

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FIREARMS POLICY COALITION,
INC.; CALIFORNIA GUN RIGHTS
FOUNDATION; SAN DIEGO COUNTY
GUN OWNERS PAC,

Plaintiffs,

v.

CITY OF SAN DIEGO; COUNTY OF
IMPERIAL; COUNTY OF ALAMEDA;
COUNTY OF VENTURA; COUNTY OF
LOS ANGELES; CITY OF SAN JOSE;
and COUNTY OF SANTA CLARA,

Defendants.

Case No.: 23cv400-LL-DDL

ORDER TO SHOW CAUSE

Upon review of Plaintiffs' Complaint, the Court is not satisfied that it has jurisdiction over Plaintiffs' claims or that venue is proper in this district. Accordingly, for the reasons set forth below, the Court orders Plaintiffs to show cause why this case should not be dismissed.

Article III of the Constitution confers on federal courts the power to adjudicate only cases or controversies. U.S. Const., art. III, § 2. "One element of the case-or-controversy requirement' is that plaintiffs 'must establish that they have standing to sue.'" *Clapper v.*

1 *Amnesty Int’l USA*, 568 U.S. 398, 408 (2013) (quoting *Raines v. Byrd*, 521 U.S. 811, 818
 2 (1997)); *see also Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992) (“[T]he core
 3 component of standing is an essential and unchanging part of the case-or-controversy
 4 requirement of Article III.”). The plaintiff “bears the burden of showing that he has
 5 standing for each type of relief sought.” *Summers v. Earth Island Inst.*, 555 U.S. 488, 493
 6 (2009). When, as is the case here, Plaintiffs seek injunctive relief, Plaintiffs must show that
 7 the risk of harm is sufficiently imminent and substantial. *See TransUnion LLC v. Ramirez*,
 8 141 S. Ct. 2190, 2210 (2021) (citing *Clapper*, 568 U.S. at 414 n.5).

9 Here, Plaintiffs “seek an injunction against [Section 1021.11’s] application or
 10 enforcement by several local jurisdictions.” ECF No. 1 ¶ 1, Complaint. Plaintiffs state that
 11 “[b]ut for Section 1021.11’s fee-shifting provisions,” Plaintiffs would have “engage[d] in
 12 litigation they have refrained from bringing against Defendants due to the law’s threat of
 13 ruinous fee liability.” *Id.* at ¶ 59. Plaintiffs, however, have not shown there is an imminent
 14 and substantial risk of harm in light of “this Court enjoin[ing] the State from enforcing
 15 Section 1021.11.” *See id.* at ¶ 4; *see also Miller et al v. Bonta et al* (“*Miller II*”), 22-cv-
 16 1446-BEN-MDD. Further, it is unclear whether Plaintiffs have a ripe claim when the State
 17 is currently enjoined from enforcing California Code of Civil Procedure § 1021.11, and
 18 when none of the Defendants here have affirmatively stated that they would seek to utilize
 19 Section 1021.11 in connection with any pending or threatened lawsuits. *See Complaint* ¶¶
 20 46–59; *see also Texas v. U.S.*, 523 U.S. 296, 300 (1998) (“A claim is not ripe for
 21 adjudication if it rests upon contingent future events that may not occur as anticipated, or
 22 indeed may not occur at all.”); *Scott v. Pasadena Unified School Dist.*, 306 F.3d 646, 654
 23 (9th Cir. 2002).

24 In addition, improper venue may be raised by the Court sua sponte where a
 25 responsive pleading has not yet been filed and the time for doing so has not run. *Costlow*
 26 *v. Weeks*, 790 F.2d 1486, 1488 (9th Cir. 1986). Here, Plaintiffs allege no information in the
 27 Complaint that would allow the Court to determine whether Plaintiffs have satisfied the
 28 venue requirements pursuant to 28 U.S.C. § 1391. Specifically, Defendants County of

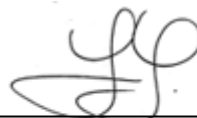
1 Alameda, County of Ventura, County of Los Angeles, City of San Jose, and County of
2 Santa Clara do not appear to have any obvious connection to this district, and it is unclear
3 how this district is a proper venue for a single civil action against these defendants. Based
4 on Plaintiffs' allegations, it does not appear a substantial part of the events or omissions
5 giving rise to Plaintiffs' claims regarding Defendants County of Alameda, County of
6 Ventura, County of Los Angeles, City of San Jose, and County of Santa Clara occurred in
7 this district. Complaint ¶¶ 49–55. Nor is it apparent how Plaintiffs' claims against each
8 defendant are sufficiently related to each other such that they should be litigated in the
9 same lawsuit (as opposed to individual lawsuits against each defendant).

10 Accordingly, Plaintiffs are hereby **ORDERED TO SHOW CAUSE** in writing, not
11 to exceed fifteen pages, on or before **March 28, 2023**, as to: (1) why they have Article III
12 standing; (2) why their claims are ripe for resolution; (3) why venue is proper in this
13 district; and (4) why their claims against each defendant are properly joined into a single
14 action. Failure to timely respond to this Order may result in dismissal. Defendants are also
15 permitted, but not required, to respond to Plaintiffs' response to this Order in writing, not
16 to exceed fifteen pages, on or before **April 11, 2023**. Plaintiffs may also file a reply to any
17 of the Defendants' responses in writing, not to exceed eight pages, on or before **April 18,**
18 **2023**.

19 The Court will take the matters under submission and no personal appearances will
20 be required until otherwise ordered.

21 **IT IS SO ORDERED.**

22 Dated: March 14, 2023



23
24 Honorable Linda Lopez
25 United States District Judge
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