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14 UNITED STATES DISTRICT COURT

15 FOR THE NORTHERN DISTRICT OF CALIFORNIA

16 SAN JOSE DIVISION

17
18 NATIONAL ASSOCIATION FOR GUN
19 RIGHTS, INC., a non-profit corporation, and
MARK SIKES, an individual,

20 Plaintiffs,

21 v.

22 CITY OF SAN JOSE, a public entity,
23 JENNIFER MAGUIRE, in her official capacity
24 as City Manager of the City of San Jose, and the
CITY OF SAN JOSE CITY COUNCIL,

25
26 Defendants.
27
28

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

**NOTICE OF MOTION AND UNOPPOSED
MOTION TO SHORTEN TIME UNDER
CIVIL L.R. 6-3; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT**

Courtroom: 3-5th Floor

Judge: Honorable Beth Labson Freeman

Complaint Filed: January 25, 2022

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TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that plaintiffs National Association for Gun Rights, Inc. (“NAGR”) and Mark Sikes (collectively, “Plaintiffs”) hereby move the Court pursuant to N.D. Cal. Civil L.R. 6-1(b) and 6-3 to change the hearing date on Plaintiffs’ Motion for Preliminary Injunction (“Motion”) (ECF No. 25)—currently set for July 21, 2022, at 9:00 A.M—to the Court’s earliest convenience.

This Unopposed Motion is based on this Notice of Motion, the accompanying Memorandum of Points and Authorities, the attached Declaration of Michael Columbo in Support of Motion to Shorten Time under Civil L.R. 6-3, any papers filed in reply, such oral and documentary evidence as may be presented at a hearing, if any, and all papers and records on file in this action.

Therefore, pursuant to Civil L.R. 6-3, Plaintiffs move for an order shortening the time so that the hearing date on the Motion is advanced to the earliest date on which the Court is available.

Under Civil L.R. 6-1(b), this motion is timely because it is “filed no later than 14 days before the scheduled event,” that is, the July 21, 2022 hearing.

Dated: March 25, 2022

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Attorneys for Plaintiffs

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **INTRODUCTION**

3 On March 8, 2022, Plaintiffs filed a Motion for Preliminary Injunction to bar the City of San
4 Jose from enforcing Ordinance § 10.32.200 *et seq.*, (“Ordinance”) which was adopted on February 8,
5 2022 and will take effect on August 8, 2022. Responses are due on March 22, 2022, replies are due on
6 March 29, 2022, and the hearing for the Motion is on July 21, 2022.

7 Plaintiffs’ Motion is based on the position that the Ordinance is unconstitutional under federal,
8 state, and local laws. Plaintiffs therefore request that the hearing for the Motion be set as soon as
9 possible after the March 29, 2022 end date for briefing because the July 21, 2022 Motion hearing is
10 only three weeks before the August 8, 2022 effective date of the Ordinance. Such a short time frame
11 creates the risk that the Ordinance will come into effect before the court reaches a decision on the
12 Motion, incurring substantial costs on plaintiff Mr. Mark Sikes and other gun-owning citizens of San
13 Jose, including financial costs and potentially the loss of their ability to defend themselves, their
14 families, and their homes while the Court considers whether the Ordinance is lawful. Specifically, the
15 Ordinance mandates each San Jose gunowner to procure gun liability insurance and submit a fee to a
16 private, third party for purposes of gun harm reduction. A quick resolution of this controversy would
17 resolve such a concern.

18 Defendants, through counsel, stated that they have an interest in a prompt resolution of this
19 matter and therefore do not oppose this motion.

20 **I. The Nature of the Dispute.**

21 Pursuant to Local Rule 6-3(a)(4)(ii), Plaintiffs have submitted a declaration along with this
22 Motion to Shorten Time “[d]escribe[ing] the nature of the underlying dispute that would be addressed
23 in the motion and briefly summarize[ing] the position each party had taken.”

24 Plaintiffs seek a preliminary injunction against San Jose’s Ordinance § 10.32.200 *et seq.*,
25 which mandates that each San Jose gunowner purchase gun liability insurance and pay a fee to a
26 designated nonprofit organization. Declaration of Michael Columbo in Support of Plaintiff’s Motion
27 to Shorten Time (“Columbo Decl.”), ¶ 2. Plaintiffs’ position, in brief, is that the Ordinance violates:
28 (1) the Second Amendment to the U.S. Constitution by burdening their right to own guns; (2) the First

1 Amendment to the U.S. Constitution by compelling speech and association through a mandatory
2 donation to a nonprofit organization; (3) Article XXIII of the California Constitution because it
3 imposes taxes that were not approved by voters; and (4) the San Jose City Charter’s reservations of
4 budget and appropriation powers and the requirement that City receipts be deposited into City
5 accounts by forcing San Jose taxpayers to pay a City harm reduction fee to a private, third-party
6 organization. *Id.* Defendants’ position is that the Ordinance is constitutional and does not violate the
7 U.S. Constitution, California Constitution, or the San Jose City Charter. *Id.*

8 **II. Efforts Made to Obtain a Stipulation and Meet and Confer Pursuant to L.R. 37-1.**

9 Pursuant to Local Rule 6-3(a)(4)(i) and (a)(2), counsel for Plaintiffs reached out to counsel for
10 Defendants on March 10, 2022 seeking a stipulation and to meet and confer. Columbo Decl., ¶ 3. On
11 March 14, 2022, Counsel for Defendants disagreed there was a likelihood of imminent irreparable
12 harm to Plaintiffs absent immediate injunctive relief, so Defendants would not stipulate to this
13 Motion. However, counsel stated that the City has an interest in early resolution of this case and
14 therefore would not oppose this Motion. *Id.*

15 **III. Reasons for the Shortening of Time and Prejudice that Would Otherwise Occur.**

16 Pursuant to Local Rule 6-3(a)(1) and (a)(3), Plaintiffs have submitted a declaration that “[s]ets
17 forth with particularity the reasons for the requested enlargement or shortening of time” and
18 “[i]dentifies the substantial harm or prejudice that would occur if the Court did not change the time.”

19 Plaintiffs request a shortening of the time for the hearing on their Motion because there is a
20 considerable risk that the Ordinance will come into effect before the court reaches a ruling on the
21 Motion. As mentioned above, there are less than three weeks between the July 21, 2022 Motion
22 hearing and the August 8, 2022 effective date of the Ordinance. Accordingly, even if the court rules in
23 Plaintiffs’ favor, they will be prejudiced by the risk that the Ordinance will come into effect before the
24 court’s ruling. Columbo Decl., ¶ 4. Gun owners, including Plaintiff Mark Sikes and other members of
25 Plaintiff National Association for Gun Rights, would then be forced to either expend funds to
26 purchase gun liability insurance and pay fees that violate their rights pursuant to an unlawful
27 ordinance, or break the law and risk confiscation of their guns. *Id.*

1 Furthermore, Defendants acknowledge they also stand to benefit from shortening the time for
2 the Motion hearing. Columbo Decl., ¶ 4.

3 **IV. Disclosure of All Previous Time Modifications and Description of Effect Time**
4 **Change Will Have on the Schedule of the case.**

5 Pursuant to Local Rule 6-3(a)(5) and (a)(6), Plaintiffs have submitted a declaration
6 “Disclos[ing] . . . all previous time modifications” and “describ[ing] [what] effect time change will
7 have on the schedule of the case.”

8 First, there has been no previous time modifications—Defendants requested one for their
9 Motion to Dismiss to the initial Complaint, but both the request to shorten time and the Motion to
10 Dismiss was mooted by the amended Complaint. Columbo Decl., ¶ 5.

11 Second, the time change will have no effect on the briefing schedule. Columbo Decl., ¶ 5. It
12 will only move up the hearing to avoid prejudice to plaintiff Mr. Mark Sikes and similarly situated
13 San Jose gunowners. *Id.*

14 **CONCLUSION**

15 For the foregoing reasons, Plaintiffs respectfully request this Court to shorten the time for the
16 hearing on the Motion for Preliminary Injunction to a date at the Court’s earliest convenience, as it
17 will avoid prejudice to the Plaintiffs and citizens of San Jose while also benefiting the Defendants.

18
19 Dated: March 25, 2022

DHILLON LAW GROUP INC.

20
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