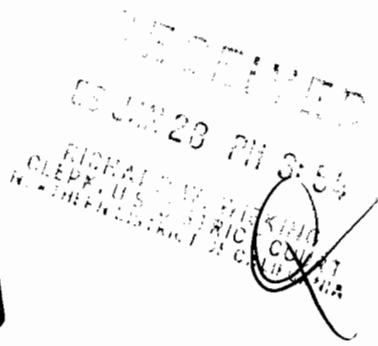


Francisco G. Torres (SBN156169)
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John Stewart Company

E-filing



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

GLY MONTAG DOE, NATIONAL)
RIFLE ASSOCIATION OF AMERICA)
INC., CITIZEN'S COMMITTEE FOR)
THE RIGHT TO KEEP AND BEAR)
ARMS,)
Plaintiffs,)
v.)
SAN FRANCISCO HOUSING)
AUTHORITY, HENRY ALVAREZ III,)
JOHN STEWART COMPANY.)
Defendants.

Case No. 08-3112 TEH

DEFENDANT JOHN STEWART
COMPANY'S RESPONSE TO ORDER
TO SHOW CAUSE

Dept: 12-19th Floor
Date: 2/2/09
Time: 10:00 a.m.

Defendant John Stewart Company responds to the Court's order to show cause as follows:

1. On January 8, 2009, defendant's counsel sent proposed revisions and comments to opposing counsel for plaintiff for the Stipulation re: Settlement and Dismissal Without Prejudice.
2. On January 14, 2009, this Court entered the instant Order To Show Cause based in part on the representation that Defendant John Stewart Company had not been responsive to recent settlement attempts.
3. On January 17, 2009, plaintiff's counsel responded to defendant counsel's proposed revisions and sent a revised draft of the Stipulation re: Settlement and Dismissal Without Prejudice.

1 4. On January 21, 2009, defendant's counsel requested that plaintiff's counsel prepare a
2 finalized version of the Stipulation re; Settlement and Dismissal Without Prejudice correcting a
3 typographical error in the case caption.

4 5. On January 23, 2009, defendant's counsel sent to plaintiff's counsel by electronic mail
5 and regular mail the executed Stipulation re: Settlement and Dismissal Without Prejudice and a
6 true and correct copy is submitted herewith.

7 6. As of this date, it is unclear whether plaintiff's counsel has executed and filed the
8 Stipulation re: Settlement and Dismissal Without Prejudice.

9 7. It is respectfully requested that the Court take this Order to Show Cause off calendar
10 given that Defendant John Stewart Company has diligently sought to resolve this matter and file
11 settlement papers before January 28, 2009 as requested by the Court.

12
13
14 Dated: 1/28/09

ZANGHI TORRES ARSHAWSKY LLP



Francisco G. Torres
Attorneys for Defendant
John Stewart Company

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John P. Zanghi
Francisco G. Torres
Paul Arshawsky

January 23, 2009

Clinton B. Monfort
Trutanich Michel, LLP
180 E. Ocean Blvd. Suite 200
Long Beach, CA 90802

re: Guy Montag Doe, NRA v. John Stewart Company

Dear Mr. Monfort:

Enclosed you will find the original of the Stipulation Re: Settlement and Dismissal Without Prejudice for this matter.

Please forward file endorsed of both the Stipulation and the dismissal at your earliest convenience.

Very truly yours,

John P. Zanghi

JPZ:ml

enc.

1 C. D. Michel - S.B.N. 144258
Don B. Kates - S.B.N. 39193
2 Jason A. Davis - S.B.N. 222250
Clinton B. Monfort - S.B.N. 255609
3 TRUTANICH • MICHEL, LLP
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4 Long Beach, CA 90802
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6

7 Attorneys for Plaintiffs

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 GUY MONTAG DOE, NATIONAL } CASE NO. CV-08-03112 TEH
12 RIFLE ASSOCIATION OF }
13 AMERICA, INC., CITIZENS } **STIPULATION RE SETTLEMENT**
COMMITTEE FOR THE RIGHT TO } **AND DISMISSAL WITHOUT**
14 KEEP AND BEAR ARMS, } **PREJUDICE**

14 Plaintiffs

15 vs.

16 JOHN STEWART COMPANY AND
DOES 1-10,

17 Defendants.
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1 **WHEREAS:**

2 1. Valencia Gardens is a multi-unit public housing complex located at 390
3 Valencia Street, San Francisco, CA 94103. Defendant John Stewart Company is
4 the property management company for Valencia Gardens. In 2008, John Stewart
5 Company formally amended its House Rules for Valencia Gardens to prohibit the
6 possession of firearms in the home by residents of Valencia Gardens. A true and
7 correct copy of the Valencia Gardens House Rules is attached hereto as Exhibit
8 "A."

9 **NOW THEREFORE, THE PARTIES STIPULATE AS FOLLOWS:**

- 10 1. Plaintiffs shall dismiss the above-captioned lawsuit without prejudice.
- 11 2. The parties agree to a mutual waiver of all fees and costs incurred in
12 this litigation.
- 13 3. The parties further agree that this Court shall retain jurisdiction over
14 the parties to enforce the settlement until the parties have performed the terms of
15 this agreement in full.

16 **Obligations of Defendant John Stewart Company**

17 1. Defendant John Stewart Company shall not at any time enforce the
18 provisions of Section 1.9 of the Valencia Gardens House Rules relating to the
19 lawful possession of firearms, ammunition, lawful weapons, and other lawful items
20 and devices that resemble weapons. However, Defendant John Stewart Company
21 may enforce this provision as to the to the unlawful ownership, unlawful
22 possession, unlawful transportation or unlawful use of firearms and/or ammunition
23 until such time that the House Rules are amended consistent with the terms of this
24 stipulation.

25 2. Except in those instances involving the unlawful ownership, unlawful
26 possession, unlawful transfer, or unlawful use of firearms and/or ammunition,
27 Defendant John Stewart Company shall not at any time mandate, require,
28 encourage, or otherwise allow enforcement of the provisions of Section 1.9 of the

1 Valencia Gardens House Rules relating to the lawful possession of firearms,
2 ammunition, lawful weapons, and other lawful items and devices that resemble
3 weapons, by any of John Stewart Company's employees or agents, or by any
4 property manager or other administrator of any public housing development
5 managed by Defendant John Stewart Company.

6 3. Defendant John Stewart Company hereby agrees to, and shall
7 formally, amend Section 1.9 of the Valencia Gardens House Rules by no later than
8 November 1, 2009 to provide as follows:

9 1.9 FIREARMS AND WEAPONS

10 (A) Unlawful ownership, unlawful possession, unlawful transportation or
11 unlawful use of any firearm or any weapon, or explosive device, in or around
12 the premises or the buildings, facilities or common areas of Valencia
13 Gardens by the Resident, members of the Resident's household, guests or
14 other persons under the Resident's control or invitation ("covered person") is
15 strictly prohibited. The term "firearm" is defined broadly and shall include
16 but not be limited to all pistols, revolvers, other handguns, rifles, shotguns,
17 automatic and semiautomatic guns, and any other instrument that expels a
18 metallic, partly metallic, or other hard projectile, including but limited to BB
19 guns, air guns and spring action guns.

20 (B) Unlawful use by a covered person of an imitation weapon or firearm, or
21 an item as a representation of a weapon or firearm, as a threat to the health,
22 safety, or peaceful enjoyment of any resident, employee, police or security
23 officer or other person, in or around the premises or the buildings, facilities
24 or common areas of Valencia Gardens is strictly prohibited.

25 (C) Violation of any part of this section (1.9) by the Resident or other
26 covered person shall be grounds for immediate lease termination and
27 eviction.
28

IT IS SO STIPULATED AND AGREED.

TRUTANICH • MICHEL, LLP

Dated: January 21, 2009

Francisco G. Torres
Attorney for Defendant John Stewart Co.

Date: January ____, 2009

Honorable Thelton E. Henderson
Judge of the District Court of

1 ZANGHI TORRES ARSHAWSKY, LLP
2 703 Market Street, Suite 1600
3 San Francisco, CA 94103
4 415/ 977-0444

5 **PROOF OF SERVICE BY MAIL**
6 **C.C.P. 1013a(1), 2015.5**

7 I, the undersigned, state that I am over eighteen years of age, a resident of San
8 Francisco County, State of California, and not a party to the within action, my business
9 address appears above. On January 28, 2009, I served copies of:

10 Defendant John Stewart Company's Response to Order to Show Cause

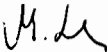
11 by placing said copies in an envelope(s) addressed as follows:

12 C.D. Michel
13 Clinton Monfort
14 Trutanich Michel, LLP
15 180 E. Ocean Boulevard, Suite 200
16 Long Beach, California 90802

17 said envelope(s) were then sealed and postage fully prepaid thereon, and deposited in the
18 United States Mail at San Francisco, on the date indicated below. There is mail delivery by
19 United States Mail between the place of mailing and the place(s) so addressed.

20 I declare under penalty of perjury under the laws of the State of California that the
21 foregoing is true and correct.

22 Date: January 28, 2009

23 
24 _____
25 Monika Leng