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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

JOHN DOE #1, an individual, and  
JOHN DOE #2, an individual,

Plaintiffs,

vs.

CITY OF SAN DIEGO, an incorporated  
California Municipality; and DOES 1 to  
10, inclusive,

Defendants.

Case No. 3:17-cv-01581-BTM-WVG

**PLAINTIFFS' NOTICE OF  
MOTION AND MOTION FOR  
PARTIAL SUMMARY JUDGMENT  
ON STATE LAW PREEMPTION  
CLAIM (FIRST CLAIM FOR  
RELIEF)**

*[Filed Concurrently With:  
(1) Memorandum of Points and  
Authorities; and  
(2) Plaintiffs' Request for Judicial  
Notice (Exhibits A and E attached)]*

Date: August 9, 2019  
Time: 11:00 a.m.  
Dept.: 15B  
Judge: Hon. Barry Ted Moskowitz

**PER CHAMBERS,  
NO ORAL ARGUMENT UNLESS  
REQUESTED BY THE COURT**

Action filed: Aug. 7, 2017

**NOTICE OF MOTION**

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that on **August 9, 2019, at 11:00 a.m.**, or as soon thereafter as the matter may be heard in Courtroom 15B of the United States District Court for the Southern District of California, located at 333 West Broadway, San Diego, CA 92101, Plaintiffs John Doe #1 and John Doe #2 (“Plaintiffs”) will and hereby do move the Court for an order partial granting summary judgment on the First Claim for Relief pled in the Complaint, which alleges that the ordinance challenged in this action is preempted by California state law. This motion is made pursuant to Federal Rule of Civil Procedure 56, based on the following grounds:

- California state law preempts local governments such as Defendant City of San Diego from imposing restrictions on the daily lives of sex offenders (“Registrants”), unless specifically authorized by state law.
- California Penal Code section 3003.5(c), also known as Jessica’s Law, narrowly authorizes local governments to restrict the residences of Registrants who are on *parole*. However, the regulation of Registrants who are not on parolees is preempted by state law.
- The City of San Diego Ordinance challenged in this action regulates and restricts the residences of all Registrants, including those who are not on parole. The Ordinance is therefore preempted by state law to the extent that it purports to regulate Registrants who are not on parole.

This Motion is based upon this Notice of Motion; the Memorandum of Points and Authorities filed herewith; this Court’s previous Order denying Defendant’s Motion to Dismiss (see Doc. No. 21, published at 363 F. Supp. 3d 1104); Plaintiff’s Request for Judicial Notice and attached Exhibits A through E filed concurrently

1 herewith; the records and files in this action; and all other matters properly presented  
2 to the Court prior to its ruling. Per chambers rules, there will be no oral argument on  
3 this motion unless requested by the Court.  
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5 Dated: June 27, 2019

LAW OFFICE OF JANICE M. BELLUCCI

7 By:                   /s/ Janice M. Bellucci                    
8                   Janice M. Bellucci  
                  Attorney for Plaintiffs

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