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FILED

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: CV-13-05807 RMW**

**STIPULATION OF PARTIES TO STAY  
PROCEEDINGS AND [P]  
ORDER**

1 This stipulation is entered into by and among Plaintiffs LEONARD FYOCK, SCOTT  
 2 HOCHSTETLER, WILLIAM DOUGLAS, DAVID PEARSON, BRAD SEIFERS, and ROD  
 3 SWANSON, and Defendants THE CITY OF SUNNYVALE, MAYOR ANTHONY SPITALERI,  
 4 and CHIEF FRANK GRGURINA (collectively “the City”), by and through their respective  
 5 attorneys of record, pursuant to Northern District Local Rule 7-12.

6 WHEREAS, this Court entered a denial of Plaintiffs’ Motion for Preliminary Injunction  
 7 on March 5, 2014;

8 WHEREAS, Plaintiffs appealed this Court’s denial of their Motion for Preliminary  
 9 Injunction to the Ninth Circuit on March 5, 2014;

10 WHEREAS, the Court retains jurisdiction to stay its own proceedings pending appeal,  
 11 see, e.g., *Gray v. Golden Gate Nat’l Recreation Area*, No. 08-00722, 2011 WL 6934433, at \*1  
 12 (N.D. Cal. Dec. 29, 2011); see also Fed. R. App. P. 8;

13 WHEREAS, neither party will be harmed by the issuance of a stay—instead, “granting a  
 14 stay will benefit both parties to this action by sparing them the expense of contemporaneous  
 15 litigation and the accompanying fees and expenditure of time” inherent in pursuing litigation in  
 16 both this Court and the Court of Appeals. See Order at 6, *Baker v. Kealoha*, No. 11-00528 (D.  
 17 Haw. June 19, 2012).

18 IT IS HEREBY STIPULATED by and between all parties through their respective  
 19 counsel that further proceedings in this matter, including discovery, pre-trial motions, and trial,  
 20 shall be stayed until further order of this Court, pending resolution of Plaintiffs’ appeal of this  
 21 Court’s interlocutory order denying Plaintiffs’ Motion for Preliminary Injunction.

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1 IT IS FURTHER STIPULATED that Plaintiffs' counsel shall file with this Court a copy  
2 of the Ninth Circuit's decision in Plaintiffs' interlocutory appeal in this action within ten (10)  
3 days from its issuance.

4 Date: March 21, 2014

MICHEL & ASSOCIATES, P.C.

6 /s/ Anna M. Barvir

7 ANNA M. BARVIR  
8 Attorney for Plaintiffs Leonard Fyock, Scott  
9 Hochstetler, William Douglas, David Pearson,  
Brad Seifers, and Rod Swanson

10 Date: March 21, 2014

FARELLA BRAUN + MARTEL LLP

12 \* /s/ Roderick M. Thompson  
13 RODERICK M. THOMPSON  
14 Attorney for Defendants The City of  
15 Sunnyvale, Mayor Anthony Spitaleri, and  
16 Chief Frank Grgurina

27 \_\_\_\_\_  
28 \* Pursuant to Local Rule 5-1(i)(3), this signatory, on whose behalf the filing is submitted,  
concurs in this filing's content and has authorized this filing.

**[] ORDER**

GOOD CAUSE APPEARING THEREFORE and in accordance with the Stipulation of Parties to Stay Further District Court Proceedings, IT IS HEREBY ORDERED THAT:

1. All proceedings in this matter, including discovery, pre-trial motions, and trial, shall be stayed until further order of this Court, pending resolution of Plaintiffs' appeal of this Court's interlocutory order denying Plaintiffs' Motion for Preliminary Injunction.

2. Plaintiffs' counsel shall file with this Court a copy of the Ninth Circuit's decision in Plaintiffs' interlocutory appeal in this action within ten (10) days from its issuance.

~~The Court further orders as follows:~~

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Date: HEI EI



Honorable Judge Ronald M. Whyte  
United States District Court Judge