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IN THE UNITED STATES DISTRICT COURT

9

FOR THE NORTHERN DISTRICT OF CALIFORNIA

10

SAN FRANCISCO DIVISION

11 ESPANOLA JACKSON, PAUL COLVIN,
THOMAS BOYER, LARRY BARSETTI,
12 DAVID GOLDEN, NOEMI MARGARET
ROBINSON, NATIONAL RIFLE
13 ASSOCIATION OF AMERICA, INC., SAN
FRANCISCO VETERAN POLICE
14 OFFICERS ASSOCIATION,

CASE NO. CV-09-2143-RS

**PLAINTIFFS' UNOPPOSED REQUEST FOR
DISMISSAL**

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Plaintiffs,

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vs.

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CITY AND COUNTY OF SAN
FRANCISCO, THE MAYOR OF
18 SAN FRANCISCO, AND THE CHIEF
OF THE SAN FRANCISCO POLICE
19 DEPARTMENT, in their official capacities,
and DOES 1-10,

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Defendants.

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Pursuant to rule 41(a)(2) of the Federal Rules of Civil Procedure and to this Court's August 14, 2105 Order Re Status, Plaintiffs Espanola Jackson, Paul Colvin, Thomas Boyer, Larry Barsetti, David Golden, Noemi Margaret Robinson, National Rifle Association of America, Inc., and San Francisco Veteran Police Officers Association, by and through their counsel, hereby request the Court enter an order dismissing this action against Defendants City and County of San Francisco, the Mayor of San Francisco, and the Chief of the San Francisco Police Department. Defendants do not oppose dismissal. Barvir Decl. Supp. Dismissal ¶ 2.

On May 15, 2009, Plaintiffs filed their initial Complaint for Declaratory and Injunctive Relief, challenging three laws adopted and enforced by the City and County of San Francisco as violative of the Second Amendment and the due process clause of the U.S. Constitution and the right to self-defense enshrined in the California state constitution. Over time, the number of claims dwindled, and this case ultimately became a Second Amendment challenge to two city laws—one barring the sale of certain ammunition and another mandating that handguns be kept in a locked container or disabled with a trigger lock.

On July 12, 2012, this Court heard Plaintiffs' Motion for Judgment on the Pleadings. It denied that motion on August 17, 2012, reasoning Plaintiffs had not shown that the City's laws violate the right to keep and bear arms as a matter of law. Order Den. Pls.' Mot. J. Pldgs. 1. On similar grounds, the Court denied Plaintiffs' subsequently brought Motion for Preliminary Injunction, holding that Plaintiffs were unlikely to succeed on the merits of their Second Amendment claims. Order Den. Pls.' Mot. Prelim. Inj. 2, Nov. 26, 2012. Plaintiffs appealed that denial to the Ninth Circuit, and the parties stayed further proceedings. Order Staying Dist. Ct. Proceedings 2, Dec. 31, 2012.

On March 25, 2014, a panel of the Ninth Circuit affirmed this Court's opinion, holding that this Court did not abuse its discretion in concluding that Plaintiffs could not succeed on the merits because neither city ordinance destroyed the Second Amendment right to arms and both survived intermediate scrutiny. *Jackson v. City and County of San Francisco*, 746 F.3d 953 (9th Cir. 2014).

The Ninth Circuit denied Plaintiffs' request for en banc review on July 17, 2014. Order at 1,

1 *Jackson*, 746 F.3d 953 (No. 12-17803), ECF No. 102. And, on June 8, 2015, the United States
2 Supreme Court denied Plaintiffs’ petition for writ of certiorari over the written dissent of Justices
3 Thomas and Scalia. *Jackson v. City and County of San Francisco*, __ U.S. __, 135 S. Ct. 2799
4 (2015).

5 On August 14, 2015, this Court ordered that either Plaintiffs “file a dismissal of this
6 action,” or the parties “file a joint statement setting out their views as to what remains to be
7 decided, and how the case should proceed.” Order Re Status 1, Aug. 14, 2015.

8 In light of this Court’s rejection of Plaintiffs’ substantive arguments in denying Plaintiffs’
9 pre-trial motions, and the Ninth Circuit’s affirmation of the denial of preliminary relief on the
10 grounds that Plaintiffs are unlikely to succeed on the merits, Plaintiffs believe there remains
11 nothing more for the Court to decide. They thus request that this Court dismiss this action against
12 all defendants.

13 Date: August 31, 2015

MICHEL & ASSOCIATES, PC

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15 s/ C. D. Michel
16 C. D. Michel
17 *Counsel for Plaintiffs*
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DECLARATION OF ANNA M. BARVIR

I, Anna M. Barvir, declare as follows:

1. I am over the age of eighteen and not a party to this action. I am an attorney licensed to practice law before the United States District Court for the Northern District of California. I am an associate attorney at the law firm Michel & Associates, P.C., attorneys of record for plaintiffs in this action.

2. On or about August 28, 2015, I notified Ms. Christine Van Aken, counsel of record for defendants, via e-mail of Plaintiffs' intention to file a request to dismiss this case in response to this court's August 14, 2015 Order Re Status. I followed that e-mail with another e-mail to Ms. Van Aken to ask whether defendants would oppose plaintiffs' request. She responded that day, confirming that defendants did not oppose dismissal.

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on August 31, 2015.

s/ Anna M. Barvir
Anna M. Barvir
Declarant

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 ESPANOLA JACKSON, PAUL COLVIN,
5 THOMAS BOYER, LARRY BARSETTI,
6 DAVID GOLDEN, NOEMI MARGARET
7 ROBINSON, NATIONAL RIFLE
8 ASSOCIATION OF AMERICA, INC., SAN
9 FRANCISCO VETERAN POLICE
10 OFFICERS ASSOCIATION,

CASE NO. CV-09-2143-RS

CERTIFICATE OF SERVICE

11 Plaintiffs

12 vs.

13 CITY AND COUNTY OF SAN
14 FRANCISCO, THE MAYOR OF
15 SAN FRANCISCO, AND THE CHIEF
16 OF THE SAN FRANCISCO POLICE
17 DEPARTMENT, in their official capacities,
18 and DOES 1-10,

19 Defendants.

20 IT IS HEREBY CERTIFIED THAT:

21 I, the undersigned, am a citizen of the United States and am at least eighteen years of age.
22 My business address is 180 E. Ocean Blvd., Suite 200, Long Beach, California, 90802.

23 I am not a party to the above-entitled action. I have caused service of:

24 **PLAINTIFFS' UNOPPOSED REQUEST FOR DISMISSAL**

25 on the following party by electronically filing the foregoing with the Clerk of the District Court
26 using its ECF System, which electronically notifies them.

27 Wayne Snodgrass, Deputy City Attorney
28 Christine Van Aken, Deputy City Attorney
Office of the City Attorney
1 Drive Carlton B. Goodlett Place
City Hall, Room 234
San Francisco, CA 94102

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 31, 2015.

s/ C.D. Michel
C. D. Michel
Counsel for Plaintiffs