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IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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SAN FRANCISCO DIVISION

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ESPANOLA JACKSON, PAUL COLVIN,) CASE NO. C09-2143 RS

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THOMAS BOYER, LARRY BARSETTI,)

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DAVID GOLDEN, NOEMI MARGARET)

14

ROBINSON, NATIONAL RIFLE)

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ASSOCIATION OF AMERICA, INC. SAN)

16

FRANCISCO VETERAN POLICE)

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OFFICERS ASSOCIATION,)

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Plaintiffs)

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Hearing: December 15, 2011

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vs.)

Time: 1:30 p.m.

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Place: Courtroom 3 - 17TH Floor

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CITY AND COUNTY OF SAN)

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FRANCISCO, THE MAYOR OF)

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SAN FRANCISCO, AND THE CHIEF)

25

OF THE SAN FRANCISCO POLICE)

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DEPARTMENT, in their official capacities,)

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and DOES 1-10,)

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Defendants.)

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DECLARATION OF CLINTON B. MONFORT

I, Clinton B. Monfort, declare as follows:

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

2. On or about Thursday, October 20, 2011, I spoke with Sherri Sokeland Kaiser, Defendants' attorney of record, via telephone to discuss case management issues in light of the Court's September 27, 2011 Order Denying Defendants' Motion to Dismiss, and my clients' intention to not file a second amended complaint. During that telephone conference, we discussed matters necessary for the preparation of the court-ordered joint case management statement, including any anticipated discovery issues. Ms. Kaiser informed me of her clients' intention to conduct significant discovery and asked that we expand the number of permitted depositions to twelve. Ms. Kaiser cited the need to depose at least every plaintiff and possibly to subpoena law enforcement officials on matters relevant to the issues of ripeness and standing. Although I believe this case presents questions of law and that issues of ripeness and standing do not require discovery, out of professional courtesy our office agreed to extend applicable deposition limits at Defendants' request.

3. On or about Tuesday, November 2, 2011, I contacted Ms. Kaiser via email to discuss her availability to meet and confer regarding Plaintiffs' intention to file the present motion to strike and a future motion for judgment on the pleadings. Ms. Kaiser responded via email that she would be available to discuss these issues on Friday, November 4, 2011.

4. On or about November 4, 2011, I contacted Ms. Kaiser via telephone to meet and confer regarding Plaintiffs' intention to file the present motion to strike and a future motion for judgment on the pleadings. During that conversation, I communicated to Defendants' counsel my clients' position that portions of Defendants' Answer should be stricken under Federal Rule of Civil Procedure 12(f), including two affirmative defenses that are insufficient as a matter of law and Defendants' challenge to the Court's Article III jurisdiction, which has already been resolved by the Court in its Order Denying Motion to Dismiss. The parties communicated in good faith,

1 but were ultimately unable to come to an agreement as to whether those portions of Defendants'
2 Answer should be removed, and the present motion is therefore necessary to resolve the dispute.

3 5. Also during the November 4, 2011 telephone conference with Ms. Kaiser, I explained
4 my intention to file motions to strike and for judgment on the pleadings separately to prevent the
5 untimely filing of Plaintiffs' Motion to Strike. I also inquired as to whether Defendants might
6 oppose the later filing of a motion for judgment on the pleadings as barred by the Federal Rule of
7 Civil Procedure Rule 12(g) requirement, generally, that most Rule 12 motions be brought
8 together. Ms. Kaiser informed me that she did not believe this course of action raises any
9 procedural issues and agreed that the filing of a subsequent motion for judgment on the pleadings
10 is the appropriate course at this juncture such that Defendants would not object to the filing on
11 procedural timing grounds.

12 6. Finally, during the November 4, 2011 telephone conference, the parties agreed to
13 coordinate hearings on Plaintiffs' Motion to Strike and Plaintiffs' upcoming Motion for Judgment
14 on the pleadings to accommodate counsels' respective family health considerations and to defer to
15 the Court on calendaring issues should the Court wish to consolidate these motions.

16 I declare under penalty of perjury that the foregoing is true and correct. Executed on
17 November 7, 2011.

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20 Clinton B. Monfort

1 IN THE 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-PJH
5 THOMAS BOYER, LARRY BARSETTI,)
6 DAVID GOLDEN, NOEMI MARGARET)
7 ROBINSON, NATIONAL RIFLE)
8 ASSOCIATION OF AMERICA, INC. SAN) CERTIFICATE OF SERVICE
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.)
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IT IS HEREBY CERTIFIED THAT:

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

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

DECLARATION OF CLINTON B. MONFORT IN SUPPORT OF PLAINTIFFS' MOTION TO STRIKE PORTIONS OF DEFENDANTS' ANSWER

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

Wayne Snodgrass, Deputy City Attorney
Sherri Kaiser, Deputy City Attorney
City and County of San Francisco
Office of the City Attorney
City Hall 1 Drive Carlton B.
San Francisco, CA 94102

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 7, 2011.

_____/S/
C. D. Michel
Attorney for Plaintiffs