JONATHAN M. COUPAL, State Bar No. 107815
TIMOTHY A. BITTLE, State Bar No. 112300
LAURA E. DOUGHERTY, State Bar No. 255855
Howard Jarvis Taxpayers Foundation
921 Eleventh Street, Suite 1201
Sacramento, CA 95814
(916) 444-9950
Email: tim@hjta.org

Attorneys for Plaintiffs
in Case No. 22-cv-02365-BLF

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NATIONAL ASSN. FOR GUN RIGHTS, *et al.*, Plaintiffs v. CITY OF SAN JOSE, *et al.*, Defendants	No. 22-cv-00501-BLF
HOWARD JARVIS TAXPAYERS ASSN., *et al.*, Plaintiffs v. CITY OF SAN JOSE, Defendant	No. 22-cv-02365-BLF **OPPOSITION OF PLAINTIFFS HOWARD JARVIS TAXPAYERS ASSN., *et al*. TO CONSOLIDATION OF CASES**

OPPOSITION TO CONSOLIDATION

By order dated April 20, 2022, this Court required the parties to show cause, if any, why the two above-captioned cases should not be consolidated.

Howard Jarvis Taxpayers Association (HJTA), *et al.*, plaintiffs in Case No. 22-cv-02365-BLF, object to the proposed consolidation to the extent it would add delay and expense to their case by requiring them to participate in the trial of disputed facts pled only in the case brought by National Association for Gun Rights (NAGR), Case No. 22-cv-00501-BLF.

NAGR's complaint includes a claim for violation of the Fourteenth Amendment. The claim is based on disputed factual allegations. First, that gun harm liability insurance of the type required by the challenged San Jose ordinance may not be available now or in the future to all lawful gun owners in San Jose. Second, that the insurance and fee requirements, which are imposed only on lawful owners of guns kept in homes for home defense, are unlikely to achieve the stated purposes of the ordinance, which are reducing incidents of, and city costs related to, gun harm. (NAGR Complaint at 11:26 *et seq.*; 18:10 *et seq*.)

The disputed factual allegations supporting NAGR's Fourteenth Amendment claim may require a trial to resolve. HJTA's complaint, however, contains no Fourteenth Amendment claim or disputable allegations of fact. HJTA's case is based solely on public records and raises only questions of law which can be swiftly decided by motion. The HJTA plaintiffs will be unfairly prejudiced if consolidation means that their case cannot be finally decided, or promptly appealed, because the NAGR case to which they are hitched is bogged down in an evidentiary trial.

For these reasons, the HJTA plaintiffs oppose consolidation.

DATED: May 4, 2022.

Respectfully submitted,

JONATHAN M. COUPAL
TIMOTHY A. BITTLE
LAURA E. DOUGHERTY

TIMOTHY A. BITTLE
Attorneys for Plaintiffs