

1 MARA W. ELLIOTT, City Attorney
 M. TRAVIS PHELPS, Assistant City Attorney
 2 CATHERINE A. RICHARDSON, Senior Chief Deputy City Attorney
 California State Bar No. 137757
 3 Office of the City Attorney
 1200 Third Avenue, Suite 1100
 4 San Diego, California 92101-4100
 Telephone: (619) 533-5800
 5 Facsimile: (619) 533-5856

6 Attorneys for Defendant, Todd Gloria, individually and
 as the Mayor of the City of San Diego
 7

8 UNITED STATES DISTRICT COURT
 9 SOUTHERN DISTRICT OF CALIFORNIA

10 DENNIS HODGES, an individual, 11 Plaintiff, 12 v. 13 TODD GLORIA, both in his personal capacity and in his official capacity as the 14 Mayor of the City of San Diego, 15 Defendants.	}	Case No. 23-cv-02065-W-MSB DEFENDANT’S NOTICE OF MOTION TO DISMISS PLAINTIFF’S COMPLAINT [FRCP RULE 12(B)(6)] PER CHAMBERS RULES, NO ORAL ARGUMENT UNLESS SEPARATELY ORDERED BY THE COURT Date: June 22, 2024 Time: N/A Judge: Hon. Thomas J. Whelan Court Room: 3C
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

19 TO: PLAINTIFF DENNIS HODGES and his attorneys of record:
 20 PLEASE TAKE NOTICE that on June 22, 2023, before the Honorable
 21 Thomas J. Whelan, located at 221 West Broadway, Courtroom 3C, Defendant Todd
 22 Gloria, both in his personal capacity and in his official capacity as the Mayor of the
 23 City of San Diego (Defendant), by and through the Office of the City Attorney for
 24 the City of San Diego, will move the Court for an order dismissing Plaintiff’s entire
 25 Complaint under Federal Rule of Civil Procedure 12(b)(6), for failure to state a
 26 claim.

27 ///
 28 ///

1 The grounds for Defendant’s Rule 12(b)(6) motion to dismiss are as follows:

2 1. Plaintiff’s First Cause of Action fails to allege sufficient facts to
3 support a claim under 42 U.S.C. § 1983 for Violation of the Free Exercise Clause of
4 the First Amendment to the United States Constitution.

5 2. Plaintiff’s Second Cause of Action fails to allege sufficient facts to
6 support a claim under 42 U.S.C. § 1983 for Violation of the Free Speech Clause of
7 the First Amendment to the United States Constitution.

8 3. Plaintiff’s Third Cause of Action fails to allege sufficient facts to
9 support a claim under 42 U.S.C. § 1983 for First Amendment Retaliation.

10 4. Each of Plaintiff’s causes of action against Defendant in his personal
11 capacity are barred as a matter of law by qualified immunity.

12 This motion is based upon the pleadings, the memorandum of points and
13 authorities filed with this motion, and such oral argument as permitted by the Court.

14 Dated: December 7, 2023

MARA W. ELLIOTT, City Attorney

15
16 By /s/ Catherine A. Richardson
17 Catherine A. Richardson
18 Senior Chief Deputy City
Attorney

19 Attorneys for Defendant Todd Gloria

20
21
22
23
24
25
26
27
28