

1 George M. Lee (SBN 172982)
2 **SEILER EPSTEIN LLP**
3 275 Battery Street, Suite 1600
4 San Francisco, CA 94111
5 Phone: (415) 979-0500
6 Fax: (415) 979-0511
7 Email: gml@seilerepstein.com

8 Raymond M. DiGuiseppe (SBN 228457)
9 **THE DIGUISEPPE LAW FIRM, P.C.**
10 4320 Southport-Supply Road, Suite 300
11 Southport, NC 28461
12 Phone: (910) 713-8804
13 Fax: (910) 672-7705
14 Email: law.rmd@gmail.com

15 *Attorneys for Plaintiffs*

16 Matthew D. Zinn (SBN 214587)
17 Andrew P. Miller (SBN 324093)
18 **SHUTE, MIHALY & WEINBERGER LLP**
19 396 Hayes Street
20 San Francisco, California 94102
21 Phone: (415) 552-7272
22 Fax: (415) 552-5816
23 Email: zinn@smwlaw.com
24 Email: amiller@smwlaw.com

25 *Attorneys for Defendants County of Alameda,
26 Gregory J. Ahern, and Nicholas Moss*

27 **UNITED STATES DISTRICT COURT**
28 **DISTRICT OF NORTHERN CALIFORNIA**

29 JANICE ALTMAN, et al.,
30
31 Plaintiffs,
32
33 vs.
34 COUNTY OF ALAMEDA, CALIFORNIA, et al.,
35
36 Defendants.

Case No. 4:20-cv-02180

**JOINT MOTION FOR DISMISSAL OF
ALAMEDA COUNTY DEFENDANTS
[FRCP 41(a)(2)], AND PLAINTIFFS'
REQUEST FOR ENTRY OF JUDGMENT
[FRCP 58(d)]; ~~PROPOSED~~ ORDER;
~~PROPOSED~~ JUDGMENT**

37 //

38 //

JOINT MOTION FOR DISMISSAL OF ALAMEDA COUNTY DEFENDANTS

1
2 1. The parties hereto, plaintiffs Janice Altman, Ryan Goodrich, Albert Lee Swann,
3 Roman Kaplan, Yan Traytel, Dmitry Danilevsky, Greg David, Scott Chalmers, City Arms East LLC,
4 City Arms LLC, Cuckoo Collectibles LLC d.b.a. Eddy’s Shooting Sports, Second Amendment
5 Foundation, California Gun Rights Foundation, National Rifle Association of America, California
6 Association of Federal Firearms Licensees, Inc., and Firearms Policy Coalition, Inc. (“Plaintiffs”),
7 and defendants County of Alameda, Gregory J. Ahern, and Nicholas Moss¹ (“Defendants”) (and
8 collectively, “Parties”), by and through their counsel undersigned, hereby and jointly move this court
9 for dismissal of the Plaintiffs’ claims against said Defendants pursuant to Fed. R. Civ. P. 41(a)(2).
10 The Parties move for dismissal by requesting that the Court enter the Order of Dismissal set forth in
11 the proposed ORDER DISMISSING ALAMEDA COUNTY DEFENDANTS below (“Order of Dismissal”).

12 2. The Parties agree that the dismissal made effective by this motion shall be with
13 prejudice. The dismissal shall bar all claims that Plaintiffs asserted or could have asserted against
14 Defendants in this action based on issuance or enforcement of any of the Orders of the Alameda
15 County Health Officer relating to COVID-19, including any appendices thereto and any guidance
16 interpreting the Orders, as listed in Exhibit A, which is herein incorporated by reference. However,
17 the dismissal shall not be construed to bar any claims based upon the issuance of future orders, or the
18 enforcement of such future orders, by the Defendants, which may occur after the date of the Order of
19 Dismissal, even if those future orders are based, in whole or in part, upon orders that predate the
20 Order of Dismissal.

21 3. If the Order of Dismissal is approved, the Parties further and jointly request that the
22 clerk vacate all pretrial and trial dates set by the Court’s Scheduling Order of February 26, 2021 [ECF
23 No. 94].

24 4. This joint motion shall not be construed to be a voluntary dismissal as to any other
25 defendants besides the Parties to this joint motion.

26
27
28 ¹Pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, the current Public Health Officer
for the County of Alameda has been automatically substituted as a defendant in place of his
predecessor, Erica Pan. *See* ECF No. 80.

EXHIBIT A TO JOINT MOTION

- Alameda County March 16, 2020 Health Order
- Alameda County March 31, 2020 Health Order (No. 20-04)
- Alameda County April 29, 2020 Health Order (No. 20-10)
- Alameda County May 18, 2020 Health Order (No. 20-11)
- Alameda County June 5, 2020 Health Order (No. 20-14)
- Alameda County June 18, 2020 Health Order (No. 20-14a)
- Alameda County July 19, 2020 Health Order (No. 20-14b)
- Alameda County August 21, 2020 Health Order (No. 20-14c)
- Alameda County October 21, 2020 Health Order (No. 20-15)
- Alameda County November 17, 2020 Health Order (No. 20-15, revised)
- Alameda County December 6, 2020 Health Order (No. 20-21)
- Alameda County January 13, 2021 Health Order (No. 20-21a)
- Alameda County January 25, 2021 Health Order (No. 21-01)

PLAINTIFFS' REQUEST FOR ENTRY OF JUDGMENT

5. Pursuant to Fed. Rule Civ. Pro. 58(d), Plaintiffs hereby and separately request that the Court immediately enter judgment as to all of the remaining defendants that were dismissed by virtue of the Court's Order of Dismissal [ECF No. 65].

Dated: March 23, 2021

SEILER EPSTEIN LLP

/s/ George M. Lee
George M. Lee

Attorneys for Plaintiffs

Dated: March 23, 2021

SHUTE, MIHALY & WEINBERGER LLP

/s/ Matthew D. Zinn
Matthew D. Zinn

*Attorneys for Defendants County of Alameda,
Gregory J. Ahern, and Nicholas Moss*

1 -o()o-

2 **ORDER DISMISSING ALAMEDA COUNTY DEFENDANTS**

3 The Court, having reviewed the foregoing joint motion of the parties, and good cause
4 appearing, hereby ORDERS a voluntary dismissal of Defendants County of Alameda, Gregory J.
5 Ahern, and Nicholas Moss pursuant to Fed. R. Civ. P. 41(a)(2). The dismissal shall be with prejudice,
6 pursuant to the parties' settlement as recited in their joint motion.

7
8 **JUDGMENT OF DISMISSAL**

9 Pursuant to the request of the Plaintiffs, and further to this Court's Order of Dismissal [ECF
10 No. 65], pursuant to Fed. Rule Civ. Pro. 58(a), it is hereby ORDERED, ADJUDGED AND
11 DECREED that Judgment shall and now hereby be entered in favor of defendants the County of
12 Santa Clara, Laurie Smith, Jeffrey Rosen, Sara Cody, the City of San Jose, Sam Liccardo, Edgardo
13 Garcia, the City of Mountain View, Max Bosel, the County of San Mateo, Carlos Bolanos, Scott
14 Morrow, the City of Pacifica, Dan Steidle, the County of Contra Costa, David Livingston, Chris
15 Farnitano, the City of Pleasant Hill, and Max Bryan Hill, and against the plaintiffs herein.

16 IT IS SO ORDERED.

17 Dated: March 24, 2021



18 HON. JON S. TIGAO
19 UNITED STATES DISTRICT JUDGE
20
21
22
23
24
25
26
27
28