

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

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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
RIFLE ASSOCIATION OF)
12 AMERICA, INC., CITIZENS) **NOTICE OF OR MOTION FOR**
COMMITTEE FOR THE RIGHT TO) **VOLUNTARY DISMISSAL**
13 KEEP AND BEAR ARMS,) **WITHOUT PREJUDICE OF**
Plaintiffs) **DEFENDANTS SAN FRANCISCO**
14) **HOUSING AUTHORITY AND**
vs.) **HENRY ALVAREZ, III**
15)
SAN FRANCISCO HOUSING) Dept.: Courtroom 12- 19th Floor
16 AUTHORITY, HENRY ALVAREZ)
17 III, IN HIS OFFICIAL CAPACITY,)
JOHN STEWART COMPANY, AND)
18 DOES 1-10,)
19 Defendants.)

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21
22 NOTICE IS HEREBY GIVEN that pursuant to Federal Rules of Civil
23 Procedure Rule 41(a), Plaintiffs GUY MONTAG DOE, et. al. voluntarily dismiss
24 Defendants SAN FRANCISCO HOUSING AUTHORITY AND HENRY
25 ALVAREZ, III from the above-captioned action without prejudice.

26 Since the defendants have yet filed an answer in this matter, it would appear
27 this action can be taken simply by way of notice. To the extent court approval is
28 required, plaintiffs respectfully request this be considered a motion for such

1 approval.

2 **BACKGROUND**

3 In 2005, Defendant San Francisco Housing Authority (“SFHA”) formally
4 amended its Model Lease Agreement to prohibit the possession of firearms and
5 ammunition in the home by residents of public housing in the City and County of
6 San Francisco. From 2005 to the present, it has been SFHA’s policy that all
7 residents of public housing are prohibited from keeping or possessing any firearms
8 or ammunition in the home for self defense or any other otherwise lawful purpose.

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

16 In light of the United States Supreme Court’s decision in *Heller*, plaintiffs
17 filed suit against the San Francisco Housing Authority and Henry Alvarez III on
18 the grounds that the aforementioned policies of Defendant SFHA regarding the
19 prohibition on the possession of firearms and ammunition by law abiding tenants
20 are unconstitutional.

21 Following the commencement of this action by plaintiffs, defendant San
22 Francisco Housing Authority agreed to amend its Model Lease Agreement to
23 remove the prohibition on the lawful possession of firearms and ammunition.
24 Defendant San Francisco Housing Authority further agreed that, effective
25 immediately, Defendant SFHA and its agents and representatives will not at any
26 time enforce the provisions of the Model Lease Agreement relating to the lawful
27 possession of firearms ammunition. The complete terms of this agreement are
28 provided in the Stipulation Regarding Settlement and Dismissal filed concurrently

1 with this Notice of Dismissal.

2 Accordingly, plaintiffs now move to dismiss defendants San Francisco
3 Housing Authority from the above-captioned action without prejudice.

4 Date: January 12, 2009

TRUTANICH • MICHEL, LLP

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/S/
C. D. Michel
Attorney for Plaintiffs

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

GUY MONTAG DOE, NATIONAL
RIFLE ASSOCIATION OF
AMERICA, INC., CITIZENS
COMMITTEE FOR THE RIGHT TO
KEEP AND BEAR ARMS,

Plaintiffs

vs.

SAN FRANCISCO HOUSING
AUTHORITY, MIRIAM SAEZ, IN
HER OFFICIAL CAPACITY,
HENRY ALVAREZ III, IN HIS
OFFICIAL CAPACITY, CITY AND
COUNTY OF SAN FRANCISCO,
GAVIN NEWSOM, IN HIS
OFFICIAL CAPACITY, JOHN
STEWART COMPANY, AND DOES
1-10,

Defendants.

CASE NO.: CV-08-03112 TEH

**NOTICE OF OR MOTION FOR
VOLUNTARY DISMISSAL
WITHOUT PREJUDICE OF
DEFENDANTS SAN FRANCISCO
HOUSING AUTHORITY AND
HENRY ALVAREZ, III**

IT IS HEREBY CERTIFIED THAT:

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

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

**NOTICE OF OR MOTION FOR VOLUNTARY DISMISSAL WITHOUT
PREJUDICE OF DEFENDANTS SAN FRANCISCO HOUSING
AUTHORITY AND HENRY ALVAREZ, III**

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

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Tim Larsen
Assistant General Counsel
San Francisco Housing Authority
440 Turk Street
San Francisco, Ca 94102
Email: larsent@SFHA.ORG

John P. Zanghi
Zanghi Torres Arshawsky, LLP
703 Market St., #1600
San Francisco, CA 94103
Email: jzanghi@ztalaw.com

Attorney for Defendants
San Francisco Housing Authority

Attorney for Defendants
The John Stewart Company

I declare under penalty of perjury that the foregoing is true and correct.
Executed on January 12, 2009.

TRUTANICH • MICHEL, LLP

/S/

C. D. Michel
Attorney for Plaintiffs'