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15 *Attorneys for Defendants*

16 **UNITED STATES DISTRICT COURT**
 17 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 18 **SAN JOSE DIVISION**

19 **NATIONAL ASSOCIATION FOR GUN**
 20 **RIGHTS, INC.**, a non-profit corporation, and
 21 **MARK SIKES**, an individual,

22 Plaintiffs,

23 v.

24 **CITY OF SAN JOSE**, a public entity,
 25 **JENNIFER MAGUIRE**, in her official
 26 capacity as City Manager of the City of San
 27 Jose, and the **CITY OF SAN JOSE CITY**
 28 **COUNCIL**,

Defendants.

Case No. 5:22-cv-00501-BLF

DECLARATION OF TAMARAH P.
PREVOST IN SUPPORT OF
DEFENDANTS' MOTION TO
SHORTEN TIME UNDER CIVIL
L.R. 6-3

Courtroom: 3 – 5th Floor
 Judge: Hon. Beth Labson Freeman

Complaint Filed: January 25, 2022
 MTD Filed: February 7, 2022

1 I, Tamarah P. Prevost, hereby declare as follows:

2 1. I am an attorney duly admitted to practice before all courts of the State of California
3 and before the U.S. District Court for the Northern District of California. I am a partner with the law
4 firm of Cotchett, Pitre & McCarthy, LLP, counsel for Defendants City of San Jose, Jennifer Maguire,
5 and City of San Jose City Council (collectively, “Defendants”) in this matter.

6 2. I make this Declaration pursuant to Civil L.R. 6-3 in support of Defendants’ Motion
7 to Shorten Time Under Civil L.R. 6-3 and 6-1(b) for a shortened briefing schedule and hearing date
8 on Defendants’ Motion to Dismiss for Lack of Subject Matter Jurisdiction, ECF No. 17 (“MTD”).

9 3. I have personal knowledge of each of the facts stated herein, and if called as a witness,
10 I could and would testify competently to all facts herein.

11 4. On January 25, 2022, the San Jose City Council introduced a draft firearm ordinance
12 for a first reading and voted to publish the draft ordinance, which was still subject to change, in
13 anticipation of a vote on its promulgation into law to be held on a later date.

14 5. On January 25, 2022, Plaintiffs filed their Complaint, ECF No. 1, despite the San
15 Jose City Council not having enacted the draft firearm ordinance into law.

16 6. On February 8, 2022, San Jose did enact a version of the gun ordinance into law (the
17 “Ordinance”)—but it is not the same draft text of the bill from which Plaintiffs liberally quote in
18 their Complaint.

19 7. The City Council must still consider and adopt a schedule of fees and charges
20 assessed on gun owners to whom the Ordinance applies for the reduction of gun harm.

21 8. The City Council has yet to adopt a schedule of fines imposed for violation of the
22 Ordinance.

23 9. The City Manager—a Defendant in this suit—has yet to promulgate the regulations
24 necessary to carry out various provisions of the Ordinance, at the direction of elected San Jose
25 lawmakers.

26 10. On Friday, February 4, 2022, Defendants’ Counsel emailed Plaintiffs’ Counsel,
27 asking to telephonically meet and confer on Monday, February 7, 2022, over a shortened briefing
28 schedule for the MTD. That same day, Plaintiffs’ Counsel responded, writing, *inter alia*: “[W]e can

1 disclose that the complaint will be amended soon, which could moot some of the concerns
2 underlying your motion.” Plaintiffs’ Counsel declined to meet and confer on February 7, 2022, as
3 proposed, and instead asked to speak on Thursday, February 10, 2022.

4 11. On February 10, 2022, the Parties met and conferred telephonically. Defendants’
5 Counsel asked for a stipulation for a shortened briefing schedule to the MTD. Specifically, that
6 Plaintiffs’ Opposition be due on February 16, 2022, and Defendants’ Reply be due on February 23,
7 2022. Defendants’ Counsel also attempted to obtain a stipulated agreement asking the Court to
8 advance the hearing date on the MTD. Plaintiffs’ Counsel asked for time to confer with their clients
9 about the proposed stipulations. In an email at 9:49 P.M. PT on February 10, 2022, Plaintiffs’
10 Counsel rejected Defendants’ Counsel’s proposals in their entirety.

11 12. There have been no previous time modifications in the case, whether by stipulation
12 or Court order.

13 13. The earliest date that the Court could hear Defendants’ Motion to Dismiss is not until
14 June 2, 2022, which was promptly reserved. The resolution of the Motion to Dismiss is a threshold
15 issue that will shape this litigation, one way or another. Because Defendants will be substantially
16 harmed and prejudiced if this issue were not quickly resolved, and in the interest of judicial economy
17 and efficiency, the Court should determine and resolve the Motion to Dismiss on an expedited basis.

18
19 I declare under penalty of perjury that the foregoing is true and correct. Executed this 11th
20 day of February, 2022, at Burlingame, California.

21
22 /s/ Tamarah P. Prevost

TAMARAH P. PREVOST