

1 way of notice. To the extent court approval is required plaintiffs respectfully
2 request this be considered a motion for such approval.

3 **BACKGROUND**

4 Plaintiffs named the City and County of San Francisco and Mayor Gavin
5 Newsom as defendants in this action based on statements made by and information
6 obtained from those defendants and from others. The information caused plaintiffs
7 to believe that those defendants were at least in part responsible for the current ban
8 on the possession of all firearms in San Francisco public housing facilities because
9 of a recently enacted ordinance banning the possession of firearms on property
10 owned or controlled by San Francisco. (San Francisco Police Code § 617.)

11 For example, on May 15, 2007 Mayor Newsom held a press conference
12 introducing the ordinance banning the possession of firearms on property owned or
13 controlled by San Francisco. When asked if the ordinance would apply in public
14 housing, Newsom said: "Yes, yes it does. It is our intent to include it." When
15 asked as a follow up question whether the ordinance would ban the possession of
16 firearms by a law-abiding resident of public housing who chooses to own a firearm
17 to protect her family in her own home, Newsom confirmed: "It is our intent to
18 move in that direction." (Newsom Press Conference, May 15, 2007, available
19 online at: http://sanfrancisco.granicus.com/MediaPlayer.php?view_id=18&clip_id=3577.)
20

21 Prior to filing this lawsuit, plaintiffs submitted several public records act
22 requests to various San Francisco officials seeking information about all of the
23 ordinances and policies that regulate the possession of firearms in public housing.
24 (See Exhibit 1.) San Francisco responded with information indicating that San
25 Francisco Police Code section 617 was adopted in part to formally support San
26 Francisco's and Newsom's policy and goal of banning firearms possession in
27 public housing, and that it could apply in public housing. (See Response to Public
28 Records Act Request attached as Exhibit 2.)

1 Plaintiffs learned that administrators of public housing in San Francisco also
 2 believed the San Francisco ordinance applied. (For example, see Exhibit 3.)
 3 Perhaps Mayor Newsom's statements (either public, or later private statements) led
 4 them to believe this. That might explain why Defendant John Stewart Company
 5 subsequently amended its "House Rules" to ban the possession of firearms in the
 6 Valencia Gardens public housing complex.

7 Regardless, after this lawsuit was filed the San Francisco City Attorney's
 8 office formally confirmed that Police Code section 617 actually does *not* apply in
 9 public housing residences and does *not* ban the possession of firearms by public
 10 housing residents.

11 This is now confirmed in that attached stipulation between plaintiffs and
 12 Defendants City and County of San Francisco, Gavin Newsom, and the San
 13 Francisco Housing Authority. (See Exhibit 4.)

14 In light of this, only the current lease provisions, which are also challenged in
 15 this lawsuit, act to ban possession of firearms in the public housing units. San
 16 Francisco and Newsom do not directly control or pass housing authority lease
 17 provisions. Accordingly, plaintiffs now move to dismiss Defendants CITY AND
 18 COUNTY OF SAN FRANCISCO and GAVIN NEWSOM from the above-
 19 captioned action without prejudice.

20 Date: October 24, 2008

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/s/
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