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9 Attorneys for Plaintiff
San Jose Police Officers' Association

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SANTA CLARA

12
13 SAN JOSE POLICE OFFICERS'
ASSOCIATION,

14 Plaintiff,

15 v.

16 CITY OF SAN JOSE, BOARD OF
17 ADMINISTRATION FOR POLICE AND
FIRE DEPARTMENT RETIREMENT
18 PLAN OF CITY OF SAN JOSE, and
DOES 1-10, inclusive,

19 Defendants.
20

No.

**DECLARATION OF EDWARD CONOVER
IN SUPPORT OF SJPOA'S *EX PARTE*
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND ORDER TO
SHOW CAUSE REGARDING
PRELIMINARY INJUNCTION**

21 I, Edward Conover, declare and say:

22 1. I am employed by the City of San Jose as a Police Sergeant and am a
23 member of the SAN JOSE POLICE OFFICERS' ASSOCIATION ("SJPOA"). I have
24 worked for the City of San Jose since 1996, first as a Police Officer and then as a Police
25 Sergeant. Before that, I worked as a Police Officer for South Lake Tahoe from 1994 to
26 1996. As a result of my employment with the City of San Jose, I am familiar with the
27 facts in this matter, as well as those set forth in this Declaration. If called upon as a
28 witness, I could and would testify competently to these facts.

1 2. I submit this declaration in support of the SJPOA's *Ex Parte* Application
2 for Temporary Restraining Order and Order to Show Cause Regarding Preliminary
3 Injunction ("*Ex Parte* Application for TRO").

4 3. In July 2011, San Jose Police Officers agreed to a 10% pay cut that will
5 be in effect until at least June 2013. This pay cut is in addition to increases to employee
6 contributions for retirement benefits (including increases to employee-paid retirement and
7 retiree health care costs) that amount to an approximate additional 17% decrease to my
8 take-home pay.

9 4. I am informed that this voluntary pay cut, combined with increases to the
10 employee-paid retirement/retiree health care costs in recent years, have made San Jose's
11 police officers among the lowest paid police in the region taking into account total
12 compensation. We currently pay more into our retirement than any other police agency in
13 the region. Effective June 24, 2012, we are slated for an additional approximate 2%
14 decrease to take home pay which will put us even farther behind other law enforcement
15 agencies in the region.

16 5. The cumulative impact of the pay reduction along with the increases to
17 employee-paid retirement/retiree health care costs has forced many officers to take
18 positions with other police agencies in the region. I know several officers who have
19 already left the department and many more who are considering leaving should additional
20 decreases to pay and/or pension benefits occur. I personally make less in take-home pay
21 than I did ten years ago even though I work approximately the same number of hours.

22 6. I am married and have two children.

23 7. The prior pay reduction and increases to employee-paid retirement/retiree
24 health care costs have forced my family to cut back on most non-essential spending in
25 order to have enough money each month to pay my family's living expenses. In order to
26 pay my bills for necessities, including our mortgage, I have been unable to save any extra
27 money for emergencies. Despite cutting back, we still struggle to pay our mortgage each
28 month.

1 8. Measure B, if implemented, would require that I and other San Jose
2 police officers begin paying 50% of the costs of retiree healthcare, including both the
3 normal cost and unfunded liability. Currently, the unfunded liability percentage is 32%
4 which means that my salary immediately will be decreased by at least another 9% for the
5 unfunded retiree health care costs (because we are already paying 7% of the unfunded
6 retiree health care costs) although I will receive the same level of benefits from the City.
7 If this occurs, I may lose my house. We simply do not have anymore corners that we can
8 cut.

9 9. I have also been informed that the City will start charging me for 50% of
10 the unfunded pension liability although the implementation of the unfunded pension
11 liability charges will be phased in over time. The implementation of this additional
12 decrease will make my financial situation even more precarious because it will reduce my
13 salary by an additional 16% when fully implemented. I have never previously had to pay
14 for unfunded pension liability.

15 10. Measure B will also modify disability retirement for San Jose police
16 officers, as detailed below, such that it will no longer be of any benefit to me. I consider
17 comprehensive disability retirement protection an absolutely crucial employment benefit
18 for my line of work because police work is extremely physically demanding and
19 dangerous. I personally have suffered severe damage to my knee and shoulder that
20 required surgery and have seen many officers under my command injured in the line of
21 duty. I have wanted to be a police officer since I was a little boy and am proud to be a
22 police officer because I love the work. However, I have done it knowing that if I were
23 injured on the job and unable to come back to work, my family would be taken care of. I
24 am not sure I would have chosen a career in law enforcement with the San Jose Police
25 Department without the knowledge that my family would be protected with full retirement
26 benefits in the event that I am disabled as a result of actions taken in the line of duty while
27 performing my job protecting the citizens of San Jose.

1 11. Under the City of San Jose's current disability retirement plan for police
2 officers, I would be deemed disabled if I am no longer able to perform duties within my
3 peace officer classification (i.e. the normal duties of a police officer). Under the current
4 system, if I was rendered disabled, I would be entitled to retirement disability payments of
5 50% of my current salary for the first 20 years of service and an additional 4% for every
6 year of service thereafter. The City explained these rights to me many times throughout
7 my career, starting in the Police Academy, and I have relied on these rights throughout my
8 career to protect my family's financial security should I be injured in the line of duty.

9 12. Measure B, if passed by San Jose electorate, would eviscerate the police
10 disability retirement plan. My understanding is that instead of analyzing whether I will be
11 able to perform police officer functions, the City will analyze whether I can perform the
12 job functions of any position within the Police Department, including jobs that consist
13 primarily of administrative tasks. If I am found to be physically able to perform the job
14 functions of any position within the Police Department, my disability application will be
15 denied. More troubling, if the job or jobs that I have been found to be able to perform are
16 occupied, I will be terminated from city employment without any retirement benefits. In
17 my experience, the non-police jobs in the department are Alarm Technician (1 positions),
18 Crime Prevention Specialist (5 positions), Latent Fingerprint Examiner (5 positions), and
19 Police Artist (1 position). I do not recall when any of these positions was vacant for any
20 significant period of time.

21 13. That the City of San Jose has even proposed this change is
22 unconscionable. Moreover, if the retirement disability changes are implemented, it will
23 have an immediate and catastrophic impact on me if I become disabled as a result of
24 actions taken in the line of duty, as it will almost certainly eliminate the availability of any
25 retirement pension. Essentially, the changes have all but guaranteed that I will be
26 terminated and left without the means to support myself and my family as a result of being
27 injured in the line of duty. As the Sergeant in command of a high risk unit, the Motors
28 Unit, it also puts me in a difficult position because I have no idea how to lead if I know

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Unit, it also puts me in a difficult position because I have no idea how to lead if I know my officers and their families will be forced into poverty if they are injured while on duty. I am truly at a loss as to how to effectively do my job if the retirement disability changes are implemented.

14. In light of this risk, if Measure B passes, I and (I am informed) many of my colleagues will look for law enforcement work at departments that maintain full disability retirement coverage, rather than risk being hung out to dry during such a time of need. Pursuant to my discussions with fellow officers, I would estimate that almost half of the police officers in San Jose are planning to leave should Measure B be implemented. Moreover, I and other officers will no longer volunteer for high-risk assignments as I have done in the past, such the Motors Unit. In fact, the impact of Measure B has already been felt through the decrease in applications to the Motors Unit. Usually, the Motors Unit receives 25 to 30 applicants each time positions open on the Unit. This most recent time, however, only 9 officers applied. I cannot remember a time when so few officers applied for what is considered a prestigious assignment. Even beyond the Motors Unit, I believe the San Jose Police Department will find it difficult, if not impossible, to find enough officers, not only to fill these crucial roles, but also to simply maintain an adequate force to fulfill its public-safety and crime-prevention roles.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed this 2nd day of June, 2012, San Jose, California.


Edward Conover