bans one type of firearm, “residents still
 19 have access to hundreds more,” and thus its prohibition does not implicate the
 20 Second Amendment because it does not threaten total disarmament. *We think that*
argument frivolous. It could be similarly contended that all firearms may be banned
 so long as sabers were permitted.

21 *Parker v. District of Columbia*, 478 F.3d 370, 400 (D.C. Cir. 2007) (emphasis added).

22 The initial inquiry under *Heller* properly looks to whether conduct falls within the scope of
 23 the Second Amendment as originally understood. The Supreme Court went on to clarify that the
 24 Second Amendment protects arms “typically possessed by law-abiding citizens for lawful
 25 purposes” or those in “common use.” *Heller*, 554 U.S. at 624-25.”⁶ Plaintiffs’ moving papers
 26 note, and the City does not dispute, that the Second Amendment thus necessarily protects the

27 _____
 28 ⁶ The City incorrectly argues that the banned ammunition must be the “most commonly” used
 ammunition.

1 acquisition of ammunition in “common use” for “lawful purposes.” (Pls.’ Mot. 18:12-20.) As it is
2 beyond dispute that the prohibited ammunition is in “common use” – and because the City itself
3 does not dispute this – the City’s ammunition ban restricts conduct within the scope of the Second
4 Amendment. (Pls.’ Mot. 21:14-19; Req. Jud. Notice, Exs. K-T; *see* Defs.’ Opp’n 16:17-21:7.)

5 **B. Bans on the Sale of Arms in “Common Use” Are Unconstitutional in the**
6 **Wake of *Heller* and *McDonald* – Under Any Standard of Review**

7 Contrary to the City’s assertions, Section 613.10(g) does not merely regulate the manner in
8 which arms may be sold. The City’s ban flatly prohibits the sale of protected ammunition. It
9 cannot be argued that, after *Heller*, a ban on the sale of protected arms would survive judicial
10 review. For the right to keep and bear arms would be meaningless if the government could ban the
11 sale of the very arms that the Second Amendment protects. (Pls.’ Mot. 18:25-27.)

12 **1. There Is No Historical Record Supporting Bans on the Sale of**
13 **Expanding Ammunition or Other Protected Arms**

14 Generally, laws that prohibit access to fundamental rights are unconstitutional. *See Brown*
15 *v. Entm’t Merchs. Ass’n*, ___ U.S. ___, 131 S. Ct. 2729, 2736 (2011) (access to violent video games
16 protected by the First Amendment); *Griswold v. Connecticut*, 381 U.S. 479, 485-86 (1965)
17 (access to contraceptives). In *Heller*, the Supreme Court made clear that bans on protected arms
18 cannot stand – without resorting to means end scrutiny. *Heller*, 554 U.S. at 636. Nothing in our
19 nation’s history suggests tolerance for laws that flatly ban the sale of arms that are in common use.

20 The City nonetheless attempts to justify its ammunition ban by pointing to three state
21 statutes, claiming that prior bans on the sale of common arms have existed throughout American
22 history, thus warranting its ban on the sale of ammunition that is in “common use.” (Defs.’ Opp’n
23 18:9-17.) But three statutes enacted well after the adoption of the Second Amendment are
24 insufficient to establish that the enumerated right should be understood in light of those
25 restrictions. *See Heller*, 554 U.S. at 632.

26 Further, it strains all sense of reason to suggest, as the City does, that these statutes could
27 survive a constitutional challenge in light of *Heller*. To be sure, each of the statutes relied on by
28 the City proscribed the sale of handguns – the very type of firearm *Heller* expressly held to be in
“common use” for lawful purposes and protected by the Second Amendment. 554 U.S. at 628. It

1 is untenable to conclude that, after *Heller*, bans on the sale of protected arms that are in “common
2 use” would survive a constitutional challenge. The City offers no authority suggesting otherwise.

3 **2. The City’s Ban on the Sale of Expanding and/or Fragmenting**
4 **Ammunition Fails Under Any Level of Heightened Scrutiny**

5 The City advances no legitimate reason (or even a rational explanation) why the
6 government may ban the sale of protected arms despite being precluded from banning the
7 possession of those same protected arms. And the City’s blanket sales prohibition is in no way
8 sufficiently tailored to its stated public safety objectives. *See Reno v. Flores*, 507 U.S. 292, 301-02
9 (2008); *Bd. of Trustees of State Univ. of N.Y.*, 492 U.S. at 480. Ultimately, the City’s ammunition
10 ban represents a policy choice as to the types of protected arms it desires its residents to use. But,
11 as *Heller* made clear, such policy choices are off the table when considering commonly used,
12 constitutionally protected, firearms and ammunition. *See* 554 U.S. at 636.

13 Moreover, governmental interests in banning handguns are virtually identical to the City’s
14 purported interests in banning hollow-point ammunition – to decrease violent injuries caused by
15 handguns, whether through criminal misuse, accidents, or suicides through decreased availability
16 of such arms.⁷ Despite these interests, the Supreme Court found the Districts’ handgun ban
17 unconstitutional in *Heller* – making clear that even if the Court *had* adopted a means-end standard
18 of review, that the City’s handgun ban would be unconstitutional under any test. 554 U.S. at 628-
19 29. The City’s ammunition ban is similarly invalid.

20 The City cannot credibly claim that it may ban the sale of protected arms (whether a class
21 of firearms or ammunition), so long as it does not ban their possession. Because the government
22 cannot ban the sale of protected ammunition in “common use” for lawful purposes, the City has
23 not raised a viable defense.

24 ///

25
26 ⁷ The District of Columbia advanced these interests in support of its handgun ban in *Heller*, 554
27 U.S. at 634, and the City itself advanced similar interests when it instituted its own handgun ban.
28 Proposition H, as approved by voters, Gen. Elec. (November 8, 2005) §§ 1-3, invalidated by
Fiscal v. City and County of San Francisco, 158 Cal. App. 4th 895 (Cal. App. 2008) (attempting
to justify ban because “handgun violence is a serious problem” and because handguns contributed
to 67% of firearms-related injuries and deaths).

1 **C. The City’s Ban on the Sale of “Ammunition That Does Not Serve a Sporting**
2 **Purpose” Cannot Survive Judicial Review, Under Any Test**

3 The City’s “sporting purposes”-based ammunition ban is unconstitutional under any
4 standard of review because it directly contravenes the central component of the Second
5 Amendment – individual self-defense. *McDonald*, 130 S. Ct. at 3036.

6 The City’s opposition ignores the Supreme Court’s instruction that individuals have a
7 fundamental right to arms for the core purpose of *self-defense*, regardless of whether such arms
8 are used for *sporting purposes*. Instead, the City spends much of its argument attempting to give
9 its ordinance meaning by looking to federal statutes prohibiting importation of non-sporting arms.
10 But even if these federal statutes were appropriately examined to determine the meaning of
11 Section 613.10(g), neither the existence of these statutes, nor their meaning, save the City’s ban
12 from constitutional infirmity. These statutes, enacted in the latter part of the twentieth century, do
13 not provide the required commonplace historical basis for limiting importation of arms to those
14 that serve a “sporting purpose” – let alone a historical basis for restrictions such as the City’s.
15 Moreover, the drafters of those statutes did not have the benefit of the Supreme Court’s guidance
16 in *Heller* and *McDonald* when crafting them. Finally, these statutes, unlike City’s ammunition
17 ban, do not flatly ban the sale of all non-sporting arms.⁸

18 The City also attempts to characterize its law as a ban on arms that serve no “legitimate
19 purpose” other than criminal activities (Defs.’ Opp’n 21:8-12, 22:13-15); but that is not what its
20 ordinance prohibits. Rather, the City’s ordinance plainly bans the sale of ammunition that “does
21 not serve a *sporting purpose*,” regardless of its suitability for self-defense. If the City wishes to
22 craft an ordinance to prohibit ammunition it maintains is used in crime that serves no legitimate
23 purpose, whether that purpose be self-defense, hunting, or sporting events – that is what it should
24 do. But the government simply cannot, in the wake of *Heller* and *McDonald*, ban the sale of
25

26 ⁸ Though not referenced by the City, 18 U.S.C. § 922(a)(9) *does* prohibit the mere acquisition
27 of non-sporting firearms – by non-resident aliens. (It is unlawful “for any person . . . who does
28 This provision was also enacted in a pre-*Heller* environment, and it has since been challenged.
Dearth v. Holder, 641 F.3d 499 (D.C. Cir. 2011), *remanded to* No. 09-00587 (D.D.C. 2009).

1 ammunition on the premise that it does not serve a “sporting purpose.”

2 The City’s ban is unconstitutional under any standard of review due to its direct conflict
3 with the core right to arms for self-defense. The City has failed to explain why its ordinance is
4 constitutional under *Heller*, as there is no commonplace historical tradition of banning self-
5 defense firearms and ammunition, instead only allowing citizens access to “sporting” arms.

6 Even if this Court were to employ a means-end model of review, the City offers no
7 explanation as to how a law that bans self-defense ammunition but allows “sporting” ammunition
8 would further its interests in public safety. It is illogical to suggest that criminals who might
9 purchase ammunition in San Francisco (or steal it from residents) would use self-defense
10 ammunition in the commission of crimes, but would not commit those crimes using “sporting”
11 ammunition. And the City offers no explanation as to how the public is safer as a result of a law
12 that bans the smallest caliber of ammunition that does not “serve a sporting purpose,” but allows
13 for the sale of much larger rounds so long as they have been used in a sporting event. Moreover,
14 the City’s prohibition on the sale of non-sporting ammunition to all law-abiding citizens lacks the
15 required fit with its purported interests. And in no circumstance is the restriction narrowly
16 tailored, as it must be, to further those interests; this is a point even the City does not dispute.

17 In any event, this analysis is unnecessary because the City’s ban clearly conflicts with the
18 core constitutional guarantee of armed self-defense in the home – without any historical support.

19 **VI. CONCLUSION**

20 This case is important, but not difficult. The City’s restrictions exist at the extreme end of
21 the gun-regulation continuum, they impinge upon core Second Amendment rights in the home,
22 and the material facts are indisputable. Plaintiffs thus ask this Court to declare the restrictions
23 unconstitutional, and grant Plaintiffs’ motion for partial judgment on the pleadings.

24 Date: June 21, 2012

MICHEL & ASSOCIATES, P.C.

25
26 s/ C. D. Michel
27 C. D. Michel
28 Attorney for Plaintiffs

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

4 ESPANOLA JACKSON, PAUL COLVIN,) CASE NO.: CV-09-2143-RS
5 THOMAS BOYER, LARRY BARSETTI,)
6 DAVID GOLDEN, NOEMI MARGARET)
7 ROBINSON, NATIONAL RIFLE) CERTIFICATE OF SERVICE
8 ASSOCIATION OF AMERICA, INC., SAN)
9 FRANCISCO VETERAN POLICE)
10 OFFICERS ASSOCIATION,)

11 Plaintiffs)

12 vs.)

13 CITY AND COUNTY OF SAN)
14 FRANCISCO, THE MAYOR OF)
15 SAN FRANCISCO, AND THE CHIEF)
16 OF THE SAN FRANCISCO POLICE)
17 DEPARTMENT, in their official capacities,)
18 and DOES 1-10,)

19 Defendants.)

20 IT IS HEREBY CERTIFIED THAT:

21 I, the undersigned, am a citizen of the United States and am at least eighteen years of age.
22 My business address is 180 E. Ocean Blvd., Suite 200, Long Beach, California, 90802.

23 I am not a party to the above-entitled action. I have caused service of

24 **PLAINTIFFS' REPLY TO DEFENDANTS' OPPOSITION TO**
25 **MOTION FOR PARTIAL JUDGMENT ON THE PLEADINGS; EXHIBITS "A - I"**

26 on the following party by electronically filing the foregoing with the Clerk of the District Court
27 using its ECF System, which electronically notifies them.

28 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 June 21, 2012.

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

EXHIBIT A

1 DENNIS J. HERRERA, State Bar #139669
 City Attorney
 2 WAYNE SNODGRASS, State Bar #148137
 SHERRI SOKELAND KAISER, State Bar #197986
 3 Deputy City Attorneys
 1 Dr. Carlton B. Goodlett Place
 4 City Hall, Room 234
 San Francisco, California 94102-4682
 5 Telephone: (415) 554-4691
 Facsimile: (415) 554-4747
 6 E-Mail: sherri.kaiser@sfgov.org

7 Attorneys for Defendants
 CITY AND COUNTY OF SAN FRANCISCO,
 8 THE MAYOR OF SAN FRANCISCO and
 9 THE CHIEF OF THE SAN FRANCISCO POLICE DEPARTMENT

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA

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

16 Plaintiffs,

17 vs.

18 CITY AND COUNTY OF SAN
 19 FRANCISCO, THE MAYOR OF SAN
 FRANCISCO, and THE CHIEF OF THE SAN
 20 FRANCISCO POLICE DEPARTMENT, in
 their official capacities,

21 Defendants.
 22

Case No. CV-09-2143-RS

**PLAINTIFF CITY AND COUNTY OF SAN
 FRANCISCO'S INTERROGATORIES TO
 ESPANOLA JACKSON (SET ONE)**

23
 24 REQUESTING PARTY: CITY AND COUNTY OF SAN FRANCISCO
 25 RESPONDING PARTY: ESPANOLA JACKSON
 26 SET NUMBER: ONE
 27

1 Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant City and County of San
2 Francisco hereby requests that Plaintiff Espanola Jackson answer in writing and under oath the
3 following Interrogatories within thirty (30) days of the date of service.
4

5 INSTRUCTIONS

- 6 1. Answers and objections must conform to the requirements of Rule 33(b) of the Federal Rules
7 of Civil Procedure and N. D. Cal. Civil Local Rule 33-1.
- 8 2. Objections on the basis of privilege or work-product protection must be made expressly, and
9 the responsive information or materials withheld on the basis of such an objection must in a log in
10 accordance with Rule 26(b)(5) of the Federal Rules of Civil Procedure and governing case law. The
11 privilege log should be served simultaneously with the answers and objections.
- 12 3. Words used in the Interrogatories should be given their common meaning unless the word or
13 words appear in the following list of definitions, in which case the provided definition should be used.
- 14 4. To the extent required by Rule 26(e) of the Federal Rules of Civil Procedure, you must
15 promptly furnish, in the form of supplemental answers, any information requested in these
16 interrogatories that first becomes known to you after the date of your response.
17

18 DEFINITIONS

- 19 A. Unless otherwise stated, the terms “**and**” and “**or**” are to be read in both the
20 conjunctive and disjunctive and shall encompass all information that would be
21 responsive under a conjunctive reading and all information that would be responsive
22 under a disjunctive reading.
- 23 B. “**Any**” is understood to include and encompass “**all**.” “**All**” also includes “**each**,” and
24 vice versa.
- 25 C. “**Concerning**” means and includes constituting, referencing, explaining, stating,
26 describing, containing, relating to, referring to, reflecting, evidencing, memorializing,
27 repeating, incorporating, reporting, confirming, discussing, listing, summarizing,
28 showing, supporting, refuting, depicting, connected with, embodying, or mentioning.

1 D. "You" and "your" mean Espanola Jackson, plaintiff in the above-captioned lawsuit, her
2 employees, agents, representatives or anyone else acting on her behalf.

3
4 **INTERROGATORIES**

5 INTERROGATORY NO. 1:

6 Describe the circumstances in which you first became aware of San Francisco Police Code sections
7 4512 and 613.10(g), including, but not limited to, the date on which you first became aware of each
8 ordinance, the speaker or document from which you learned of each ordinance, and the content of that
9 communication.

10 INTERROGATORY NO. 2:

11 Identify each firearm that has been in your private residence while in your possession, custody or
12 control at any time since August 2007, including but not limited to its make, model and serial number
13 and the period of time during which you kept that firearm in your home.

14 INTERROGATORY NO. 3:

15 Identify every type of ammunition you have purchased for or used in each of the firearms you
16 identified in response to Interrogatory No. 2, including but not limited to its manufacturer or brand
17 name, caliber, jacket construction, place of purchase and date of purchase.

18 INTERROGATORY NO. 4:

19 Identify by manufacturer or brand name and model every trigger lock, lockbox, or other locking
20 device you have used at any time to secure a firearm while it was in your possession, custody or
21 control, whether in your home or elsewhere.

22 INTERROGATORY NO. 5:

23 Describe every communication, whether written or verbal, between you and any employee or official
24 of the City and County of San Francisco concerning the subject matter of your complaint in this
25 action, including but not limited to the date, medium, participants in and content of the
26 communication.

27 ///

28 ///

1 INTERROGATORY NO. 6:

2 If you have ever been arrested in any jurisdiction for any reason, identify the date, the arresting
3 agency, the alleged offense(s), the charge(s) brought, and the disposition of any charge(s).

4 INTERROGATORY NO. 7:

5 List every permit, license or registration issued to you concerning the possession or use of firearms or
6 ammunition, including its type, date of issue, the issuing agency, the expiration date (if any), any
7 conditions or restrictions it imposes, any period during which it was suspended or revoked, and the
8 reason given for the suspension or revocation.

9 INTERROGATORY NO. 8:

10 List every permit, license or registration concerning the use or possession of firearms for which you
11 have applied but which application was denied, including its type, the issuing agency, the date you
12 applied, and the reason given for the denial.

13 INTERROGATORY NO. 9:

14 Identify every person and organization other than your counsel with whom you have discussed or
15 otherwise communicated about the subject matter of this lawsuit or your participation in it at any time,
16 whether such discussion or communications were verbal or written, the subject matter of those
17 discussions or communications, and the date or dates on which such discussions or communications
18 took place.

19 INTERROGATORY NO. 10:

20 Describe any training you have had in gun safety, including its date, the person or agency that
21 provided the training, the length of the training, and its general content.

22 INTERROGATORY NO. 11:

23 Describe any training you have had in using a firearm in self defense, including its date, the person or
24 agency that provided the training, the length of the training, and its general content.

25 INTERROGATORY NO. 12:

26 Identify every residence in which you have lived during the last ten years, including its address, its
27 owner, and the period of time in which you lived at that location.

28 ///

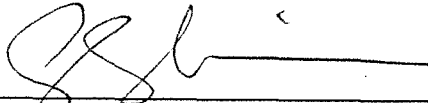
1 INTERROGATORY NO. 13:

2 For each residence you identified in response to Interrogatory No. 12, provide the full name of any
3 person who lived with you in that residence at any time, that person's approximate age at the time, and
4 the most recent address, telephone number, email address or other contact information you have for
5 that person.

6
7 Dated: November 17, 2011

8 DENNIS J. HERRERA
9 City Attorney
10 WAYNE SNODGRASS
11 SHERRI SOKELAND KAISER
12 Deputy City Attorneys

13
14 By: _____


15 SHERRI SOKELAND KAISER

16
17 Attorneys for Defendants CITY AND COUNTY OF
18 SAN FRANCISCO, THE MAYOR OF SAN
19 FRANCISCO and THE CHIEF OF THE SAN
20 FRANCISCO POLICE DEPARTMENT
21
22
23
24
25
26
27
28

EXHIBIT B

1 DENNIS J. HERRERA, State Bar #139669
 City Attorney
 2 WAYNE SNODGRASS, State Bar #148137
 SHERRI SOKELAND KAISER, State Bar #197986
 3 Deputy City Attorneys
 1 Dr. Carlton B. Goodlett Place
 4 City Hall, Room 234
 San Francisco, California 94102-4682
 5 Telephone: (415) 554-4691
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 6 E-Mail: sherri.kaiser@sfgov.org

7 Attorneys for Defendants
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 8 THE MAYOR OF SAN FRANCISCO and
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 9

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA

12 ESPANOLA JACKSON, PAUL COLVIN,
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16 Plaintiffs,

17 vs.

18 CITY AND COUNTY OF SAN
 19 FRANCISCO, THE MAYOR OF SAN
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 20 FRANCISCO POLICE DEPARTMENT, in
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 21

22 Defendants.

Case No. CV-09-2143-RS

**PLAINTIFF CITY AND COUNTY OF SAN
 FRANCISCO'S INTERROGATORIES TO
 PAUL COLVIN (SET ONE)**

23
 24 REQUESTING PARTY: CITY AND COUNTY OF SAN FRANCISCO

25 RESPONDING PARTY: PAUL COLVIN

26 SET NUMBER: ONE
 27
 28

1 Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant City and County of San
2 Francisco hereby requests that Plaintiff Paul Colvin answer in writing and under oath the following
3 Interrogatories within thirty (30) days of the date of service.
4

5 **INSTRUCTIONS**

- 6 1. Answers and objections must conform to the requirements of Rule 33(b) of the Federal Rules
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- 8 2. Objections on the basis of privilege or work-product protection must be made expressly, and
9 the responsive information or materials withheld on the basis of such an objection must in a log in
10 accordance with Rule 26(b)(5) of the Federal Rules of Civil Procedure and governing case law. The
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17

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- 23 B. “**Any**” is understood to include and encompass “**all**.” “**All**” also includes “**each**,” and
24 vice versa.
- 25 C. “**Concerning**” means and includes constituting, referencing, explaining, stating,
26 describing, containing, relating to, referring to, reflecting, evidencing, memorializing,
27 repeating, incorporating, reporting, confirming, discussing, listing, summarizing,
28 showing, supporting, refuting, depicting, connected with, embodying, or mentioning.

1 D. "You" and "your" mean Paul Colvin, plaintiff in the above-captioned lawsuit, his
2 employees, agents, representatives or anyone else acting on his behalf.
3

4 **INTERROGATORIES**

5 INTERROGATORY NO. 1:

6 Describe the circumstances in which you first became aware of San Francisco Police Code sections
7 4512 and 613.10(g), including, but not limited to, the date on which you first became aware of each
8 ordinance, the speaker or document from which you learned of each ordinance, and the content of that
9 communication.

10 INTERROGATORY NO. 2:

11 Identify each firearm that has been in your private residence while in your possession, custody or
12 control at any time since August 2007, including but not limited to its make, model and serial number
13 and the period of time during which you kept that firearm in your home.

14 INTERROGATORY NO. 3:

15 Identify every type of ammunition you have purchased for or used in each of the firearms you
16 identified in response to Interrogatory No. 2, including but not limited to its manufacturer or brand
17 name, caliber, jacket construction, place of purchase and date of purchase.

18 INTERROGATORY NO. 4:

19 Identify by manufacturer or brand name and model every trigger lock, lockbox, or other locking
20 device you have used at any time to secure a firearm while it was in your possession, custody or
21 control, whether in your home or elsewhere.

22 INTERROGATORY NO. 5:

23 Describe every communication, whether written or verbal, between you and any employee or official
24 of the City and County of San Francisco concerning the subject matter of your complaint in this
25 action, including but not limited to the date, medium, participants in and content of the
26 communication.
27
28

1 INTERROGATORY NO. 6:

2 If you have ever been arrested in any jurisdiction for any reason, identify the date, the arresting
3 agency, the alleged offense(s), the charge(s) brought, and the disposition of any charge(s).

4 INTERROGATORY NO. 7:

5 List every permit, license or registration issued to you concerning the possession or use of firearms or
6 ammunition, including its type, date of issue, the issuing agency, the expiration date (if any), any
7 conditions or restrictions it imposes, any period during which it was suspended or revoked, and the
8 reason given for the suspension or revocation.

9 INTERROGATORY NO. 8:

10 List every permit, license or registration concerning the use or possession of firearms for which you
11 have applied but which application was denied, including its type, the issuing agency, the date you
12 applied, and the reason given for the denial.

13 INTERROGATORY NO. 9:

14 Identify every person and organization other than your counsel with whom you have discussed or
15 otherwise communicated about the subject matter of this lawsuit or your participation in it at any time,
16 whether such discussion or communications were verbal or written, the subject matter of those
17 discussions or communications, and the date or dates on which such discussions or communications
18 took place.

19 INTERROGATORY NO. 10:

20 Describe any training you have had in gun safety, including its date, the person or agency that
21 provided the training, the length of the training, and its general content.

22 INTERROGATORY NO. 11:

23 Describe any training you have had in using a firearm in self defense, including its date, the person or
24 agency that provided the training, the length of the training, and its general content.

25 INTERROGATORY NO. 12:

26 Identify every residence in which you have lived during the last ten years, including its address, its
27 owner, and the period of time in which you lived at that location.

28

1 INTERROGATORY NO. 13:

2 For each residence you identified in response to Interrogatory No. 12, provide the full name of any
3 person who lived with you in that residence at any time, that person's approximate age at the time, and
4 the most recent address, telephone number, email address or other contact information you have for
5 that person.

6
7 Dated: November 17, 2011

8 DENNIS J. HERRERA
9 City Attorney
10 WAYNE SNODGRASS
11 SHERRI SOKELAND KAISER
12 Deputy City Attorneys

13
14 By: 
15 SHERRI SOKELAND KAISER

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26
27
28
Attorneys for Defendants CITY AND COUNTY OF
SAN FRANCISCO, THE MAYOR OF SAN
FRANCISCO and THE CHIEF OF THE SAN
FRANCISCO POLICE DEPARTMENT

EXHIBIT C

1 DENNIS J. HERRERA, State Bar #139669
City Attorney
2 WAYNE SNODGRASS, State Bar #148137
SHERRI SOKELAND KAISER, State Bar #197986
3 Deputy City Attorneys
1 Dr. Carlton B. Goodlett Place
4 City Hall, Room 234
San Francisco, California 94102-4682
5 Telephone: (415) 554-4691
Facsimile: (415) 554-4747
6 E-Mail: sherri.kaiser@sfgov.org

7 Attorneys for Defendants
CITY AND COUNTY OF SAN FRANCISCO,
8 THE MAYOR OF SAN FRANCISCO and
THE CHIEF OF THE SAN FRANCISCO POLICE DEPARTMENT
9

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

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

16 Plaintiffs,

17 vs.
18

19 CITY AND COUNTY OF SAN
FRANCISCO, THE MAYOR OF SAN
FRANCISCO, and THE CHIEF OF THE SAN
20 FRANCISCO POLICE DEPARTMENT, in
their official capacities,
21

22 Defendants.

Case No. CV-09-2143-RS

**PLAINTIFF CITY AND COUNTY OF SAN
FRANCISCO'S INTERROGATORIES TO
THOMAS BOYER (SET ONE)**

23
24 REQUESTING PARTY: CITY AND COUNTY OF SAN FRANCISCO
25 RESPONDING PARTY: THOMAS BOYER
26 SET NUMBER: ONE
27
28

1 Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant City and County of San
2 Francisco hereby requests that Plaintiff Thomas Boyer answer in writing and under oath the following
3 Interrogatories within thirty (30) days of the date of service.

4
5 **INSTRUCTIONS**

- 6 1. Answers and objections must conform to the requirements of Rule 33(b) of the Federal Rules
7 of Civil Procedure and N. D. Cal. Civil Local Rule 33-1.
- 8 2. Objections on the basis of privilege or work-product protection must be made expressly, and
9 the responsive information or materials withheld on the basis of such an objection must in a log in
10 accordance with Rule 26(b)(5) of the Federal Rules of Civil Procedure and governing case law. The
11 privilege log should be served simultaneously with the answers and objections.
- 12 3. Words used in the Interrogatories should be given their common meaning unless the word or
13 words appear in the following list of definitions, in which case the provided definition should be used.
- 14 4. To the extent required by Rule 26(e) of the Federal Rules of Civil Procedure, you must
15 promptly furnish, in the form of supplemental answers, any information requested in these
16 interrogatories that first becomes known to you after the date of your response.

17
18 **DEFINITIONS**

- 19 A. Unless otherwise stated, the terms “**and**” and “**or**” are to be read in both the
20 conjunctive and disjunctive and shall encompass all information that would be
21 responsive under a conjunctive reading and all information that would be responsive
22 under a disjunctive reading.
- 23 B. “**Any**” is understood to include and encompass “**all**.” “**All**” also includes “**each**,” and
24 vice versa.
- 25 C. “**Concerning**” means and includes constituting, referencing, explaining, stating,
26 describing, containing, relating to, referring to, reflecting, evidencing, memorializing,
27 repeating, incorporating, reporting, confirming, discussing, listing, summarizing,
28 showing, supporting, refuting, depicting, connected with, embodying, or mentioning.

1 D. "You" and "your" mean Thomas Boyer, plaintiff in the above-captioned lawsuit, his
2 employees, agents, representatives or anyone else acting on his behalf.
3

4 **INTERROGATORIES**

5 INTERROGATORY NO. 1:

6 Describe the circumstances in which you first became aware of San Francisco Police Code sections
7 4512 and 613.10(g), including, but not limited to, the date on which you first became aware of each
8 ordinance, the speaker or document from which you learned of each ordinance, and the content of that
9 communication.

10 INTERROGATORY NO. 2:

11 Identify each firearm that has been in your private residence while in your possession, custody or
12 control at any time since August 2007, including but not limited to its make, model and serial number
13 and the period of time during which you kept that firearm in your home.

14 INTERROGATORY NO. 3:

15 Identify every type of ammunition you have purchased for or used in each of the firearms you
16 identified in response to Interrogatory No. 2, including but not limited to its manufacturer or brand
17 name, caliber, jacket construction, place of purchase and date of purchase.

18 INTERROGATORY NO. 4:

19 Identify by manufacturer or brand name and model every trigger lock, lockbox, or other locking
20 device you have used at any time to secure a firearm while it was in your possession, custody or
21 control, whether in your home or elsewhere.

22 INTERROGATORY NO. 5:

23 Describe every communication, whether written or verbal, between you and any employee or official
24 of the City and County of San Francisco concerning the subject matter of your complaint in this
25 action, including but not limited to the date, medium, participants in and content of the
26 communication.
27
28

1 INTERROGATORY NO. 6:

2 If you have ever been arrested in any jurisdiction for any reason, identify the date, the arresting
3 agency, the alleged offense(s), the charge(s) brought, and the disposition of any charge(s).

4 INTERROGATORY NO. 7:

5 List every permit, license or registration issued to you concerning the possession or use of firearms or
6 ammunition, including its type, date of issue, the issuing agency, the expiration date (if any), any
7 conditions or restrictions it imposes, any period during which it was suspended or revoked, and the
8 reason given for the suspension or revocation.

9 INTERROGATORY NO. 8:

10 List every permit, license or registration concerning the use or possession of firearms for which you
11 have applied but which application was denied, including its type, the issuing agency, the date you
12 applied, and the reason given for the denial.

13 INTERROGATORY NO. 9:

14 Identify every person and organization other than your counsel with whom you have discussed or
15 otherwise communicated about the subject matter of this lawsuit or your participation in it at any time,
16 whether such discussion or communications were verbal or written, the subject matter of those
17 discussions or communications, and the date or dates on which such discussions or communications
18 took place.

19 INTERROGATORY NO. 10:

20 Describe any training you have had in gun safety, including its date, the person or agency that
21 provided the training, the length of the training, and its general content.

22 INTERROGATORY NO. 11:

23 Describe any training you have had in using a firearm in self defense, including its date, the person or
24 agency that provided the training, the length of the training, and its general content.

25 INTERROGATORY NO. 12:

26 Identify every residence in which you have lived during the last ten years, including its address, its
27 owner, and the period of time in which you lived at that location.

1 INTERROGATORY NO. 13:

2 For each residence you identified in response to Interrogatory No. 12, provide the full name of any
3 person who lived with you in that residence at any time, that person's approximate age at the time, and
4 the most recent address, telephone number, email address or other contact information you have for
5 that person.

6
7 Dated: November 17, 2011

8 DENNIS J. HERRERA
9 City Attorney
10 WAYNE SNODGRASS
11 SHERRI SOKELAND KAISER
12 Deputy City Attorneys

13
14 By: 
15 _____
16 SHERRI SOKELAND KAISER

17
18 Attorneys for Defendants CITY AND COUNTY OF
19 SAN FRANCISCO, THE MAYOR OF SAN
20 FRANCISCO and THE CHIEF OF THE SAN
21 FRANCISCO POLICE DEPARTMENT

EXHIBIT D

1 DENNIS J. HERRERA, State Bar #139669
 City Attorney
 2 WAYNE SNODGRASS, State Bar #148137
 SHERRI SOKELAND KAISER, State Bar #197986
 3 Deputy City Attorneys
 1 Dr. Carlton B. Goodlett Place
 4 City Hall, Room 234
 San Francisco, California 94102-4682
 5 Telephone: (415) 554-4691
 Facsimile: (415) 554-4747
 6 E-Mail: sherri.kaiser@sfgov.org

7 Attorneys for Defendants
 CITY AND COUNTY OF SAN FRANCISCO,
 8 THE MAYOR OF SAN FRANCISCO and
 THE CHIEF OF THE SAN FRANCISCO POLICE DEPARTMENT
 9

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA

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

Case No. CV-09-2143-RS

**PLAINTIFF CITY AND COUNTY OF SAN
 FRANCISCO'S INTERROGATORIES TO
 LARRY BARSETTI (SET ONE)**

16
 17 Plaintiffs,

18 vs.

19 CITY AND COUNTY OF SAN
 FRANCISCO, THE MAYOR OF SAN
 20 FRANCISCO, and THE CHIEF OF THE SAN
 FRANCISCO POLICE DEPARTMENT, in
 their official capacities,

21
 22 Defendants.

23
 24 REQUESTING PARTY: CITY AND COUNTY OF SAN FRANCISCO

25 RESPONDING PARTY: LARRY BARSETTI

26 SET NUMBER: ONE
 27
 28

1 Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant City and County of San
2 Francisco hereby requests that Plaintiff Larry Barsetti answer in writing and under oath the following
3 Interrogatories within thirty (30) days of the date of service.
4

5 **INSTRUCTIONS**

6 1. Answers and objections must conform to the requirements of Rule 33(b) of the Federal
7 Rules of Civil Procedure and N. D. Cal. Civil Local Rule 33-1.

8 2. Objections on the basis of privilege or work-product protection must be made
9 expressly, and the responsive information or materials withheld on the basis of such an objection must
10 in a log in accordance with Rule 26(b)(5) of the Federal Rules of Civil Procedure and governing case
11 law. The privilege log should be served simultaneously with the answers and objections.

12 3. Words used in the Interrogatories should be given their common meaning unless the
13 word or words appear in the following list of definitions, in which case the provided definition should
14 be used.

15 4. To the extent required by Rule 26(e) of the Federal Rules of Civil Procedure, you must
16 promptly furnish, in the form of supplemental answers, any information requested in these
17 interrogatories that first becomes known to you after the date of your response.
18

19 **DEFINITIONS**

20 A. Unless otherwise stated, the terms **“and”** and **“or”** are to be read in both the
21 conjunctive and disjunctive and shall encompass all information that would be
22 responsive under a conjunctive reading and all information that would be responsive
23 under a disjunctive reading.

24 B. **“Any”** is understood to include and encompass **“all.”** **“All”** also includes **“each,”** and
25 vice versa.

26 C. **“Concerning”** means and includes constituting, referencing, explaining, stating,
27 describing, containing, relating to, referring to, reflecting, evidencing, memorializing,
28

1 repeating, incorporating, reporting, confirming, discussing, listing, summarizing,
2 showing, supporting, refuting, depicting, connected with, embodying, or mentioning.

3 D. "You" and "your" mean Larry Barsetti, plaintiff in the above-captioned lawsuit, his
4 employees, agents, representatives or anyone else acting on his behalf.

5
6 **INTERROGATORIES**

7 INTERROGATORY NO. 1:

8 Describe the circumstances in which you first became aware of San Francisco Police Code
9 sections 4512 and 613.10(g), including, but not limited to, the date on which you first became aware of
10 each ordinance, the speaker or document from which you learned of each ordinance, and the content of
11 that communication.

12 INTERROGATORY NO. 2:

13 Identify each firearm that has been in your private residence while in your possession, custody
14 or control at any time since August 2007, including but not limited to its make, model and serial
15 number and the period of time during which you kept that firearm in your home.

16 INTERROGATORY NO. 3:

17 Identify every type of ammunition you have purchased for or used in each of the firearms you
18 identified in response to Interrogatory No. 2, including but not limited to its manufacturer or brand
19 name, caliber, jacket construction, place of purchase and date of purchase.

20 INTERROGATORY NO. 4:

21 Identify by manufacturer or brand name and model every trigger lock, lockbox, or other
22 locking device you have used at any time to secure a firearm while it was in your possession, custody
23 or control, whether in your home or elsewhere.

24 INTERROGATORY NO. 5:

25 Describe every communication, whether written or verbal, between you and any employee or
26 official of the City and County of San Francisco concerning the subject matter of your complaint in
27 this action, including but not limited to the date, medium, participants in and content of the
28 communication.

1 INTERROGATORY NO. 6:

2 If you have ever been arrested in any jurisdiction for any reason, identify the date, the arresting
3 agency, the alleged offense(s), the charge(s) brought, and the disposition of any charge(s).

4 INTERROGATORY NO. 7:

5 List every permit, license or registration issued to you concerning the possession or use of
6 firearms or ammunition, including its type, date of issue, the issuing agency, the expiration date (if
7 any), any conditions or restrictions it imposes, any period during which it was suspended or revoked,
8 and the reason given for the suspension or revocation.

9 INTERROGATORY NO. 8:

10 List every permit, license or registration concerning the use or possession of firearms for which
11 you have applied but which application was denied, including its type, the issuing agency, the date you
12 applied, and the reason given for the denial.

13 INTERROGATORY NO. 9:

14 Identify every person and organization other than your counsel with whom you have discussed
15 or otherwise communicated about the subject matter of this lawsuit or your participation in it at any
16 time, whether such discussion or communications were verbal or written, the subject matter of those
17 discussions or communications, and the date or dates on which such discussions or communications
18 took place.

19 INTERROGATORY NO. 10:

20 Describe any training you have had in gun safety, including its date, the person or agency that
21 provided the training, the length of the training, and its general content.

22 INTERROGATORY NO. 11:

23 Describe any training you have had in using a firearm in self defense, including its date, the
24 person or agency that provided the training, the length of the training, and its general content.

25 INTERROGATORY NO. 12:

26 Identify every residence in which you have lived during the last ten years, including its
27 address, its owner, and the period of time in which you lived at that location.

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INTERROGATORY NO. 13:

For each residence you identified in response to Interrogatory No. 12, provide the full name of any person who lived with you in that residence at any time, that person's approximate age at the time, and the most recent address, telephone number, email address or other contact information you have for that person.

Dated: November 17, 2011

DENNIS J. HERRERA
City Attorney
WAYNE SNODGRASS
SHERRI SOKELAND KAISER
Deputy City Attorneys

By: 
SHERRI SOKELAND KAISER

Attorneys for Defendants CITY AND COUNTY OF
SAN FRANCISCO, THE MAYOR OF SAN
FRANCISCO and THE CHIEF OF THE SAN
FRANCISCO POLICE DEPARTMENT

EXHIBIT E

1 DENNIS J. HERRERA, State Bar #139669
 City Attorney
 2 WAYNE SNODGRASS, State Bar #148137
 SHERRI SOKELAND KAISER, State Bar #197986
 3 Deputy City Attorneys
 1 Dr. Carlton B. Goodlett Place
 4 City Hall, Room 234
 San Francisco, California 94102-4682
 5 Telephone: (415) 554-4691
 Facsimile: (415) 554-4747
 6 E-Mail: sherri.kaiser@sfgov.org

7 Attorneys for Defendants
 CITY AND COUNTY OF SAN FRANCISCO,
 8 THE MAYOR OF SAN FRANCISCO and
 THE CHIEF OF THE SAN FRANCISCO POLICE DEPARTMENT
 9

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA

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

16 Plaintiffs,

17 vs.

18 CITY AND COUNTY OF SAN
 19 FRANCISCO, THE MAYOR OF SAN
 FRANCISCO, and THE CHIEF OF THE SAN
 20 FRANCISCO POLICE DEPARTMENT, in
 their official capacities,

21 Defendants.
 22

Case No. CV-09-2143-RS

**DEFENDANT CITY AND COUNTY OF SAN
 FRANCISCO'S INTERROGATORIES TO
 PLAINTIFF DAVID GOLDEN (SET ONE)**

23
 24 REQUESTING PARTY: CITY AND COUNTY OF SAN FRANCISCO
 25 RESPONDING PARTY: DAVID GOLDEN
 26 SET NUMBER: ONE
 27

1 Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant City and County of San
2 Francisco hereby requests that Plaintiff David Golden answer in writing and under oath the following
3 Interrogatories within thirty (30) days of the date of service.

4
5 **INSTRUCTIONS**

6 1. Answers and objections must conform to the requirements of Rule 33(b) of the Federal
7 Rules of Civil Procedure and N. D. Cal. Civil Local Rule 33-1.

8 2. Objections on the basis of privilege or work-product protection must be made
9 expressly, and the responsive information or materials withheld on the basis of such an objection must
10 in a log in accordance with Rule 26(b)(5) of the Federal Rules of Civil Procedure and governing case
11 law. The privilege log should be served simultaneously with the answers and objections.

12 3. Words used in the Interrogatories should be given their common meaning unless the
13 word or words appear in the following list of definitions, in which case the provided definition should
14 be used:

15 4. To the extent required by Rule 26(e) of the Federal Rules of Civil Procedure, you must
16 promptly furnish, in the form of supplemental answers, any information requested in these
17 interrogatories that first becomes known to you after the date of your response.

18 **DEFINITIONS**

19 A. Unless otherwise stated, the terms **“and”** and **“or”** are to be read in both the
20 conjunctive and disjunctive and shall encompass all information that would be responsive under a
21 conjunctive reading and all information that would be responsive under a disjunctive reading.

22 B. **“Any”** is understood to include and encompass **“all.”** **“All”** also includes **“each,”** and
23 vice versa.

24 C. **“Concerning”** means and includes constituting, referencing, explaining, stating,
25 describing, containing, relating to, referring to, reflecting, evidencing, memorializing, repeating,
26 incorporating, reporting, confirming, discussing, listing, summarizing, showing, supporting, refuting,
27 depicting, connected with, embodying, or mentioning.
28

1 D. "You" and "your" mean David Golden, plaintiff in the above-captioned lawsuit, his
2 employees, agents, representatives or anyone else acting on his behalf.

3 **INTERROGATORIES**

4 INTERROGATORY NO. 1:

5 Describe the circumstances in which you first became aware of San Francisco Police Code
6 sections 4512 and 613.10(g), including, but not limited to, the date on which you first became aware of
7 each ordinance, the speaker or document from which you learned of each ordinance, and the content of
8 that communication.

9 INTERROGATORY NO. 2:

10 Identify each firearm that has been in your private residence while in your possession, custody
11 or control at any time since August 2007, including but not limited to its make, model and serial
12 number and the period of time during which you kept that firearm in your home.

13 INTERROGATORY NO. 3:

14 Identify every type of ammunition you have purchased for or used in each of the firearms you
15 identified in response to Interrogatory No. 2, including but not limited to its manufacturer or brand
16 name, caliber, jacket construction, place of purchase and date of purchase.

17 INTERROGATORY NO. 4:

18 Identify by manufacturer or brand name and model every trigger lock, lockbox, or other
19 locking device you have used at any time to secure a firearm while it was in your possession, custody
20 or control, whether in your home or elsewhere.

21 INTERROGATORY NO. 5:

22 Describe every communication, whether written or verbal, between you and any employee or
23 official of the City and County of San Francisco concerning the subject matter of your complaint in
24 this action, including but not limited to the date, medium, participants in and content of the
25 communication.

26 INTERROGATORY NO. 6:

27 If you have ever been arrested in any jurisdiction for any reason, identify the date, the arresting
28 agency, the alleged offense(s), the charge(s) brought, and the disposition of any charge(s).

1 INTERROGATORY NO. 7:

2 List every permit, license or registration issued to you concerning the possession or use of
3 firearms or ammunition, including its type, date of issue, the issuing agency, the expiration date (if
4 any), any conditions or restrictions it imposes, any period during which it was suspended or revoked,
5 and the reason given for the suspension or revocation.

6 INTERROGATORY NO. 8:

7 List every permit, license or registration concerning the use or possession of firearms for which
8 you have applied but which application was denied, including its type, the issuing agency, the date you
9 applied, and the reason given for the denial.

10 INTERROGATORY NO. 9:

11 Identify every person and organization other than your counsel with whom you have discussed
12 or otherwise communicated about the subject matter of this lawsuit or your participation in it at any
13 time, whether such discussion or communications were verbal or written, the subject matter of those
14 discussions or communications, and the date or dates on which such discussions or communications
15 took place.

16 INTERROGATORY NO. 10:

17 Describe any training you have had in gun safety, including its date, the person or agency that
18 provided the training, the length of the training, and its general content.

19 INTERROGATORY NO. 11:

20 Describe any training you have had in using a firearm in self defense, including its date, the
21 person or agency that provided the training, the length of the training, and its general content.

22 INTERROGATORY NO. 12:

23 Identify every residence in which you have lived during the last ten years, including its
24 address, its owner, and the period of time in which you lived at that location.

25 INTERROGATORY NO. 13:

26 For each residence you identified in response to Interrogatory No. 12, provide the full name of
27 any person who lived with you in that residence at any time, that person's approximate age at the time,
28

1 and the most recent address, telephone number, email address or other contact information you have
2 for that person.

3

4 Dated: November 17, 2011

5

DENNIS J. HERRERA
City Attorney
WAYNE SNODGRASS
SHERRI SOKELAND KAISER
Deputy City Attorneys

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7

8

By: 

SHERRI SOKELAND KAISER

9

10

Attorneys for Defendants CITY AND COUNTY OF
SAN FRANCISCO, THE MAYOR OF SAN
FRANCISCO and THE CHIEF OF THE SAN
FRANCISCO POLICE DEPARTMENT

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EXHIBIT F

1 DENNIS J. HERRERA, State Bar #139669
 City Attorney
 2 WAYNE SNODGRASS, State Bar #148137
 SHERRI SOKELAND KAISER, State Bar #197986
 3 Deputy City Attorneys
 1 Dr. Carlton B. Goodlett Place
 4 City Hall, Room 234
 San Francisco, California 94102-4682
 5 Telephone: (415) 554-4691
 Facsimile: (415) 554-4747
 6 E-Mail: sherri.kaiser@sfgov.org

7 Attorneys for Defendants
 CITY AND COUNTY OF SAN FRANCISCO,
 8 THE MAYOR OF SAN FRANCISCO and
 THE CHIEF OF THE SAN FRANCISCO POLICE DEPARTMENT
 9

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA

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

16 Plaintiffs,

17 vs.

18 CITY AND COUNTY OF SAN
 19 FRANCISCO, THE MAYOR OF SAN
 FRANCISCO, and THE CHIEF OF THE SAN
 20 FRANCISCO POLICE DEPARTMENT, in
 their official capacities,
 21

22 Defendants.

Case No. CV-09-2143-RS

**PLAINTIFF CITY AND COUNTY OF SAN
 FRANCISCO'S INTERROGATORIES TO
 NOEMI MARGARET ROBINSON (SET ONE)**

23
 24 REQUESTING PARTY: CITY AND COUNTY OF SAN FRANCISCO
 25 RESPONDING PARTY: NOEMI MARGARET ROBINSON
 26 SET NUMBER: ONE
 27
 28

1 Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant City and County of San
2 Francisco hereby requests that Plaintiff Noemi Margaret Robinson answer in writing and under oath
3 the following Interrogatories within thirty (30) days of the date of service.
4

5 INSTRUCTIONS

- 6 1. Answers and objections must conform to the requirements of Rule 33(b) of the Federal Rules
7 of Civil Procedure and N. D. Cal. Civil Local Rule 33-1.
- 8 2. Objections on the basis of privilege or work-product protection must be made expressly, and
9 the responsive information or materials withheld on the basis of such an objection must in a log in
10 accordance with Rule 26(b)(5) of the Federal Rules of Civil Procedure and governing case law. The
11 privilege log should be served simultaneously with the answers and objections.
- 12 3. Words used in the Interrogatories should be given their common meaning unless the word or
13 words appear in the following list of definitions, in which case the provided definition should be used.
- 14 4. To the extent required by Rule 26(e) of the Federal Rules of Civil Procedure, you must
15 promptly furnish, in the form of supplemental answers, any information requested in these
16 interrogatories that first becomes known to you after the date of your response.
17

18 DEFINITIONS

- 19 A. Unless otherwise stated, the terms “**and**” and “**or**” are to be read in both the
20 conjunctive and disjunctive and shall encompass all information that would be
21 responsive under a conjunctive reading and all information that would be responsive
22 under a disjunctive reading.
- 23 B. “**Any**” is understood to include and encompass “**all**.” “**All**” also includes “**each**,” and
24 vice versa.
- 25 C. “**Concerning**” means and includes constituting, referencing, explaining, stating,
26 describing, containing, relating to, referring to, reflecting, evidencing, memorializing,
27 repeating, incorporating, reporting, confirming, discussing, listing, summarizing,
28 showing, supporting, refuting, depicting, connected with, embodying, or mentioning.

1 D. "You" and "your" mean Noemi Margaret Robinson, plaintiff in the above-captioned
2 lawsuit, her employees, agents, representatives or anyone else acting on her behalf.
3

4 **INTERROGATORIES**

5 INTERROGATORY NO. 1:

6 Describe the circumstances in which you first became aware of San Francisco Police Code sections
7 4512 and 613.10(g), including, but not limited to, the date on which you first became aware of each
8 ordinance, the speaker or document from which you learned of each ordinance, and the content of that
9 communication.

10 INTERROGATORY NO. 2:

11 Identify each firearm that has been in your private residence while in your possession, custody or
12 control at any time since August 2007, including but not limited to its make, model and serial number
13 and the period of time during which you kept that firearm in your home.

14 INTERROGATORY NO. 3:

15 Identify every type of ammunition you have purchased for or used in each of the firearms you
16 identified in response to Interrogatory No. 2, including but not limited to its manufacturer or brand
17 name, caliber, jacket construction, place of purchase and date of purchase.

18 INTERROGATORY NO. 4:

19 Identify by manufacturer or brand name and model every trigger lock, lockbox, or other locking
20 device you have used at any time to secure a firearm while it was in your possession, custody or
21 control, whether in your home or elsewhere.

22 INTERROGATORY NO. 5:

23 Describe every communication, whether written or verbal, between you and any employee or official
24 of the City and County of San Francisco concerning the subject matter of your complaint in this
25 action, including but not limited to the date, medium, participants in and content of the
26 communication.
27
28

1 INTERROGATORY NO. 6:

2 If you have ever been arrested in any jurisdiction for any reason, identify the date, the arresting
3 agency, the alleged offense(s), the charge(s) brought, and the disposition of any charge(s).

4 INTERROGATORY NO. 7:

5 List every permit, license or registration issued to you concerning the possession or use of firearms or
6 ammunition, including its type, date of issue, the issuing agency, the expiration date (if any), any
7 conditions or restrictions it imposes, any period during which it was suspended or revoked, and the
8 reason given for the suspension or revocation.

9 INTERROGATORY NO. 8:

10 List every permit, license or registration concerning the use or possession of firearms for which you
11 have applied but which application was denied, including its type, the issuing agency, the date you
12 applied, and the reason given for the denial.

13 INTERROGATORY NO. 9:

14 Identify every person and organization other than your counsel with whom you have discussed or
15 otherwise communicated about the subject matter of this lawsuit or your participation in it at any time,
16 whether such discussion or communications were verbal or written, the subject matter of those
17 discussions or communications, and the date or dates on which such discussions or communications
18 took place.

19 INTERROGATORY NO. 10:

20 Describe any training you have had in gun safety, including its date, the person or agency that
21 provided the training, the length of the training, and its general content.

22 INTERROGATORY NO. 11:

23 Describe any training you have had in using a firearm in self defense, including its date, the person or
24 agency that provided the training, the length of the training, and its general content.

25 INTERROGATORY NO. 12:

26 Identify every residence in which you have lived during the last ten years, including its address, its
27 owner, and the period of time in which you lived at that location.

1 INTERROGATORY NO. 13:

2 For each residence you identified in response to Interrogatory No. 12, provide the full name of any
3 person who lived with you in that residence at any time, that person's approximate age at the time, and
4 the most recent address, telephone number, email address or other contact information you have for
5 that person.

6
7 Dated: November 17, 2011

8 DENNIS J. HERRERA
9 City Attorney
10 WAYNE SNODGRASS
11 SHERRI SOKELAND KAISER
12 Deputy City Attorneys

13
14 By: 
15 SHERRI SOKELAND KAISER

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Attorneys for Defendants CITY AND COUNTY OF
SAN FRANCISCO, THE MAYOR OF SAN
FRANCISCO and THE CHIEF OF THE SAN
FRANCISCO POLICE DEPARTMENT

EXHIBIT G

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the
District of UTAH

ESPANOLA JACKSON

Plaintiff

v.

CITY & COUNTY OF SAN FRANCISCO, ET AL.

Defendant

Civil Action No. C092143RS

(If the action is pending in another district, state where:
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Custodian of Records For: WINCHESTER REPEATING ARMS
170 SOUTH MAIN STREET, SUITE 1500
SALT LAKE CITY, UT 84101 C/O: KEVEN L. ROWE, ESQ. (AGENT)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following
documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the
material: See Attachment for Details

RE: PLEASE SEE DESCRIPTION OF RECORDS

Place: Quest Discovery Services (800) 800-6800
981 Ridder Park Drive
San Jose, CA 95131
Appearance Not Required, Send All Materials to This Address.
Date and Time: 06/26/12
9:30 A.M.

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or
other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party
may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:
Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule
45(d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are
attached.

Date: 06/08/12

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/S/ CHRISTINE B. VAN AKEN, ESQ.
Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Defendant
, who issues or requests this subpoena, are:

CHRISTINE B. VAN AKEN, ESQ.
SAN FRANCISCO CITY ATTORNEY,
CITY HALL, ROOM 234, 1 DR. CARLTON B. GOODLETT PL.
SAN FRANCISCO, CA 94102 415/554-4688

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. C092143RS

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* WINCHESTER REPEATING ARMS
was received by me on *(date)* _____ 170 SOUTH MAIN STREET, SUITE 1500
SALT LAKE CITY, UT 84101
C/O: KEVEN L. ROWE, ESQ. (AGENT)

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Time of Delivery: _____

Quest Discovery Services, Santa Clara #886
Printed name and title

981 Ridder Park Drive , San Jose, CA 95131
Server's address

Additional information regarding attempted service, etc:

COR Phone #
() _____

Address and Phone # Confirmed

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**(c) Protecting a Person Subject to a Subpoena.**

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction - which may include lost earnings and reasonable attorney's fees - on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises - or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person - except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45 (c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Attachment

File #: SJS209743

WINCHESTER REPEATING ARMS

Pertaining To: **PLEASE SEE DESCRIPTION OF RECORDS**

FOR ANY HANDGUN THAT YOU OR YOUR SUBSIDIARIES HAVE MANUFACTURED OR DESIGNED OR SOLD THAT HAS BEEN AVAILABLE FOR PURCHASE TO CIVILIAN CONSUMERS RESIDING IN CALIFORNIA DURING THE TIME PERIOD JULY 1, 2007 THROUGH THE PRESENT, A SAMPLE OF ANY DISCLOSURES, INSTRUCTIONS, WARNINGS, OR MANUALS FOR CONSUMERS THAT YOU OR ANYONE ACTING AT YOUR DIRECTION HAS PROVIDED TO PURCHASERS OF ANY SUCH HANDGUN.

(FROM 7/1/2007 TO PRESENT)

(PROOF OF SERVICE BY MAIL - Federal Rule 5(a))

I am employed in the county of SANTA CLARA, my business address is 981 RIDDER PARK DRIVE, SAN JOSE, CA 95131, I am over the age of eighteen (18), and am not a party to the within action(s). I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service, and that the correspondence described below will be deposited with the United States Postal Service today in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing affidavit. I served the within copy: Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises on the below listed entities in said actions by placing said documents in a sealed envelope with postage fully prepaid and addressed as follows:

MICHEL & ASSOCIATES, P.C.
ATTORNEYS AT LAW
180 E. OCEAN BLVD.
SUITE 200
LONG BEACH, CA 90802
ATTN: C.D. MICHEL, ESQ.

and that they were deposited on 06/08/12 for deposit in the United States Postal Service and that the envelope was sealed and placed for collection and mailing that date at Quest Discovery Services, 981 RIDDER PARK DRIVE, SAN JOSE, CA 95131, following ordinary business practices.

DATED: 06/08/12 at SAN JOSE, CALIFORNIA

I Declare under penalty of perjury that the foregoing is true and correct.

***This form was printed for
all subpoenas in this series***



signature

EXHIBIT H

AO 88B (Rev. 6/08) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

United States District Court
for the
NORTHERN DISTRICT/SAN FRANCISCO of California

Espanola Jackson

Plaintiff

v.

City & County of San Francisco, et al

DEFENDANT

Civil Action No. C09-2143 RS

(If the action is pending in another district, state where:)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

TO: Smith & Wesson Corp c/o CT Corporation System
818 W 7th St
Los Angeles, CA 90017

[X] Production: YOU ARE COMMANDED to produce at the time, date and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:
For any handgun that you or your subsidiaries have manufactured or designed or sold that has been available for purchase to civilian consumers residing in California during the time period July 1, 2007 through the present, a sample of any disclosures, instructions, warnings, or manuals for consumers that you or anyone acting at your direction has provided to purchasers of any such handgun

Place: WestCoast Legal Service
1245 S Winchester Blvd #208, San Jose CA 95128
Phone: (408) 292-8128
Date and Time: 06/29/2012 10:00 am

[] Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:
Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45(d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: May 31, 2012

CLERK OF COURT

OR

Handwritten signature of Christine Van Aken

Christine Van Aken

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Defendant City & County of San Francisco, who issues or requests this subpoena, are:

Christine Van Aken
San Francisco City Attorneys Office
1 Dr. Carlton B Goodlett Pl, City Hall, Rm 234, San Francisco, CA 94102
(415) 554-4271

Federal Rule of Civil Procedure 45 (c),(d) and (e) (Effective 12/1/07)

(c) Protection of persons subject to subpoena.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(d) DUTIES IN RESPONDING TO A SUBPOENA.**(1) Producing Documents or Electronically Stored Information.**

These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Civil Action No. C09-2143 RS

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* **Smith & Wesson Corp c/o CT Corporation System** was received by me on *(date)* **05/31/2012**

I personally served the subpoena on the individual at **818 W 7th St, Los Angeles, CA 90017** on *(date)* _____ ; or

I served the subpoena to _____, who is designated by law to accept service of process on behalf of **Smith & Wesson Corp c/o CT Corporation System** on _____ ; or

I returned the subpoena unexecuted because ; or

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____

I declare under penalty of perjury that this information is true.

Date:

Server's signature

Printed name and title

Server's Address

Additional information regarding attempted service, etc:

25308306-01

Christine Van Aken
San Francisco City Attorneys Office
1 Dr. Carlton B Goodlett Pl, City Hall, Rm 234
San Francisco, CA 94102

REPRESENT Defendant

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT/SAN FRANCISCO

Espanola Jackson

Plaintiff/Petitioner(s)

City & County of San Francisco,
et al

Defendant/Respondent(s)

No.: C09-2143 RS
NOTICE OF TAKING DEPOSITION
PURSUANT TO RULE 30(B) (6) BY
SUBPOENA DUCES TECUM

TO ALL PARTIES OF RECORD AND THEIR ATTORNEYS, with respect to the
Custodian of Records for Smith & Wesson Corp c/o CT Corporation
System.

PLEASE TAKE NOTICE that, pursuant to Rule 30(b) (6) of the Federal
Rules of Civil Procedure. the deposition of said Custodian is
scheduled for June 29, 2012 at 10:00 am at the offices of
WestCoast Legal Service, 1245 S Winchester Blvd #208, San Jose,
CA 95128

PLEASE ALSO NOTE that no personal appearance will be made.

True, legible, and durable copies of all the documents described
in the DEPOSITION SUBPOENA which are certified by the above named
Custodian and which are delivered by mail or otherwise to the duly
authorized deposition officer at the place and or before the date
hereinabove shown will be accepted as sufficient compliance by
said Custodian. Said deposition to continue from day to day until
Dated: 05/31/2012
completed.

Signed:

Attorney for Defendant

1245 S Winchester Blvd #208
San Jose, CA 95128
Phone: (408) 292-8128 Fax: (408) 292-4145

PROOF OF SERVICE BY MAIL

Case Name: Espanola Jackson
vs.
City & County of San Francisco, et al

Case No.: C09-2143 RS

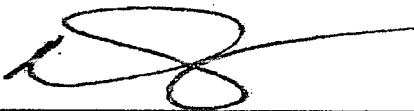
I am a resident of the State of California, County of Santa Clara. I am over the age of eighteen years and not a party to the entitled action; my business address is **1245 S Winchester Blvd #208, San Jose, CA 95128.**

On **May 31, 2012** I served this Notice of Taking Deposition (if applicable)/ Notice to Consumer (if applicable) along with the Subpoena and Affidavit in Support of Issuance (if applicable) on the attorneys for all appearing parties in said action, by placing a true copy thereof enclosed in a sealed envelope; with postage thereon fully prepaid, in the United States mail at **San Jose, CA**, addresses as follows:

***Michel & Associates, PC
C.D. Michel
180 E Ocean Blvd #200
Long Beach, CA 90802

I declare under penalty of perjury that the forgoing is true and correct. Executed on May 31, 2012, at San Jose, CA.

Sincerely,



Christy King

EXHIBIT I

AC 88B (Rev. 6/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

United States District Court
for the
NORTHERN DISTRICT/SAN FRANCISCO of California

Espanola Jackson)	
<i>Plaintiff</i>)	
v.)	Civil Action No. C09-2143 RS
City & County of San Francisco, et al)	
<i>DEFENDANT</i>)	(If the action is pending in another district, state where:)

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

TO: **Beretta USA Corp c/o Craig A Livingston**
1600 S Main St #280
Walnut Creek, CA 94596

Production: YOU ARE COMMANDED to produce at the time, date and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:
For any handgun that you or your subsidiaries have manufactured or designed or sold that has been available for purchase to civilian consumers residing in California during the time period July 1, 2007 through the present, a sample of any disclosures, instructions, warnings, or manuals for consumers that you or anyone acting at your direction has provided to purchasers of any such handgun

Place: WestCoast Legal Service 1245 S Winchester Blvd #208, San Jose CA 95128	Phone: (408) 292-8128	Date and Time: 06/29/2012 10:00 am
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Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
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The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45(d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: May 31, 2012

CLERK OF COURT

OR



Christine Van Aken

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Defendant City & County of San Francisco, who issues or requests this subpoena, are:

Christine Van Aken
San Francisco City Attorneys Office
1 Dr. Carlton B Goodlett Pl, City Hall, Rm 234, San Francisco, CA 94102
(415) 554-4271

Civil Action No. **C09-2143 RS**

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* **Beretta USA Corp c/o Craig A Livingston** was received by me on *(date)* **05/31/2012**

I personally served the subpoena on the individual at **1600 S Main St #280, Walnut Creek, CA 94596** on *(date)* _____ ;
or

I served the subpoena to _____, who is designated by law to accept service of process on behalf of **Beretta USA Corp c/o Craig A Livingston** on _____ ;or

I returned the subpoena unexecuted because ; or

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____

I declare under penalty of perjury that this information is true.

Date:

Server's signature

Printed name and title

Server's Address

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c),(d) and (e) (Effective 12/1/07)

(c) Protection of persons subject to subpoena.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(d) DUTIES IN RESPONDING TO A SUBPOENA.**(1) Producing Documents or Electronically Stored Information.**

These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Christine Van Aken
San Francisco City Attorneys Office
1 Dr. Carlton B Goodlett Pl, City Hall, Rm 234
San Francisco, CA 94102

25308306-02

REPRESENT Defendant

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT/SAN FRANCISCO

Espanola Jackson

Plaintiff/Petitioner(s)

City & County of San Francisco,
et al

Defendant/Respondent(s)

No.: C09-2143 RS
NOTICE OF TAKING DEPOSITION
PURSUANT TO RULE 30(B) (6) BY
SUBPOENA DUCES TECUM

TO ALL PARTIES OF RECORD AND THEIR ATTORNEYS, with respect to the
Custodian of Records for Beretta USA Corp c/o Craig A Livingston.
PLEASE TAKE NOTICE that, pursuant to Rule 30(b) (6) of the Federal
Rules of Civil Procedure. the deposition of said Custodian is
scheduled for June 29, 2012 at 10:00 am at the offices of
WestCoast Legal Service, 1245 S Winchester Blvd #208, San Jose,
CA 95128

PLEASE ALSO NOTE that no personal appearance will be made.
True, legible, and durable copies of all the documents described
in the DEPOSITION SUBPOENA which are certified by the above named
Custodian and which are delivered by mail or otherwise to the duly
authorized deposition officer at the place and or before the date
hereinabove shown will be accepted as sufficient compliance by
said Custodian. Said deposition to continue from day to day until
completed.

Dated: 05/31/2012

Signed: _____

Attorney for Defendant

1245 S Winchester Blvd #208
San Jose, CA 95128
Phone: (408) 292-8128 Fax: (408) 292-4145

PROOF OF SERVICE BY MAIL

Case Name: Espanola Jackson
vs.
City & County of San Francisco, et al

Case No.: C09-2143 RS

I am a resident of the State of California, County of Santa Clara. I am over the age of eighteen years and not a party to the entitled action; my business address is **1245 S Winchester Blvd #208, San Jose, CA 95128.**

On **May 31, 2012** I served this Notice of Taking Deposition (if applicable)/ Notice to Consumer (if applicable) along with the Subpoena and Affidavit in Support of Issuance (if applicable) on the attorneys for all appearing parties in said action, by placing a true copy thereof enclosed in a sealed envelope; with postage thereon fully prepaid, in the United States mail at **San Jose, CA**, addresses as follows:

***Michel & Associates, PC
C.D. Michel
180 E Ocean Blvd #200
Long Beach, CA 90802

I declare under penalty of perjury that the forgoing is true and correct. Executed on May 31, 2012, at San Jose, CA.

Sincerely,



Christy King