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9 UNITED STATES DISTRICT COURT NORTHERN DISTRICT

10 SAN JOSE DIVISION

11
 12 LEONARD FYOCK, SCOTT
 HOCHSTETLER, WILLIAM DOUGLAS,
 13 DAVID PEARSON, BRAD SEIFERS, and
 ROD SWANSON,

14 Plaintiffs,

15 vs.

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

20 Defendants.
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Case No. CV13-05807 RMW

**DEFENDANTS' ADMINISTRATIVE
 MOTION AND [PROPOSED] ORDER TO
 CONSIDER WHETHER CASES SHOULD
 BE RELATED**

[LOCAL RULE 3-12]

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 24 Pursuant to Civil Local Rule 3-12, Defendants submit this Administrative Motion to
 25 Consider Whether Cases Should be Related and to have this Court determine whether the case
 26 *San Francisco Veteran Police Officers Association, et al., v. City and County of San Francisco, et*
 27 *al.* No. 4:13-cv-05351-WHA is related to this case. The city ordinance being challenged in this
 28 case is virtually identical to the one at issue in the *San Francisco Veteran Police Officers*

DEFENDANTS' MOTION TO CONSIDER
 WHETHER CASES SHOULD BE RELATED
 Case No. CV13-05807 RMW

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1 *Association, et al., v. City and County of San Francisco, et al.* No. 4:13-cv-05351-WHA case now
 2 pending before the Honorable William H. Alsup.

3 Under the definition of related cases provided in Civil L.R. 3-12(a), *San Francisco*
 4 *Veteran Police Officers Association, et al., v. City and County of San Francisco, et al.* No. 4:13-
 5 cv-05351-WHA may be related to this action. Both cases involve the same, single question of
 6 law, specifically whether the city ordinances banning the possession of magazines containing
 7 more than 10 rounds violate the Second Amendment. See Civil L.R. 3-12(a)(1) (“The actions
 8 concern substantially the same . . . question of law.”) The ordinances in question are essentially
 9 identical; the primary difference is that the Sunnyvale code bans the possession and use of these
 10 magazines, while the San Francisco ordinance prohibits only their possession. Because an
 11 individual cannot use these magazines without possessing them, this distinction appears to be
 12 inconsequential. Also the Court may determine that “[i]t appears likely that there will be an
 13 unduly burdensome duplication of labor . . . or conflicting results if the cases are conducted
 14 before different judges.” Civil L.R. 3-12(a)(2). Both cases require application of the same legal
 15 doctrines and many of the same facts will be presented in both cases. This raises concerns about
 16 the possibility of conflicting results, as two Judges of this Court would be required to decide the
 17 issues of constitutionality and enforceability of essentially identical city codes. It may thus be an
 18 inefficient use of judicial resources to litigate these cases separately.

19 For the foregoing reasons, and pursuant to Civil L.R. 3-12, Defendants respectfully
 20 request that the Court consider whether the case *San Francisco Veteran Police Officers*

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1 *Association, et al., v. City and County of San Francisco*, et al. No. 4:13-cv-05351-WHA should
2 be related to this case.

3 Dated: December 23, 2013

FARELLA BRAUN + MARTEL LLP

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5 By: /s/
Anthony Schoenberg

6 Attorneys for Defendants
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[PROPOSED] ORDER

Considering Defendants Administrative Motion to Consider Whether Cases Should Be Related (L.R. 3-12);

_____ The Court finds that *Leonard Fyock et al. v. City of Sunnyvale et al.* CV13-05807 RMW and the earlier-filed *San Francisco Veteran Police Officers Association, et al. v. City and County of San Francisco, et al.* No. 4:13-cv-05351-WHA are related.

_____ The Court finds that *Leonard Fyock et al. v. City of Sunnyvale et al.* CV13-05807 RMW is not related to *San Francisco Veteran Police Officers Association, et al. v. City and County of San Francisco, et al.* No. 4:13-cv-05351-WHA.

IT IS SO ORDERED.

Date: _____

HON. RONALD M. WHYTE

UNITED STATES DISTRICT JUDGE