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Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

LEONARD FYOCK, SCOTT  
HOCHSTETLER, WILLIAM  
DOUGLAS, DAVID PEARSON,  
BRAD SEIFERS, and ROD  
SWANSON,

Plaintiffs

vs.

THE CITY OF SUNNYVALE, THE  
MAYOR OF SUNNYVALE,  
ANTHONY SPITALERI in his  
official capacity, THE CHIEF OF  
THE SUNNYVALE DEPARTMENT  
OF PUBLIC SAFETY, FRANK  
GRGURINA, in his official capacity,  
and DOES 1-10,

Defendants.

**CASE NO: CV13-05807 RMW**

**DECLARATION OF LEONARD  
FYOCK IN SUPPORT OF MOTION  
FOR PRELIMINARY INJUNCTION**

**DECLARATION OF LEONARD FYOCK**

1  
2 1. I, Leonard Fyock, am a plaintiff in the above-entitled action. I make this  
3 declaration of my own personal knowledge and, if called as a witness, I could and  
4 would testify competently to the truth of the matters set forth herein.

5 2. I am a current resident of the City of Sunnyvale.

6 3. I am a law-abiding adult who is not prohibited from owning firearms  
7 under the laws of the United States or the state of California. I have never been  
8 found by any law enforcement agency, any court, or any other government agency  
9 to be irresponsible, unsafe, or negligent with firearms in any manner.

10 4. Prior to December 6, 2013, I acquired a magazine capable of holding  
11 more than ten rounds in accordance with state and federal law. This magazine has  
12 not been permanently altered so as to be incapable of accommodating more than 10  
13 rounds, its is not a .22 caliber tube ammunition feeding device, and it is not a  
14 tubular magazine contained in a lever-action firearm. I currently own and possess  
15 this magazine for in-home self-defense.

16 5. Prior to December 6, 2013, I lawfully acquired a handgun that came  
17 equipped with the magazine capable of holding 16 rounds.

18 6. I acquired the handgun with the magazine capable of holding 16 rounds  
19 for use in competition and in home self-defense.

20 7. I selected this particular firearm in part because I believe that a handgun  
21 with a magazine capable of holding more than ten rounds may best suit my needs  
22 for in-home self-defense.

23 8. I am concerned that if multiple intruders attack me while at home, I will  
24 require the use of more than ten rounds to effectively protect myself and others in  
25 my home.

1           9. I fear that a home intruder will be carrying a firearm with a magazine  
2 capable of holding more than ten rounds, or will be carrying multiple firearms, and  
3 that I may require a firearm with a magazine capable of holding more than ten  
4 rounds to effectively protect myself and others from such a threat in my home.

5           10. I believe that being forced to change my magazine after expending ten  
6 rounds during any critical time that requires me to act in self-defense will impact  
7 my ability to effectively defend myself and others in my home. Should I require  
8 more than ten rounds to neutralize the threat of a home intruder or group of  
9 intruders, I fear that I will be unable to re-load my handgun in time to effectively  
10 defend myself and others in my home.

11           11. I fear that my firearm will function less effectively when I need it most  
12 for self-defense if I use a magazine that was not originally designed for use with my  
13 handgun.

14           12. Due to the Defendants' enactment of Sunnyvale Municipal Code  
15 (SMC) section 9.44.050, I am prohibited from continuing to possess, within the  
16 City of Sunnyvale, any magazine capable of holding more than ten rounds that has  
17 not been permanently altered so that it cannot accommodate more than 10 rounds, is  
18 not a .22 caliber tube ammunition feeding device, and is not a tubular magazine that  
19 is contained in a lever-action firearm.

20           13. In accordance with SMC section 9.44.050, I intend to cease possessing  
21 any magazine prohibited by SMC section 9.44.050 within the City of Sunnyvale on  
22 or before March 6, 2013.

23           14. But for SMC section 9.44.050, I would immediately and continuously  
24 possess a magazine capable of holding more than ten rounds within the City of  
25 Sunnyvale for lawful purposes, including in-home self-defense. If this court  
26 declares SMC section 9.44.050 invalid or otherwise enjoins its enforcement, I will  
27 continue to possess any magazine prohibited by SMC section 9.44.050 within the  
28 City of Sunnyvale.

I declare under penalty of perjury that the foregoing is true and correct.  
Executed within the United States on December 19, 2013.

Leonard Fyock  
Leonard Fyock, Declarant