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13 **THE UNITED STATES DISTRICT COURT**
14 **IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA**

16 THERESE MARIE PIZZO,)

17 Plaintiff,)

18 vs.)

19 CITY AND COUNTY OF SAN FRANCISCO)
MAYOR GAVIN NEWSOM, in both his)
20 individual and official capacities; FORMER)
SAN FRANCISCO POLICE DEPARTMENT;)
21 CHIEF OF POLICE HEATHER FONG, in both)
her individual and official capacities; SAN)
22 FRANCISCO POLICE DEPARTMENT CHIEF)
OF POLICE GEORGE GASCON, in his official)
23 capacity; SAN FRANCISCO SHERIFF)
MICHAEL HENNESSEY, in both his)
24 individual and official capacities; CITY AND)
COUNTY OF SAN FRANCISCO; and STATE)
25 OF CALIFORNIA ATTORNEY GENERAL)
EDMUND G. BROWN, in his official capacity,)

26 Defendants.)
27 _____)

Case No. 4:09-cv-04493-CW

**NOTICE OF RELATED CASES
PURSUANT TO CIVIL L.R. 3-12 TO BE
FILED IN CASE NO. 4:09-CV-04493-CW
AND ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES SHOULD
BE RELATED PURSUANT TO CIVIL
L.R. 7-11**

1
2 Plaintiff Thomas Jacobs (“Plaintiff” or “Mr. Jacobs”) by and through his attorneys of record,
3 hereby respectfully submits this Notice of Related Cases pursuant to Civil L.R. 3-12 and the required
4 Administrative Motion to Consider Whether Cases Should be Related pursuant to Civil L.R. 7-11.

5 **I. APPLICABLE STANDARD UNDER CIVIL L.R. 3-12**

6 Under Civil Local Rule 3-12, an “action is related to another when: (1) the actions concern
7 substantially the same parties, property, transaction or event, and (2) it appears likely that there will be
8 an unduly burdensome duplication of labor and expense or conflicting results if the cases are
9 conducted before different Judges.” Civil L.R. 3-12(a).

10 Whenever a party knows or believes that an action may be related to an action which is or was
11 pending in the Northern District, said party “must promptly file in the earliest-filed case an
12 Administrative Motion to Consider Whether Cases Should be Related, pursuant to Civil L.R. 7-11.”¹
13 Civil L.R. 3-12(b). That motion must include: “(1) The title and case number of each apparently
14 related case; (2) A brief statement of the relationship of the actions according to the criteria set forth in
15 Civil L.R. 3-12(a).”

16 **II. PIZZO AND JACOBS SHOULD NOT BE RELATED**

17 The *Pizzo* case was filed in the Northern District of California on September 23, 2009. That
18 action challenges the validity of San Francisco Code sections 4512, 1290, and 613.10(g), California
19 Penal Code sections 12050, *et al.*, and 12031, as well as the Law Enforcement Officers Safety Act
20 (“LEOSA”), codified at 18 U.S.C. §§ 926B and 926C. The *Jacobs* case, filed in the Eastern District of
21 California on April 16, 2010, Case No. 2:10-cv-00913-LKK-EFB also challenges California Penal Code
22 Sections 12050, *et al.*, 12031(b), and LEOSA, However, unlike *Pizzo*, in addition, the *Jacobs* case also
23 challenges California Penal Code sections 12025, 12027, and 12027.1. Further, the *Jacobs* case does not
24 address the San Francisco Police Code sections challenged in *Pizzo*.

25
26 ¹ “In addition to complying with Civil L.R. 7-11, a copy of the motion, together with proof of
27 service pursuant to Civil L.R. 5-6, must be served on all known parties to each apparently related action.
A Chambers copy of the motion must be lodged with the assigned Judge in each apparently related cause
under Civil L.R. 5-1(b).” Civil L.R. 3-12(b).

1 The claims in both cases assert violations of the Plaintiffs' constitutional rights under the Second,
2 Fourteenth, and Fifth Amendments to the United States Constitution, as well as violations of the
3 Constitution and laws of the State of California. However, *Pizzo* and *Jacobs* share only one (1) named
4 defendant, *i.e.* State of California Attorney General Edmund G. Brown, named in his official capacity.

5 Although the actions challenge some of the same laws, they do not involve the same transactions
6 and events, the identical defendants, or identical causes of action. The events giving rise to the claims
7 alleged in *Pizzo* occurred in the City and County of San Francisco whereas the events giving rise to the
8 claims in *Jacobs* occurred in the County of Santa Clara and the City of San Jose. Furthermore, there is
9 only a minimal risk that keeping the actions separate will result in conflicting decisions because in the
10 event either of these actions were to proceed to trial, by that time the Supreme Court of the United States
11 will more than likely have rendered a decision in *McDonald v. City of Chicago*, and likewise the Ninth
12 Circuit will likely have rendered an opinion in *Nordyke v. King*, thus giving the courts guidance as to
13 the current state of the law.

14
15 Dated: April 16, 2010

Respectfully Submitted,
CC WEAVER & ASSOCIATES

16
17 /s/
Craig C. Weaver
Attorney for Plaintiff