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UNITED STATES DISTRICT COURT

DISTRICT OF NORTHERN CALIFORNIA

JANICE ALTMAN, et al.,

Plaintiffs,

vs.

COUNTY OF ALAMEDA, CALIFORNIA, et al.,

Defendants.

Case No. 4:20-cv-02180

**JOINT MOTION FOR DISMISSAL OF
ALAMEDA COUNTY DEFENDANTS
[FRCP 41(a)(2)], AND PLAINTIFFS'
REQUEST FOR ENTRY OF JUDGMENT
[FRCP 58(d)]; ~~PROPOSED~~ ORDER;
~~PROPOSED~~ JUDGMENT**

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JOINT MOTION FOR DISMISSAL OF ALAMEDA COUNTY DEFENDANTS

1. The parties hereto, plaintiffs Janice Altman, Ryan Goodrich, Albert Lee Swann, Roman Kaplan, Yan Traytel, Dmitry Danilevsky, Greg David, Scott Chalmers, City Arms East LLC, City Arms LLC, Cuckoo Collectibles LLC d.b.a. Eddy's Shooting Sports, Second Amendment Foundation, California Gun Rights Foundation, National Rifle Association of America, California Association of Federal Firearms Licensees, Inc., and Firearms Policy Coalition, Inc. ("Plaintiffs"), and defendants County of Alameda, Gregory J. Ahern, and Nicholas Moss¹ ("Defendants") (and collectively, "Parties"), by and through their counsel undersigned, hereby and jointly move this court for dismissal of the Plaintiffs' claims against said Defendants pursuant to Fed. R. Civ. P. 41(a)(2). The Parties move for dismissal by requesting that the Court enter the Order of Dismissal set forth in the proposed ORDER DISMISSING ALAMEDA COUNTY DEFENDANTS below ("Order of Dismissal").

2. The Parties agree that the dismissal made effective by this motion shall be with prejudice. The dismissal shall bar all claims that Plaintiffs asserted or could have asserted against Defendants in this action based on issuance or enforcement of any of the Orders of the Alameda County Health Officer relating to COVID-19, including any appendices thereto and any guidance interpreting the Orders, as listed in Exhibit A, which is herein incorporated by reference. However, the dismissal shall not be construed to bar any claims based upon the issuance of future orders, or the enforcement of such future orders, by the Defendants, which may occur after the date of the Order of Dismissal, even if those future orders are based, in whole or in part, upon orders that predate the Order of Dismissal.

3. If the Order of Dismissal is approved, the Parties further and jointly request that the clerk vacate all pretrial and trial dates set by the Court's Scheduling Order of February 26, 2021 [ECF No. 94].

4. This joint motion shall not be construed to be a voluntary dismissal as to any other defendants besides the Parties to this joint motion.

¹Pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, the current Public Health Officer for the County of Alameda has been automatically substituted as a defendant in place of his predecessor, Erica Pan. *See* ECF No. 80.

EXHIBIT A TO JOINT MOTION

Alameda County March 16, 2020 Health Order
Alameda County March 31, 2020 Health Order (No. 20-04)
Alameda County April 29, 2020 Health Order (No. 20-10)
Alameda County May 18, 2020 Health Order (No. 20-11)
Alameda County June 5, 2020 Health Order (No. 20-14)
Alameda County June 18, 2020 Health Order (No. 20-14a)
Alameda County July 19, 2020 Health Order (No. 20-14b)
Alameda County August 21, 2020 Health Order (No. 20-14c)
Alameda County October 21, 2020 Health Order (No. 20-15)
Alameda County November 17, 2020 Health Order (No. 20-15, revised)
Alameda County December 6, 2020 Health Order (No. 20-21)
Alameda County January 13, 2021 Health Order (No. 20-21a)
Alameda County January 25, 2021 Health Order (No. 21-01)

PLAINTIFFS' REQUEST FOR ENTRY OF JUDGMENT

5. Pursuant to Fed. Rule Civ. Pro. 58(d), Plaintiffs hereby and separately request that the Court immediately enter judgment as to all of the remaining defendants that were dismissed by virtue of the Court's Order of Dismissal [ECF No. 65].

Dated: March 23, 2021

SEILER EPSTEIN LLP

/s/ George M. Lee

George M. Lee

Attorneys for Plaintiffs

Dated: March 23, 2021

SHUTE, MIHALY & WEINBERGER LLP

/s/ Matthew D. Zinn

Matthew D. Zinn

*Attorneys for Defendants County of Alameda,
Gregory J. Ahern, and Nicholas Moss*

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ORDER DISMISSING ALAMEDA COUNTY DEFENDANTS

The Court, having reviewed the foregoing joint motion of the parties, and good cause appearing, hereby ORDERS a voluntary dismissal of Defendants County of Alameda, Gregory J. Ahern, and Nicholas Moss pursuant to Fed. R. Civ. P. 41(a)(2). The dismissal shall be with prejudice, pursuant to the parties' settlement as recited in their joint motion.

JUDGMENT OF DISMISSAL

Pursuant to the request of the Plaintiffs, and further to this Court's Order of Dismissal [ECF No. 65], pursuant to Fed. Rule Civ. Pro. 58(a), it is hereby ORDERED, ADJUDGED AND DECREED that Judgment shall and now hereby be entered in favor of defendants the County of Santa Clara, Laurie Smith, Jeffrey Rosen, Sara Cody, the City of San Jose, Sam Liccardo, Edgardo Garcia, the City of Mountain View, Max Bosel, the County of San Mateo, Carlos Bolanos, Scott Morrow, the City of Pacifica, Dan Steidle, the County of Contra Costa, David Livingston, Chris Farnitano, the City of Pleasant Hill, and Max Bryan Hill, and against the plaintiffs herein.

IT IS SO ORDERED.

Dated: March 24, 2021



HON. JON S. TIGAR
UNITED STATES DISTRICT JUDGE