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19 Attorneys for Plaintiff

20 THE UNITED STATES DISTRICT COURT

21 IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

22 THERESE MARIE PIZZO,) Case No. 09-cv-04493-CW

23 Plaintiff,)

24 vs.)

25 CITY AND COUNTY OF SAN FRANCISCO)
26 MAYOR GAVIN NEWSOM, in both his)
individual and official capacities; FORMER)
SAN FRANCISCO POLICE DEPARTMENT;)
CHIEF OF POLICE HEATHER FONG, in both)
her individual and official capacities; SAN)
FRANCISCO POLICE DEPARTMENT CHIEF)
OF POLICE GEORGE GASCON, in his official)
capacity; SAN FRANCISCO SHERIFF)
MICHAEL HENNESSEY, in both his)
individual and official capacities; CITY AND)
COUNTY OF SAN FRANCISCO; and STATE)
OF CALIFORNIA ATTORNEY GENERAL)
EDMUND G. BROWN, in his official capacity,)

27 Defendants.)

28 _____)
29 **AMENDED STIPULATION OF THE
PARTIES TO SET ASIDE ORDER OF
JULY 14, 2010 FOR FAILURE TO
APPEAR AND TO RESET THE CASE
BACK ON THE CASE MANAGEMENT
CONFERENCE CALENDAR**

Plaintiff THERESE MARIE PIZZO by and through her attorneys of record, Defendants
CITY AND COUNTY OF SAN FRANCISCO and its named officials and Defendant STATE OF

1 CALIFORNIA ATTORNEY GENERAL EDMUND G. BROWN, in his official capacity, by and
2 through their respective attorneys of record hereby stipulate to the following recitals and proposed
3 order:

4 WHEREAS each of the attorneys for the parties independently failed to notice the Court's
5 addition in the footer area of Docket entry Number 16, 04/05/10, Stipulation of the Parties to
6 Continue the Case Management Conference, that reset the Case Management Conference for
7 7/13/2010 at 2:00 p.m., and

8 WHEREAS the Docket entry for 04/05/2010 stated, "Deadlines terminated. 6 Case
9 Management Scheduling Order," which implied that there were no longer any hearings on calendar,
10 and

11 WHEREAS the parties apologize for any inconvenience they may have caused the Court by
12 inadvertently failing to attend the July 13, 2010 Case Management Conference, and

13 WHEREAS the parties agree that this case should remain stayed in the aftermath of
14 *McDonald v. Chicago*, 561 U.S. ____ (2010) and *District of Columbia v. Heller*, 554 U.S. ___, 128
15 S.Ct. 2783, 171 L.Ed.2d 637 (2008). There are several cases pending in the U.S. Court of Appeals
16 for the Ninth Circuit that may address issues left open by *McDonald* regarding the standard of review
17 for claims under the Second Amendment, *Nordyke v. King* Case No. 07-15763, *Rothery v. Blanas*,
18 Case No. 09-16852 and *Mehl v. Blanas*, Case No. 08-15773 and the viability of California's Carry
19 Concealed Weapons permits (CCW) under a appropriate standard of review (*Mehl*). Both *Mehl* and
20 *Nordyke* have been fully briefed and argued. Decisions in these matters were stayed pending the
21 ruling in *McDonald*. The opening brief was filed in *Rothery*, and the Ninth Circuit put the
22 opposition on hold until the *McDonald* decision came out. Resolution of these issues by the Ninth
23 Circuit could have a direct bearing on the disposition of this case, and

24 WHEREAS there is currently an earlier-filed case before Judge Seeborg, *Jackson v. City and*
25 *County of San Francisco*, No. C09-2143 RS, and though the Attorney General is not a party to that
26 case, both the City and County of San Francisco and Plaintiff represent that *Jackson* raises the same
27 claims against the same San Francisco ordinances as Plaintiff raises here, and

28 WHEREAS both the City and County of San Francisco and Plaintiff hope to prevent

1 duplicate proceedings on the same legal issue that could result in conflicting opinions issues by
2 moving to consolidate this case with *Jackson*, and

3 WHEREAS the parties agree that it would also be in the interest of judicial economy to have
4 the case stayed until the U.S. Court of Appeals for the Ninth Circuit renders final decisions in
5 *Nordyke v. King* and *Mehl v. Blanas*, and Judge Seeborg decides whether to consolidate this case
6 with *Jackson*,

7 THE PARTIES HEREBY STIPULATE TO THE FOLLOWING ORDER:

8 The Order dated July 14, 2010 dismissing the case for failure to prosecute is hereby set aside.
9 Plaintiff's counsel is directed to notify the Court in writing when the U.S. Court of Appeals for the
10 Ninth Circuit renders final decisions in *Nordyke v. King* and *Mehl v. Blanas* including copies of the
11 opinions. Counsel for Defendant City and County of San Francisco shall likewise notify the Court in
12 writing on the disposition of the motion to consolidate. After receipt of these notifications, the Court
13 will issue an order setting a case management conference.

14 **IT IS SO STIPULATED THIS THURSDAY, JULY 15, 2010,**

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6 HEATHER FONG, in both her individual and official
capacities; SAN FRANCISCO POLICE DEPARTMENT
CHIEF OF POLICE GEORGE GASCON, in his official
capacity; SAN FRANCISCO SHERIFF MICHAEL
HENNESSEY, in both his individual and official capacities;
CITY AND COUNTY OF SAN FRANCISCO.

7 **IT IS SO ORDERED,** except that a Further Case Management Conference is set for
8 October 5, 2010 at 2 p.m.

9 **Dated:** 7/22/2010


10 Judge Claudia Wilken
11 U.S. District Court Judge

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