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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

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13 **WE THE PATRIOTS USA, INC.;**
14 **JANE DOE, on her own behalf and**
15 **on behalf of Child 1;**

16 Plaintiffs,

17 v.

18 **VENTURA UNIFIED SCHOOL**
19 **DISTRICT; ANTONIO CASTRO, in**
20 **his official capacity only; SARA**
21 **BRUCKER, in her official capacity**
22 **only; TONY THURMOND, in his**
23 **official capacity only; ERICA PAN, in**
24 **her official capacity only,**

25 Defendants.

2:25-cv-04659-AB-JC

**DEFENDANT CDPH'S
OBJECTION TO PLAINTIFFS'
RENEWED EMERGENCY
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND PRELIMINARY
INJUNCTION**

Date: 10:00 a.m.
Time: September 5, 2025
Dept: 7B
Judge: Hon. Andre Birotte, Jr.
Action Filed: May 22, 2025

1 Defendant Dr. Erica Pan, in her official capacity as the Director of the
2 California of Public Health (CDPH), hereby submits these objections to the
3 Renewed Emergency Application for Temporary Restraining Order and
4 Preliminary Injunction (TRO application), filed by Plaintiffs on August 12, 2025.
5 ECF No. 50. On the following grounds, the application is defective and should be
6 stricken or, in the alternative, denied outright.

7 **RELEVANT PROCEDURAL BACKGROUND**

8 On May 24, 2025, Plaintiffs filed an application for an emergency TRO and a
9 preliminary injunction seeking to enjoin the Defendants from enforcing California
10 Health and Safety Code section 120335 against “Plaintiffs and all similarly situated
11 parents and children who hold sincere religious beliefs that prevent them from
12 receiving the immunizations required by § 120335.” ECF No. 12 at 2. In their
13 application, Plaintiffs clarified that they “do not seek ex parte relief, but do seek
14 expedited relief as soon as the Court can convene the parties for a hearing on their
15 motion for a temporary restraining order.” *Id.*

16 On June 17, 2025, the Court issued its Order denying Plaintiffs’ May 24, 2025
17 TRO application. ECF No. 22. The Court declined to address the merits because it
18 concluded that “Plaintiffs have not addressed why, let alone established that, the
19 urgent measure of a TRO is necessary to avoid any irreparable harm.” *Id.* at 3.

20 On June 24, 2025, CDPH specially appeared and filed a motion for stay
21 pending the outcome on appeal of a substantially similar case before the Ninth
22 Circuit Court of Appeals. ECF No. 24. The motion is fully briefed and the parties
23 await the Court’s decision on CDPH’s motion for stay. ECF. No. 37.

24 On August 12, 2025, absent any Court permission or other authority to do so,
25 Plaintiffs filed a “renewed” TRO application, requesting identical relief as their
26 TRO application filed on May 24, 2025 that was denied by this Court. ECF No. 50
27 at 2. Again, Plaintiffs clarified that they “do not seek ex parte relief, but do seek
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1 expedited relief as soon as the Court can convene the parties for a hearing on their
2 motion for a temporary restraining order.” *Id.*

3 Despite filing this lawsuit on May 22, 2025, and alleging a need for the Court
4 to issue an urgent TRO to immediately enjoin the enforcement of a public health
5 and safety statute statewide, Plaintiffs still have not perfected service on CDPH or
6 Defendant Tony Thurmond, in his official capacity as the State Superintendent of
7 Public Instruction (SPI), of the summons and complaint, nor any subsequent
8 pleading or motion. To date, Plaintiffs have only filed a proof of service for
9 Defendants Ventura Unified School District (VUSD); Antonio Castro, in his
10 official capacity as the VUSD Superintendent; Erik Nasarenko, in his official
11 capacity as the Ventura County District Attorney; and Sara Brucker, in her official
12 capacity as a deputy district attorney for the Ventura County District Attorney’s
13 Office. ECF No. 46.

14 Thus, this case remains not at issue as to State Defendants.

15 **OBJECTIONS**

16 Plaintiffs assert multiple times in their TRO application that they do not seek
17 ex parte relief. ECF Nos. 50 at 2; 50-1 at 5; 50-2 at 2. Instead, Plaintiffs request
18 “speedy relief” via TRO and preliminary injunction. *Id.* This is an abuse of
19 judicial resources and disregard for civil procedure. Plaintiffs are essentially asking
20 the Court to treat their TRO application as an ex parte application for purposes of
21 law and motion procedure (i.e., not affording the Court and Defendants the requisite
22 28-day notice and time to fully brief the matter pursuant to Local Rule 6-1) in order
23 to have the Court address it on an expedited schedule, but as a motion for
24 preliminary injunction for purposes of analyzing the merits (i.e., not holding
25 Plaintiffs’ application to a TRO’s legal standards for issuing extraordinary relief).
26 This flawed attempt to circumvent and conflate the distinct procedural rules and
27 evidentiary standards that apply to each type of motion in order to gain an unfair
28 advantage violates the Federal and Local Rules and prejudices Defendants.

1 CDPH hereby submits the following specific objections to Plaintiffs’ renewed
2 TRO application and requests that the Court strike or deny the TRO application on
3 procedural grounds.

4 ***Objection: Failure to Comply with Local Rule 7-19.1***

5 Plaintiffs failed to provide ex parte notice pursuant to Local Rule 7-19.1,
6 which requires counsel for Plaintiffs to “(a) to make reasonable, good faith efforts
7 orally to advise counsel for all other parties, if known, of the date and substance of
8 the proposed ex parte application and (b) to advise the Court in writing and under
9 oath of efforts to contact other counsel and whether any other counsel, after such
10 advice, opposes the application.”

11 Yet, prior to the filing of Plaintiffs’ TRO application, counsel for Plaintiffs did
12 not contact or attempt to advise counsel for CDPH in any manner of Plaintiffs’
13 intent to file a “renewed” TRO application. Moreover, by their renewed TRO
14 application, there is similarly no mention that counsel for Plaintiffs attempted to
15 provide ex parte notice to any of the other Defendants prior to their filing. Counsel
16 for Plaintiffs claims that Defendants VUSD, Castro, and CDPH received
17 “contemporaneous notice of this application with its filing.” ECF No. 50-2 at 2.
18 However, “contemporaneous notice” by virtue of the actual court filing does not
19 comply with Local Rule 7-19.1’s requirement for advance notice, since it deprives
20 the Defendants of an opportunity to evaluate the application and advise whether
21 they oppose it before it is filed, as required by Local Rule 7-19.1(b).

22 ***Objection: Failure to Comply with the Court’s Standing Order, ¶¶ 17 and 18***

23 Plaintiffs also fail to comply with the Court’s Standing Order requirements for
24 filing an ex parte application. ECF No. 18 at 13-14.

25 Specifically, the Court’s Standing Order advises that “[a]pplications that do
26 not conform with Local Rules 7-19 and 7-19.1, **such as by omitting a statement of**
27 **opposing counsel’s position**, will not be considered.” *Id.* at 13, emphasis in
28 original. The Standing Order further requires that “the moving party must **also**

1 serve the nonmoving party by email, fax, or personal service” and “**notify** the
2 nonmoving party that opposing papers are due 48 hours (2 court days) after
3 service.” *Id.* at 13-14, emphasis added.

4 Counsel for CDPH first received notice of the application when it received an
5 ECF notice by email of the application’s filing, but Plaintiffs failed to separately
6 serve their application to CDPH by e-mail, fax, or personal service. Nor did
7 counsel for Plaintiffs notify CDPH, separately or as part of the moving papers, that
8 an opposition to the TRO application is due within 48 hours. More importantly,
9 there are six Defendants in this matter. Plaintiffs failed to include a statement of
10 position for any of these Defendants.

11 ***Objection: Failure to Comply with Local Rule 65-1***

12 Plaintiffs fail to comply with Local Rule 65-1, which requires Plaintiffs to
13 include in their TRO application (1) a certification required by FRCP 65(b)(1)(A)
14 and (B); and (2) a proposed order to show cause why a preliminary injunction
15 should not issue. L.R. 65-1.

16 Federal Rule of Civil Procedure (FRCP) 65(b)(1) allows courts to issue TROs
17 without written or oral notice to adverse parties and their counsel, but only if
18 Plaintiffs can establish that (A) immediate and irreparable injury, loss, or damage
19 will result to the movant before the adverse party can be heard in opposition; and
20 (B) counsel for Plaintiffs made efforts to give notice and provides reasons why
21 notice should not be required. Fed. R. Civ. P. 65(b)(1)(A)-(B). Yet, here, Plaintiffs
22 fail to make any showing whatsoever for why notice requirements under the
23 Federal Rules of Civil Procedure, the Central District’s Local Rules, and the
24 Court’s Standing Order should be dispensed with as necessitated by supposed
25 urgent need. Indeed, as noted above, this so-called “renewed” application is
26 identical to Plaintiffs’ original application that this Court denied on the precise
27 grounds that Plaintiffs failed to make any showing of urgency or irreparable harm.
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1 Thus, Plaintiffs’ declaration of counsel (ECF No. 50-2) fails to meet any of the
2 certification requirements specified under FRCP 65(b)(1)(A) and (B).

3 Plaintiffs also failed to include a compliant proposed order to show cause.
4 Plaintiffs misunderstand the requirements set forth under Local Rule 65-1. When a
5 party applies for an emergency TRO, as Plaintiffs do here, Local Rule 65-1
6 mandates that the party submit a proposed order to show cause why a preliminary
7 injunction should not issue. Stated plainly, Plaintiffs must justify why their
8 requested relief cannot be adjudicated by a motion for preliminary injunction.

9 The purpose of a TRO is to preserve the status quo before a preliminary
10 injunction hearing may be held. *Granny Goose Foods, Inc. v. Bhd. of Teamsters &*
11 *Auto Truck Drivers Local No. 70 of Alameda City.*, 415 U.S. 423, 439 (1974). A
12 TRO is a form of ex parte application, so the moving party must “establish why the
13 accompanying proposed motion for the ultimate relief requested cannot be
14 calendared in the usual manner. In other words . . . the moving party [must show
15 why it] should be allowed to go to the head of the line in front of all other litigants
16 and receive special treatment.” *Mission Power Engineering Co. v. Continental*
17 *Cas. Co.*, 883 F.Supp. 488, 492 (C.D.Cal. 1995) (explaining that applicant for ex
18 parte relief must demonstrate urgency and that applicant is, itself, without fault in
19 creating the claimed urgency). Instead of submitting a proposed order to show
20 cause for why a preliminary injunction should not issue, as required by this
21 District’s Local Rules, Plaintiffs submitted a proposed order that claims a TRO
22 should issue pursuant to the factors under *Winter v. Natural Res. Def. Council, Inc.*,
23 555 U.S. 7, 20 (2008). ECF No. 50-12. There is no explanation for why Plaintiffs’
24 requested relief cannot be calendared in the usual manner for standard law and
25 motion matters. Thus, Plaintiffs’ proposed order fails to comply with Local Rule
26 65-1.

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1 ***Objection: Failure to Comply with the Court’s Standing Order, ¶ 12***

2 By setting the hearing on their renewed TRO application for September 5,
3 2025 (see docket entry for ECF No. 50), Plaintiffs fail to comply with the Court’s
4 Standing Order, which states that the Friday after any Monday holiday is closed to
5 hearings. ECF No. 18 at 5.

6 As a preliminary matter, there is no basis for Plaintiffs to set a hearing for their
7 TRO application. The Standing Order advises that the Court “usually resolves ex
8 parte applications on the papers and does not set a hearing. If the Court determines
9 a hearing is necessary, the CRD will notify counsel of a hearing date and time.”
10 ECF No. 18 at 14. Furthermore, Plaintiffs’ requested hearing date of September 5,
11 2025 is unavailable because September 5 is the Friday after Labor Day, which falls
12 on Monday, September 2, 2025. On this basis, if this application is not stricken or
13 denied outright, the Court should set it for a subsequent hearing date that is
14 available to the Court and Defendants’ counsel, and complies with all notice
15 requirements.

16 ***Objection: Failure to Comply with Local Rule 6-1***

17 Plaintiffs’ TRO application should also be stricken or denied because
18 Plaintiffs fail to comply with Local Rule 6-1, which requires that notice of a motion
19 be filed and electronically served not later than 28 days before the date set for
20 hearing.

21 Because Plaintiffs admit that they do not seek ex parte relief, Plaintiffs’ so-
22 called renewed TRO application amounts, in form and substance, to a motion for
23 preliminary injunction. Accordingly, Plaintiffs must comply with Local Rule 6-1
24 and provide at least 28 days’ notice of their motion. Plaintiffs filed their application
25 on August 12, 2025, but requested a hearing date of September 5, 2025. This only
26 provides the Court and Defendants with 24 days’ notice, in violation of the Local
27 Rule. Plaintiffs fail to offer any justification or authority for the truncated notice.

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1 ***Objection: Absence of Authority for Filing Renewed TRO Application***

2 Finally, Plaintiffs’ “renewed” TRO application should be stricken or denied
3 because Plaintiffs fail to provide any authority for leave to file a “renewed” TRO
4 application.

5 The renewed TRO application seeks identical relief to the TRO application
6 filed by Plaintiffs on May 24, 2025, and subsequently denied by this Court on June
7 17, 2025, for failure to establish any need for urgent relief to avoid irreparable
8 harm. See ECF Nos. 12 at 2; 22 at 3; 50 at 2. Yet, since the first filing, the parties
9 and claims have all remained the same. Plaintiffs have not amended their
10 complaint. And the substance of the “renewed” TRO application is also largely the
11 same: Plaintiffs again fail to address the issue of urgency in seeking a TRO to
12 enjoin enforcement of a public health and safety statute statewide.

13 Therefore, Plaintiffs’ “renewed” TRO application amounts to an improper and
14 untimely motion for reconsideration of the Court’s June 17, 2025 Order denying the
15 first TRO application. Pursuant to Local Rule 7-18, a motion for reconsideration of
16 an order on any motion or application “may be made only on the grounds of (a) a
17 material difference in fact or law from that presented to the Court that, in the
18 exercise of reasonable diligence, could not have been known to the party moving
19 for reconsideration at the time the [o]rder was entered, or (b) the emergence of new
20 material facts or a change of law occurring after the [o]rder was entered, or (c) a
21 manifest showing of a failure to consider material facts presented to the Court
22 before the [o]rder was entered.” Plaintiffs’ TRO application does not meet any of
23 these requirements, and merely repeats arguments that Plaintiffs previously made
24 three months ago. See L.R. 7-18 (“No motion for reconsideration may in any
25 manner repeat any oral or written argument made in support of, or in opposition to,
26 the original motion.”) If Plaintiffs believe that they are entitled to reconsideration
27 of the Court’s order, they should have filed a motion for reconsideration (or
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1 renewed TRO application) within 14 days after entry of the Court’s June 17, 2025
2 order. They failed to do so.

3 Accordingly, Plaintiffs lack any authority for re-submitting their TRO
4 application for reconsideration by the Court now.

5 **CONCLUSION**

6 Based on the foregoing litany of procedural defects, CDPH requests that the
7 Court strike or deny Plaintiffs’ TRO application on procedural grounds. CDPH
8 also asserts that any further litigation should be stayed in this matter in light of the
9 pending outcome on appeal of a substantially similar case before the Ninth Circuit
10 Court of Appeals. *See* ECF No. 24.

11 If the Court is inclined to consider the TRO application on the merits, CDPH
12 submits that the current September 5, 2025 hearing date (noticed by Plaintiffs),
13 which is unavailable on the Court’s calendar in any event, be continued to allow all
14 parties sufficient time to review and brief the TRO application as a standard law-
15 and-motion matter consistent with Local Rules 6 and 7.

16 Dated: August 14, 2025

17 Respectfully submitted,
18 ROB BONTA
19 Attorney General of California
20 JENNIFER PERKELL
21 Supervising Deputy Attorney General

22 */s/ Jacquelyn Young*

23 JACQUELYN YOUNG
24 KATHERINE GRAINGER
25 Deputy Attorneys General
26 *Attorneys for Defendant Erica Pan,*
27 *Director of the California*
28 *Department of Public Health*

CERTIFICATE OF SERVICE

Case Name: **Doe v. Ventura Unified School
District**

Case No. **2:25-cv-04659-AB-JC**

I hereby certify that on August 14, 2025, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

DEFENDANT CDPH'S OBJECTION TO PLAINTIFFS' RENEWED EMERGENCY APPLICATION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

I further certify that some of the participants in the case are not registered CM/ECF users. On August 14, 2025, I have caused to be mailed in the Office of the Attorney General's internal mail system, the foregoing document(s) by First-Class Mail, postage prepaid or have dispatched it to a third-party commercial carrier for delivery within three (3) calendar days to the following non-CM/ECF participants.

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Counsel for Ventura County District Attorney Defendants

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct, and that this declaration was executed on August 14, 2025, at Los Angeles, California.

Anthony Conklin
Declarant

Anthony Conklin
Signature