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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

**[PROPOSED] ORDER GRANTING
 DEFENDANTS' MOTION TO
 DISMISS PLAINTIFFS' FIRST
 AMENDED COMPLAINT**

Date: August 4, 2022
 Time: 9:00am
 Courtroom: Via Zoom Webinar
 Judge: Hon. Beth Labson Freeman

Complaint Filed: January 25, 2022
 First Amended Complaint Filed: February
 14, 2022

[PROPOSED] ORDER

The Court, having fully considered the papers and arguments presented by the parties and the filings in the case, and good cause having been shown, hereby GRANTS Defendants’ Motion to Dismiss Plaintiffs’ First Amended Complaint under Federal Rules of Civil Procedure (“Rule”) 12(b)(1) on the grounds that it lacks ripeness and improperly seeks an advisory opinion, as the City of San Jose’s Gun Harm Reduction Ordinance was not yet in effect as of the date Plaintiffs initiated this action. *See e.g., Thomas v. Anchorage Equal Rights Comm’n*, 220 F.3d 1134, 1138 (9th Cir. 2000).

Alternatively, the Court, having fully considered the papers and arguments presented by the parties and the filings in the case, and good cause having been shown, hereby GRANTS Defendants’ Motion to Dismiss Plaintiffs’ First Amended Complaint on the grounds that Plaintiffs fail to state a claim for relief under Federal Rule of Civil Procedure 12(b)(6) for each of their following six causes of action:

1. **First Cause of Action** (Violation of the Second and Fourteenth Amendments [42 U.S.C § 1983]);
2. **Second Cause of Action** (Violation of the First and Fourteenth Amendments [42 U.S.C § 1983]);
3. **Third Cause of Action** (Violation of Article XI, § 7 of the California Constitution);
4. **Fourth Cause of Action** (Violation of article XIII C, § 1 of the California Constitution);
5. **Fifth Cause of Action** (San Jose City Charter, Art. IV, §§ 400, 502, 602, 701, 1204, 1206, 1207, 1211); and
6. **Sixth Cause of Action** (Declaratory Judgment Act, 28 U.S.C. §§ 2201, 2202).

IT IS SO ORDERED.

Dated: _____, 2022

HON. BETH LABSON FREEMAN
UNITED STATES DISTRICT COURT JUDGE