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Attorneys for Defendant  
CITY OF SAN DIEGO

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

MICHAEL BLOOM, STEPHEN  
CHATZKY, TONY DIAZ, VALERIE  
GRISCHY, PENNY HELMS,  
BENJAMIN HERNANDEZ, DOUG  
HIGGINS, SUZONNE KEITH, DAVID  
WILSON, individually and on behalf of  
themselves and all others similarly  
situation,

Plaintiffs,

v.

CITY OF SAN DIEGO, MAYOR  
KEVIN FAULCONER, CITY COUNCIL  
MEMBERS DAVID ALVAREZ,  
BARBARA BRY, CHRIS CATE,  
MYRTLE COLE, GEORGETTE  
GOMEZ, MARK KERSEY, SCOTT  
SHERMAN, CHRIS WARD & LORI  
ZAPF; SAN DIEGO POLICE  
DEPARTMENT; POLICE CHIEF  
SHELLEY ZIMMERMAN, in their  
official capacities only,

Defendants.

Case No. 17CV2324 AJB NLS

**NOTICE OF MOTION AND  
MOTION TO DISMISS**

Judge: Hon. Anthony J. Battaglia

Hearing Date: May 3, 2018  
Time: 2:00 p.m.  
Courtroom: 4A

**TO PLAINTIFFS AND THEIR COUNSEL OF RECORD:**

PLEASE TAKE NOTICE THAT ON May 3, 2018, at 2:00 p.m., or as soon  
thereafter as the motion may be heard, in Courtroom 4A (5th Floor – Schwartz  
building), of the above-captioned Court, located at 221 West Broadway, San Diego,  
California 92101, before the Honorable Anthony J. Battaglia, Defendant City of

1 San Diego by and through undersigned counsel, will and hereby do move this Court  
2 to dismiss the eighth and ninth causes of action of the First Amended Complaint  
3 pursuant to Federal Rules of Civil Procedure Rule 12(b)(6) for failure to state a  
4 claim, on the grounds that Plaintiffs' Complaint fails to state a claim upon which  
5 relief can be granted.

6 The Motion is based upon this Notice of Motion and Motion, the  
7 Memorandum of Points and Authorities in support of the Motion, Plaintiffs' First  
8 Amended Complaint, any matters to which the Court may take judicial notice, the  
9 orders, pleadings, and papers filed herein and such arguments and evidence as may  
10 be presented to the Court at the time of the hearing and/or any oral argument made  
11 on the Motion.

12  
13 Dated: February 28, 2018

MARA W. ELLIOTT, City Attorney

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15 By /s/ Kathy J. Steinman  
16 Kathy J. Steinman  
17 Deputy City Attorney

18 Attorneys for Defendant  
19 CITY OF SAN DIEGO  
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