

United States District Court
Northern District of California

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

NATIONAL ASSOCIATION FOR GUN
RIGHTS, INC., et al.,

Plaintiffs,

v.

CITY OF SAN JOSE, et al.,

Defendants.

Case No. 22-cv-00501-BLF

**ORDER DENYING MOTION TO
REMAND WITHOUT PREJUDICE**

HOWARD JARVIS TAXPAYERS
ASSOCIATION, et al.,

Plaintiffs,

v.

CITY OF SAN JOSE,

Defendant.

Case No. 22-cv-02365-BLF

On January 10, 2023, the Howard Jarvis Taxpayers Association (“HJTA Plaintiffs”) filed a motion to remand. ECF No. 86 (“Mtn.”). On January 26, 2023, Defendants filed an opposition. ECF No. 89 (“Opp.”). Defendants argue that the motion to remand is improper, as there are currently no claims to remand. Opp. at 2-3. The HJTA Plaintiffs have not filed a reply, and the deadline for doing so has passed. The Court finds the motion suitable for submission without oral argument and VACATES the hearing set for April 6, 2023. See Civ. L.R. 7-1(b).

On September 30, 2022, the Court issued an Order dismissing all of the HJTA Plaintiffs’ claims with leave to amend. ECF No. 81. Plaintiffs in this case have not yet filed an amended complaint. The Court agrees with Defendants that a motion to remand is premature, as there is currently no operative pleading to remand. See *Holt v. Alvarado*, No. 1:19-cv-00930-NONE-

1 GSA-PC, 2020 WL 7262885, at *1, n.1 (E.D. Cal. Dec. 10, 2020). The Court therefore DENIES
2 the motion to remand. This denial is WITHOUT PREJUDICE to refiling a motion to remand once
3 there is an operative pleading in this case.

4 **IT IS SO ORDERED.**

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6 Dated: January 2, 2023



BETH LABSON FREEMAN
United States District Judge

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