

1 C. D. Michel – SBN 144258  
Anna M. Barvir – SBN 268728  
2 Tiffany D. Cheuvront – SBN 317144  
**MICHEL & ASSOCIATES, P.C.**  
3 180 East Ocean Blvd., Suite 200  
Long Beach, CA 90802  
4 Telephone: 562-216-4444  
Facsimile: 562-216-4445  
5 [cmichel@michellawyers.com](mailto:cmichel@michellawyers.com)

6 Attorneys for Plaintiffs/Petitioners  
G. Mitchell Kirk and California Rifle  
7 & Pistol Association, Incorporated

8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF SANTA CLARA**

10 **DOWNTOWN COURTHOUSE**

11 G. MITCHELL KIRK; and CALIFORNIA  
12 RIFLE & PISTOL ASSOCIATION,  
INCORPORATED,

13 Plaintiffs and Petitioners,

14 vs.

15 CITY OF MORGAN HILL; MORGAN HILL  
16 CHIEF OF POLICE DAVID SWING, in his  
17 official capacity; MORGAN HILL CITY  
CLERK IRMA TORREZ, in her official  
capacity; and DOES 1-10,

18 Defendants and Respondents.  
19

Case No: 19CV346360

**PLAINTIFFS' NOTICE OF MOTION AND  
MOTION FOR SUMMARY JUDGMENT**

Date: July 2, 2020  
Time: 9:00 a.m.  
Judge: Judge Peter Kirwan  
Dept.: 19

[Filed concurrently with Plaintiffs' Memorandum  
of Points and Authorities, Separate Statement of  
Undisputed Facts, Request for Judicial Notice,  
and Declarations of Anna M. Barvir, G. Mitchell  
Kirk, and Michael Barranco]

Action filed: April 15, 2019

1 TO THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on July 2, 2020 at 9:00 a.m., or as soon thereafter as the  
3 matter may be heard, in Department 19 of the Superior Court of California, County of Santa Clara  
4 located at 191 North First Street, San Jose, CA 95113, Plaintiffs G. Mitchell Kirk and California  
5 Rifle & Pistol Association, Incorporated will, and hereby do, move for summary judgment under  
6 California Code of Civil Procedure 437c.

7 Plaintiffs make this motion because the undisputed material facts, paired with the precedent  
8 case law on the preemption doctrine, conclusively demonstrate that Morgan Hill Municipal Code  
9 section 9.04.030, which requires gun owners to report the theft or loss of any firearm to the  
10 Morgan Hill Police Department within 48 hours if the gun owner resides in the City or if the theft  
11 or loss occurred with the City, is preempted by Penal Code section 25250, a statewide law adopted  
12 by the voters requiring theft- or loss-reporting to the local law enforcement agency where the theft  
13 or loss occurred within *five days*.

14 This motion is based on this notice and motion, as well as the memorandum of points and  
15 authorities in support, the separate statement of undisputed facts, the request for judicial notice, the  
16 declarations of Anna M. Barvir, G. Mitchell Kirk, and Michael Barranco, and all exhibits, filed  
17 simultaneously herewith. This motion is also based on all other matters of which the Court may  
18 take notice, the oral argument of counsel, pleadings already on file with the Court, and all other  
19 evidence that may be presented at the hearing on this matter.

20  
21 Dated: May 1, 2020

**MICHEL & ASSOCIATES, P.C.**

22  
23 s/ Anna M. Barvir  
24 Anna M. Barvir  
25 Attorneys for Plaintiffs  
26  
27  
28

**PROOF OF SERVICE**  
**STATE OF CALIFORNIA**  
**COUNTY OF SANTA CLARA**

I, Laura Palmerin, am employed in the City of Long Beach, Los Angeles County, California. I am over the age eighteen (18) years and am not a party to the within action. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

On May 1, 2020, I served the foregoing document(s) described as

**PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT**

on the interested parties in this action by placing

☐ the original  
☒ a true and correct copy

thereof by the following means, addressed as follows:

Roderick M. Thompson

[rthompson@fbm.com](mailto:rthompson@fbm.com)

James Allison

[jallison@fbm.com](mailto:jallison@fbm.com)

Farella Braun + Martel LLP

235 Montgomery Street, 17th Floor

San Francisco, CA 94104

*Attorneys for Defendants/Respondents*

Hannah Shearer

[hshearer@giffords.org](mailto:hshearer@giffords.org)

Hannah Friedman

[hfriedman@giffords.org](mailto:hfriedman@giffords.org)

Giffords Law Center to Prevent Gun Violence

268 Bush Street #555

San Francisco, CA 94104

  X   (BY ELECTRONIC TRANSMISSION) As follows: I served a true and correct copy by electronic transmission via One Legal. Said transmission was reported and completed without error.

  X   (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 1, 2020, at Long Beach, California.

s/ Laura Palmerin

Laura Palmerin