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9 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
18 RETIREMENT PLAN OF CITY OF
SAN JOSE, and DOES 1-10,
19 inclusive,

20 Defendants.

No.

**DECLARATION OF LAURENCE RYAN IN
SUPPORT OF *EX PARTE* APPLICATION FOR
TEMPORARY RESTRAINING ORDER AND
ORDER TO SHOW CAUSE REGARDING
PRELIMINARY INJUNCTION**

21 I, Laurence Ryan, declare and say:

22 1. I am employed by the City of San Jose as a Police Lieutenant and am a
23 member of the SAN JOSE POLICE OFFICERS' ASSOCIATION ("SJPOA"). I have
24 been employed by the City of San Jose since 1990 and have worked as a Police Officer, a
25 Police Sergeant and, now, a Police Lieutenant. As a result of my employment with the
26 City of San Jose, I am familiar with the facts in this matter, as well as those set forth in
27 this Declaration. If called upon as a witness, I could and would testify competently to
28 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.

21 6. I am married and have three kids under the age of ten.

22 7. Measure B, if implemented, would require that I and other San Jose
23 police officers begin paying 50% of the costs of retiree healthcare, including both the
24 normal cost and unfunded liability. Currently, the unfunded liability percentage is 32%
25 which means that my salary immediately will be decreased by at least another 9% for the
26 unfunded retiree health care costs (because we already paying 7% of the unfunded retiree
27 health care costs) although I will receive the same level of benefits from the City. If this
28 occurs, it will have serious consequences for my family's finances.

1 8. I have also been informed that the City will start charging me for 50% of
2 the unfunded pension liability (also currently set at 32%) although the implementation of
3 the unfunded pension liability charges will be phased in over time. The implementation
4 of this additional decrease will make my financial situation even more precarious.

5 9. Measure B will also modify disability retirement for San Jose police
6 officers, as detailed below, such that it will no longer be of any benefit to me. I consider
7 comprehensive disability retirement protection an absolutely crucial employment benefit
8 for my line of work because police work is extremely physically demanding and
9 dangerous. I have previously dislocated my shoulder as a result of an on-the-job injury
10 and am very aware of how important it is to have disability coverage. I would not have
11 chosen a career in law enforcement without the knowledge that my family and I would be
12 protected with full retirement benefits in the event that I am disabled as a result of actions
13 taken in the line of duty while performing my job protecting the citizens of San Jose.

14 10. Under the City of San Jose's current disability retirement plan for police
15 officers, I would be deemed disabled if I am no longer able to perform duties within my
16 peace officer classification (i.e. the normal duties of a police officer). Under the current
17 system, if I was rendered disabled, I would be entitled to retirement disability payments of
18 50% of my current salary for the first 20 years of service and an additional 4% for every
19 year of service thereafter. The City explained these rights to me many times throughout
20 my career, starting in the Police Academy, and I have counted on these rights throughout
21 my career to protect my family's financial security should I be injured in the line of duty.

22 11. Measure B, if passed by San Jose electorate, would eviscerate the police
23 disability retirement plan. My understanding is that instead of analyzing whether I will be
24 able to perform police officer functions, the City will analyze whether I can perform the
25 essential job functions of any position within the Police Department, including jobs that
26 consist primarily of administrative tasks. If I am found to be physically able to perform
27 the essential job functions of any position within the Police Department, my disability
28 application will be denied. More troubling, if the job or jobs that I have been found to be

1 able to perform are occupied, I will be terminated from city employment without any
2 retirement benefits. The non-police jobs in the department are Alarm Technician (1
3 positions), Crime Prevention Specialist (5 positions), Latent Fingerprint Examiner (5
4 positions), and Police Artist (1 position). I do not recall when any of these positions was
5 vacant for any significant period of time.

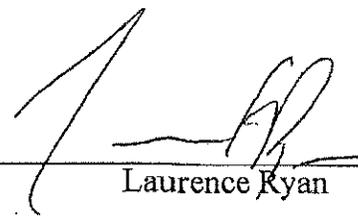
6 12. If the changes delineated in the prior paragraph are implemented, it will
7 have an immediate and catastrophic impact on me if I become disabled as a result of
8 actions taken in the line of duty, as it will virtually eliminate the availability of any
9 retirement pension. Essentially, the changes have all but guaranteed that I will be
10 terminated and left without the means to support myself and my family as a result of being
11 injured in the line of duty.

12 13. In light of this risk, if Measure B passes, I and (I am informed) many of
13 my colleagues will look for law enforcement work at departments that maintain full
14 disability retirement coverage, rather than risk being hung out to dry during such a time of
15 need. I have already started looking for employment at other agencies in the region
16 because I cannot risk my family's financial security if my right to disability retirement is
17 taken away.

18 14. Moreover, as a Lieutenant and as the Watch Commander responsible for
19 all officers and sergeants working a particular watch, I will be gravely concerned about
20 ordering officers into dangerous assignments where I know the risk of potentially-
21 disabling injury is high. It will be extremely difficult for me to ask my officers to put
22 their lives and limbs in jeopardy knowing that they may get injured and will face almost certain
23 unemployment. I also believe that I will have a very hard time recruiting officers to
24 volunteer for high-risk assignments and that the San Jose Police Department will find it
25 difficult, if not impossible, to find enough officers, not only to fill these crucial roles, but
26 also to simply maintain an adequate force to fulfill its public-safety and crime-prevention
27 roles.

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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 4 day of June, 2012, SAN JOSE, California.



Laurence Ryan