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13 **UNITED STATES DISTRICT COURT**
14 **EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

15 PAMELA KINCAID, etc., et al.,

16 Plaintiffs,

17 vs.

18 CITY OF FRESNO, et al.,

19 Defendants.

20 **Case No.: 1:06-CV-01445-OWW-SMS**

21 **ORDER:**

22 **(1) DENYING DEFENDANT WILL KEMPTON'S MOTION FOR SUMMARY JUDGMENT;**

23 **(2) DENYING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AS TO DEFENDANTS JAMES PROVINCE AND DARYL GLENN;**

24 **AND**

25 **(3) GRANTING DEFENDANTS JAMES PROVINCE AND DARYL GLENN'S MOTION FOR SUMMARY JUDGMENT AS TO THE STATE LAW CLAIMS FOR DAMAGES ASSERTED AGAINST THEM AND DENYING THE MOTION ON ALL OTHER GROUNDS.**

26 On April 25, 2008, before U. S. District Court Judge, the Hon. Oliver W. Wanger, the
27 following motions were heard:
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1. Defendant Will Kempton's motion for summary judgment;

1 2. Plaintiffs' motion for summary judgment as to liability against Defendants James
2 Province and Daryl Glenn; and

3
4 3. Defendants Province and Glenn's motion for summary judgment.

5 Plaintiffs were represented by Paul Alexander and others, City Defendants were
6 represented by James Rubin, and Defendants Kempton, Province, and Glenn were represented
7 by David P. Harris.

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9 Following presentation of oral argument, and after the Court's consideration of all oral
10 and written evidence and argument present, the Court, finding good cause therefor, hereby
11 orders as set forth below.

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13 IT IS HEREBY ORDERED that:

14 A. Defendant Kempton's motion for summary judgment is DENIED;

15 B. Plaintiffs' motion for summary judgment against Defendants Province and Glenn is
16 DENIED;

17 C. Defendants Province and Glenn's motion for summary judgment is GRANTED as to
18 the state law claims for damages asserted against them, specifically, the fifth, sixth, seventh, and
19 eighth claims for relief in the Second Amended Complaint on file herein; AND

20 D. Defendants Province and Glenn's motion for summary judgment is DENIED on all
21 other grounds.

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23 IT IS SO ORDERED.

24 DATED: May 19, 2008

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27 /s/ OLIVER W. WANGER
28 OLIVER W. WANGER
U. S. District Court Judge