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10 **UNITED STATES DISTRICT COURT**  
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
12 **SAN JOSE DIVISION**

13 **NATIONAL ASSOCIATION FOR GUN**  
14 **RIGHTS, INC.**, a nonprofit corporation, and  
15 **MARK SIKES**, an individual,

16 Plaintiffs,

17 v.

18 **CITY OF SAN JOSE**, a public entity,  
19 **JENNIFER MAGUIRE**, in her official capacity  
20 as City Manager of the City of San Jose, and the  
21 **CITY OF SAN JOSE CITY COUNCIL**,

22 Defendants.

Civil Case Number: 5:22-cv-00501-BLF

**BRADY’S MOTION FOR LEAVE TO  
APPEAR AS AMICUS CURIAE AND TO  
FILE AN AMICUS BRIEF IN SUPPORT  
OF DEFENDANTS’ OPPOSITION TO  
PLAINTIFFS’ MOTION FOR  
PRELIMINARY INJUNCTION AND IN  
SUPPORT OF DEFENDANTS’ MOTION  
TO DISMISS PLAINTIFFS’ FIRST  
AMENDED COMPLAINT**

Hearing Date on Motion for Preliminary  
Injunction: July 14, 2022  
Hearing Time: 9:00 a.m.  
Location: Zoom Webinar

Hearing Date on Motion to Dismiss: August 4,  
2022  
Hearing Time: 9:00 a.m.  
Location: Zoom Webinar

Judge: Honorable Beth Labson Freeman

1 Brady moves for leave to appear as *amicus curiae* and to file the attached brief in support of both  
2 Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction and in Support Of Defendants'  
3 Motion To Dismiss Plaintiffs' First Amended Complaint in the above-captioned matter.

4 "The district court has broad discretion to appoint amici curiae." *Hoptowit v. Ray*, 682 F.2d 1237,  
5 1260 (9th Cir. 1982), *abrogated on other grounds*, *Sandin v. Conner*, 515 U.S. 472 (1995). When courts  
6 exercise their discretion to appoint amici, "there is no rule that amici must be totally disinterested."  
7 *Funbus Sys., Inc. v. State of Cal. Pub. Utilities Comm'n.*, 801 F.2d 1120, 1125 (9th Cir. 1986). Instead,  
8 amici are valuable wherever they can perform their "classic role" of "assisting in a case of general public  
9 interest, supplementing the efforts of counsel, and drawing the court's attention to law that escaped  
10 consideration." *Miller-Wohl Co. v. Comm'r of Lab. & Indus. State of Mont.*, 694 F.2d 203, 204 (9th Cir.  
11 1982).

12 Brady is the nation's most longstanding nonpartisan, nonprofit organization dedicated to reducing  
13 gun violence through education, research, and legal advocacy. Brady has a substantial interest in ensuring  
14 that the Constitution is construed to protect Americans' fundamental right to live. Brady also has a  
15 substantial interest in protecting the authority of democratically elected officials to address the nation's  
16 gun violence epidemic. Brady has filed amicus briefs in many cases involving the regulation of firearms,  
17 including *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, No. 20-843, 2022 WL 2251305, 597 U.S.  
18 \_\_ (2022); *District of Columbia v. Heller*, 554 U.S. 570 (2008), and *Bauer v. Becerra*, 858 F.3d 1216,  
19 1219 (9th Cir. 2017).

20 Here, Brady seeks to assist the Court in deciding this important matter by adding to the parties'  
21 briefing on the ways that the Ordinance's insurance and fee requirements do not implicate the Second  
22 Amendment, and would be constitutional even if they did. Brady's proposed brief will explain in greater  
23 detail how the insurance and fee requirements work; show how, properly understood, neither requirement  
24 burdens Second Amendment conduct; and survey relevant historical sources to demonstrate that any  
25 minimal burden that the requirements might impose is fully consistent with the Nation's history of Second  
26 Amendment regulation. Additional briefing on these issues is particularly necessary in light of the  
27 Supreme Court's recent decision in *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*. As an organization  
28

1 that closely examines innovative legal approaches to gun violence, Brady is well-positioned to add to the  
2 briefing on these important gun-related issues.

3 For the foregoing reasons, Brady respectfully requests that the Court grant this motion and accept  
4 for filing the accompanying *amicus curiae* brief.

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6 Dated: July 11, 2022

Respectfully Submitted,

7 **COVINGTON & BURLING LLP**

8  
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*Attorneys for Amicus Curiae*  
*\* Not admitted in this Court*

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on July 11, 2022, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send notice of electronic filing to all counsel of record.

/s/ Gretchen Hoff Varner

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