

1 KAMALA D. HARRIS
Attorney General of California
2 ZACKERY P. MORAZZINI
Supervising Deputy Attorney General
3 ROSS C. MOODY
Deputy Attorney General
4 State Bar No. 142541
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1376
6 Fax: (415) 703-1234
E-mail: Ross.Moody@doj.ca.gov
7 *Attorneys for Defendants Kamala Harris and the*
California Department of Justice
8

9
10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

14 **BRENDAN JOHN RICHARDS, THE**
15 **CALGUNS FOUNDATION, INC., and THE**
16 **SECOND AMENDMENT FOUNDATION,**
17 **INC.,**

18 Plaintiffs,

19 v.

20 **KAMALA HARRIS, Attorney General of**
21 **California (in her official capacity),**
22 **CALIFORNIA DEPARTMENT OF**
23 **JUSTICE, CITY OF ROHNERT PARK,**
24 **OFFICER DEAN BECKER (RP134) and**
25 **DOES 1 TO 20,**

26 Defendants.

CV 11-2493 SI

27 **STIPULATION AND ORDER**
28 **CONSOLIDATING CASES FOR**
HEARING ON MOTION TO DISMISS
(Fed.R.Civ. Proc. 42(a))

Date: August 5, 2011
Time: 9:00 a.m.
Courtroom: 10
Judge: The Honorable Susan Ilston
Trial Date: None
Action Filed: May 20, 2011

29 Counsel for Plaintiffs and counsel for the California Attorney General and the California
30 Department of Justice (the "State Defendants") hereby stipulate and jointly request an order
31 pursuant to Federal Rule of Civil Procedure 42 consolidating this case, *Richards v. Harris*, Case
32 No. CV 11-2493 SI ("*Richards*") with the related case of *Haynie v. Harris*, Case No. CV 10-1255
33 SI ("*Haynie*") for purposes of considering the State Defendants' Motion to Dismiss. A hearing
34

1 on the State Defendants' Motion to Dismiss in *Haynie* is currently set for August 5, 2011. Both
2 Plaintiffs and the State Defendants believe that because the legal issues in *Haynie* and the instant
3 case are identical, it will preserve judicial and party resources to have the two cases consolidated
4 for purposes of adjudicating the Motion to Dismiss.

5 Federal Rule of Civil Procedure 42 permits a Court to "join for hearing or trial any or all
6 matters" in two actions if the "actions before the court involve a common questions of law or
7 fact." Both *Haynie* and *Richards* present the same legal issues regarding California's Assault
8 Weapons Control Act and the Department of Justice's role in enforcing it. The parties agree and
9 stipulate that the legal defenses raised by the State Defendants in their Motion to Dismiss in the
10 *Haynie* matter are identical to those they would raise in a Motion to Dismiss in *Richards*, namely,
11 standing and subject matter jurisdiction. The parties further stipulate and agree that the
12 opposition and reply in *Richards* would be substantially identical to those filed in *Haynie*.
13 Accordingly, the parties seek an order consolidating *Haynie* and *Richards* for purposes of
14 adjudicating the issues presented in the State Defendants' Motion to Dismiss currently set for
15 August 5, 2011, and to deem the motion pleadings in the *Haynie* action to apply as though also
16 filed in *Richards*. The parties stipulate that the facts alleged in the *Haynie* First Amended
17 Complaint, and the facts alleged in the *Richards* Complaint can be used to support arguments in
18 either or both cases.

19 Granting the relief sought will reduce the expenditure of judicial resources, and will not
20 prejudice any party.

21
22 SO STIPULATED.

23
24 Date: June 20, 2011

Date: June 20, 2011

25
26 /s/ Ross Moody

/s/ Donald Kilmer

27 _____
Ross Moody, Counsel for Defendants

Donald Kilmer, Counsel for Plaintiffs


1 **FINDINGS AND ORDER**

2 Pursuant to the stipulation of the parties and a review the Complaint in *Richards v. Harris*,
3 Case No. CV 11-2493 SI, and the First Amended Complaint in *Haynie v. Harris*, Case No. CV
4 10-1255 SI, as well as the briefing on the Motion to Dismiss which is complete in *Haynie*, this
5 Court finds that these actions contain common issues of law and fact, and should be consolidated
6 for hearing pursuant to Federal Rule of Civil Procedure 42(a).

7 The Court also accepts the stipulation of the parties that the Motion to Dismiss briefing
8 filed in the *Haynie* action should be deemed applicable to the *Richards* action with respect to
9 Defendants Kamala Harris and the California Department Of Justice; and that the consolidated
10 motion to dismiss in *Richards* and *Haynie* will be heard on August 5, 2011 at 9:00 a.m., the date
11 currently set for the hearing on the Motion to Dismiss in *Haynie*.

12 Plaintiffs are directed to serve a copy of this Stipulation and Order on the remaining
13 Defendants in the *Richards* case.

14
15 Dated: 6/21/11
16


The Honorable Susan Illston
United States District Judge