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MORGAN HILL CHIEF OF POLICE DAVID
12 SWING, MORGAN HILL CITY CLERK IRMA
TORREZ

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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF SANTA CLARA, DOWNTOWN COURTHOUSE

16 G. MITCHELL KIRK; and CALIFORNIA
17 RIFLE & PISTOL ASSOCIATION,
INCORPORATED,

18 Plaintiffs and Petitioners,

19 vs.

20 CITY OF MORGAN HILL; MORGAN HILL
21 CHIEF OF POLICE DAVID SWING, in his
official capacity; MORGAN HILL CITY
22 CLERK IRMA TORREZ, in her official
capacity; and DOES 1-10,,
23

24 Defendants and Respondents.

Case No. 19CV346360

**DECLARATION OF JAMES ALLISON IN
SUPPORT OF MOTION FOR SUMMARY
JUDGMENT AND EXHIBITS 1 TO 13**

Judge: Hon. Peter Kirwan
Date: July 2, 2020
Time: 9:00 a.m.
Dept: 19
Action Filed: April 15, 2019

25 I, James Allison, declare as follows:

26 1. I am an attorney duly admitted to practice before this Court. I am an associate with
27 Farella Braun + Martel LLP, attorneys of record for Defendant CITY OF MORGAN HILL,
28

1 MORGAN HILL CHIEF OF POLICE DAVID SWING, MORGAN HILL CITY CLERK IRMA
2 TORREZ. I have personal knowledge of the facts set forth herein. If called as a witness, I could
3 and would competently testify to the matters stated herein. I make this declaration in support of
4 CITY OF MORGAN HILL, MORGAN HILL CHIEF OF POLICE DAVID SWING, MORGAN
5 HILL CITY CLERK IRMA TORREZ's Motion for Summary Judgment. The following facts are
6 within my personal knowledge and, if called as a witness herein, I can and will competently testify
7 thereto.

8 2. Attached hereto as **Exhibit 1** is a true and correct copy of Morgan Hill Local
9 Ordinance 2289.

10 3. Attached hereto as **Exhibit 2** is a true and correct copy of Morgan Hill Municipal
11 Code 9.04.030.

12 4. Attached hereto as **Exhibit 3** is a true and correct copy of Morgan Hill Municipal
13 Code 9.04.020.

14 5. Attached hereto as **Exhibit 4** is a true and correct copy of David Hemenway,
15 Deborah Azrael, and Matthew Miller, "Whose Guns are Stolen? The Epidemiology of Gun Theft
16 Victims," *Injury Epidemiology* 4, no. 1 (2017).

17 6. Attached hereto as **Exhibit 5** is a true and correct copy of Brian Freskos, "Missing
18 Pieces: Gun Theft from Legal Gun Owners is on the Rise, Quietly Fueling Violent Crime, The
19 Trace, November 20, 2017, <https://bit.ly/2izST1h>.

20 7. Attached hereto as **Exhibit 6** is a true and correct copy of Daniel W. Webster et al.,
21 "Preventing the Diversion of Guns to Criminals Through Effective Firearm Sales Laws,"
22 in *Reducing Gun Violence in America: Informing Policy with Evidence and Analysis* (Baltimore:
23 The Johns Hopkins University Press, 2013), 118.

24 8. On November 8, 2016, California voters passed Proposition 63, the Safety For
25 All Act of 2016. Attached hereto as **Exhibit 7** is a true and correct copy of Proposition 63, The
26 Safety For All Act of 2016.

27 9. A Voter Guide accompanied Proposition 63. Attached hereto as **Exhibit 8** is a true
28 and correct copy of the Voter Guide: For and Against, for Proposition 63.

1 10. Attached hereto as **Exhibit 9** is a true and correct copy of California Penal Code §
2 25250.

3 11. Attached hereto as **Exhibit 10** is a true and correct copy of each of the local
4 ordinances governing lost or stolen reporting requirements in: Oakland (Mun. Code Sec. 9.36.131
5 – 48 hours), San Francisco (Police Code Sec. 616 – 48 hours), Los Angeles (Mun. Code Sec. 5512
6 – 48 hours), Campbell (Mun. Code Sec. 8.12.045 – 48 hours), Berkeley (Mun. Code Sec.
7 13.75.020 – 48 hours), Sacramento (City Code Sec. 9.32.180 – 48 hours), Port Hueneme (Mun.
8 Code Sec. 3914.10 – 48 hours), Simi Valley (Mun. Code Sec. 5-22.12 – 72 hours), West
9 Hollywood (Mun. Code Sec. 9.27.010 – 48 hours), Thousand Oaks (Mun. Code Sec. 5-11.03 – 72
10 hours), Richmond (Mun. Code. Sec. 11-97.020 – 48 hours), Sunnyvale (Mun. Code Sec. 9.44.030
11 – 48 hours), Santa Cruz (Mun. Code Sec. 9.3.010 – 5 days), Huntington Park (Mun. Code Sec.
12 5.17.05 – 48 hours), Maywood (Mun. Code Sec. 4-4.11 – 48 hours), Oxnard (Mun. Code Sec. 7-
13 141.1 – 72 hours), Tiburon (Mun. Code Sec. 32-27 – 48 hours), and Palm Springs (Mun. Code
14 Sec. 11.16.040 – 48 hours (repealed 2018)).

15 12. On October 24, 2018, the Morgan Hill City Council held a Special Meeting to discuss
16 Local Ordinance 2289. Attached hereto as **Exhibit 11** is a true and correct copy of the Full
17 Agenda for the October 24, 2018 Special Meeting, Morgan Hill City Council, retrieved from:
18 <https://morganhillca.iqm2.com/Citizens/FileOpen.aspx?Type=1&ID=1783&Inline=>. Plaintiffs
19 were directed to the above link as part of Defendants’ discovery response.

20 13. Attached hereto as **Exhibit 12** is a true and correct copy of *Douglas J. Wiebe et al.*,
21 “Homicide and Geographic Access to Gun Dealers in the United States,” BMC Public Health
22 9:199 (2009): 2, 7, <http://www.biomedcentral.com/1471-2458/9/199>.

23 14. Attached hereto as **Exhibit 13** is a true and correct copy of Jennifer L. Pomeranz &
24 Mark Pertschuk, *State Preemption: A Significant and Quiet Threat to Public Health in the United*
25 *States*, 107 Am. J. Public Health 900, 900 (2017).

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1 I declare under penalty of perjury under the laws of the State of California that the
2 forgoing is true and correct.

3 Executed on this 30th day of April, 2020, at San Francisco, California.
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5
6 By: 

7 James Allison

8 Attorneys for CITY OF MORGAN HILL, MORGAN
9 HILL CHIEF OF POLICE DAVID SWING, MORGAN
10 HILL CITY CLERK IRMA TORREZ
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