

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
180 E. Ocean Boulevard, Suite 200
4 Long Beach, CA 90802
Telephone: 562-216-4444
5 Facsimile: 562-216-4445
Email: cmichel@tmlp.com
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		}	NOTICE OF VOLUNTARY DISMISSAL OF ACTION WITHOUT PREJUDICE	
13 AMERICA, INC., CITIZENS				}
14 COMMITTEE FOR THE RIGHT TO				
15 KEEP AND BEAR ARMS,	}			
16 Plaintiffs		}	Dept.: Courtroom 12- 19 th Floor	
17 vs.				}
18 JOHN STEWART COMPANY, AND				
19 DOES 1-10,	}			
20 Defendants.		}		
21			}	
22				}
23	}			
24		}		
25			}	
26				}
27	}			
28		}		

24 NOTICE IS HEREBY GIVEN that pursuant to Federal Rules of Civil
25 Procedure Rule 41(a), Plaintiffs GUY MONTAG DOE, et al., voluntarily dismiss
26 the above-captioned action without prejudice.

27 Since defendant has not yet filed an answer in this matter, it would appear
28 this action can be taken simply by way of notice. To the extent court approval is

1 required, plaintiffs respectfully request this be considered a motion for such
2 approval.

3 BACKGROUND

4 In March of 2008, John Stewart Company formally amended its House Rules
5 for Valencia Gardens to prohibit the possession of firearms in the home by
6 residents of Valencia Gardens. From March 2008 to the present, it has been the
7 policy of John Stewart Company that all residents of Valencia Gardens are
8 prohibited from keeping or possessing any firearms or ammunition in the home for
9 self-defense or any other lawful purpose.

10 On June 26, 2008 the Supreme Court of the United States ruled on whether
11 the Second Amendment of the United States Constitution protects an individual
12 right to keep and bear arms in the case of *Heller v. District of Columbia*, (2008)
13 128 S. Ct. 2783. In *Heller*, the Supreme Court held that the Second Amendment
14 protects an individual right to possess a firearm unconnected with service in a
15 militia, and to use that arm for all traditionally lawful purposes, including self-
16 defense within the home. (*Id.*)


17 In light of the United States Supreme Court's decision in *Heller*, plaintiffs
18 filed suit against the John Stewart Company on the grounds that the
19 aforementioned policies of John Stewart Company regarding the prohibition on the
20 possession of firearms and ammunition by law abiding tenants are unconstitutional.

21 Following the commencement of this action by plaintiffs, defendant John
22 Stewart Company agreed to amend its House Rules to remove the prohibition on
23 the lawful possession of firearms and ammunition. Defendant John Stewart
24 Company further agreed that, effective immediately, Defendant and its agents and
25 representatives will not at any time enforce the provisions of the House Rules
26 relating to the lawful possession of firearms and ammunition. The complete terms
27 of this agreement are provided in the Stipulation Regarding Settlement and
28 Dismissal filed concurrently with this Notice of Dismissal.

1 Accordingly, plaintiffs now move to dismiss the above-captioned action
2 without prejudice.

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4 Date: January 29, 2009

TRUTANICH • MICHEL, LLP

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7 C. D. Michel
8 Attorney for Plaintiffs

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18 The clerk shall close the file.

