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12 SWING, MORGAN HILL CITY CLERK IRMA
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13
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

21 CITY OF MORGAN HILL; MORGAN HILL
CHIEF OF POLICE DAVID SWING, in his
22 official capacity; MORGAN HILL CITY
CLERK IRMA TORREZ, in her official
23 capacity; and DOES 1-10,,
24

Defendants and Respondents.

Case No. 19CV346360

**SEPARATE STATEMENT OF
UNDISPUTED FACTS**

Judge: Hon. Peter Kirwan

Date: July 2, 2020

Time: 9:00 a.m.

Dept: 19

Action Filed: April 15, 2019

25 Pursuant to California Code of Civil Procedure Section 437c(b), Defendants City of
26 Morgan Hill, Chief of Police David Swing in his official capacity, and Morgan Hill City Clerk
27 Irma Torrez in her official capacity (“Defendants”) hereby submit this Separate Statement of
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Undisputed Material Facts, together with references to supporting evidence, in support of their Motion for Summary Judgment. The facts set forth below are dispositive of Plaintiffs Kirk and California Rifle and Pistol Association's cause of action for declaratory and injunctive relief.

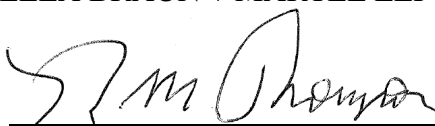
Moving Parties' Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
1. In November 2016, California Voters enacted Proposition 63 ("Prop. 63") entitled "The Safety for All Act of 2016." (Allison Decl. Ex. 7); (RJN Ex. A).	
2. <u>Prop 63. Section 2 Findings and Declarations</u> sets out findings made by the "people of the State of California". (Allison Decl. Ex. 7); (RJN Ex. A).	
3. Finding 8 states: "Under current law, stores that sell ammunition are not required to report to law enforcement when ammunition is lost or stolen. Stores should have to report lost or stolen ammunition within 48 hours of discovering that it is missing so law enforcement can work to prevent that ammunition from being illegally trafficked into the hands of dangerous individuals." (Allison Decl. Ex. 7); (RJN Ex. A).	
4. Finding 9 states: "Californians today are not required to report lost or stolen guns to law enforcement. This makes it difficult for law enforcement to investigate crimes committed with stolen guns, break up gun trafficking rings, and return guns to their lawful owners. We should require gun owners to report their lost or stolen guns to law enforcement." (Allison Decl. Ex. 7); (RJN Ex. A).	

Moving Parties' Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
<p>5. <u>Prop 63. Section 3 Purpose and Intent</u> sets out the purpose and intent of the people of the State of California in enacting the Safety for All Act of 2016.</p> <p>(Allison Decl. Ex. 7); (RJN Ex. A).</p>	
<p>6. Purpose and Intent 2 states: "To keep guns and ammunition out of the hands of convicted felons, the dangerously mentally ill, and other persons who are prohibited by law from possessing firearms and ammunition."</p> <p>(Allison Decl. Ex. 7); (RJN Ex. A).</p>	
<p>7. Purpose and Intent 4 states: "To require all stores that sell ammunition to report any lost or stolen ammunition within 48 hours of discovering that it is missing."</p> <p>(Allison Decl. Ex. 7); (RJN Ex. A).</p>	
<p>8. Purpose and Intent 6 states: "To require the reporting of lost or stolen firearms to law enforcement."</p> <p>(Allison Decl. Ex. 7); (RJN Ex. A).</p>	
<p>9. Following Prop. 63's passage, Penal Code 25250 took effect in 2017.</p> <p>(Allison Decl. Ex. 9)</p>	
<p>10. Penal Code 25250 states, in part: "Commencing July 1, 2017, every person shall report the loss or theft of a firearm he or she owns or possesses to a local law enforcement agency in the jurisdiction in which the theft or loss occurred within five days of the time he or she knew or reasonably should have known that the firearm had been stolen or lost"</p> <p>(Allison Decl. Ex. 9)</p>	
<p>11. In November 2018, Morgan Hill City Council adopted Local Ordinance No. 2289.</p> <p>(Allison Decl. Ex. 1)</p>	

Moving Parties' Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
<p>12. Local Ordinance No. 2289 amended Municipal Code Section 9.04.030.</p> <p>(Allison Decl. Ex. 1)</p>	
<p>13. Municipal Code Section 9.04.030 now reads:</p> <p>"9.04.030. Duty to report theft or loss of firearms.</p> <p>Any person who owns or possesses a firearm (as defined in Penal Code Section 16520 or as amended) shall report the theft or loss of the firearm to the Morgan Hill Police Department within forty-eight (48) hours of the time he or she knew or reasonably should have known that the firearm had been stolen or lost, whenever: (1) the person resides in the City of Morgan Hill; or (2) the theft or loss of the firearm occurs in the City of Morgan Hill."</p> <p>(Allison Decl. Ex. 2)</p>	
<p>14. Municipal Code 9.04.030 took effect in December 2018.</p> <p>(Allison Decl. Ex. 2)</p>	

Dated: April 30, 2020

FARELLA BRAUN + MARTEL LLP

By: 
Roderick M. Thompson

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