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11 **IN THE SUPERIOR COURT OF CALIFORNIA**
12 **IN THE COUNTY OF ORANGE, CIVIL COMPLEX CENTER**
13 **Hon. William D. Claster, Coordination Motion Judge**

14 **Coordination Proceeding Special Title**
15 **(Rule 3.550)**

16 **GHOST GUNNER FIREARMS CASES**

17 **Included actions:**

18 **Cardenas v. Ghost Gunner, Inc. dba Ghost**
19 **Gunner.net, et al.**

20 **McFayden, et al. v. Ghost Gunner, Inc., dba**
21 **GhostGunner.net, et al.**

JUDICIAL COUNCIL COORDINATION
PROCEEDINGS NO. 5167

RESPONSE BY SAN BERNARDINO
PLAINTIFFS TO DEFENDANTS'
PETITION FOR COORDINATION OF
CASES

Date: May 7, 2021
Time: 9:00 a.m.
Dept: CX104

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
NO. 30-2019-01111797

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
NO. CIV-DS1935422

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1 believed was proper. Defendants did not seek to meet and confer on the subject with Plaintiffs,
2 nor did they afford Plaintiffs reasonable notice of their changed position.

3 Second, defendants mislead the Judicial Council by emphasizing the fact that “the
4 *McFadyen* matter has already been assigned to a complex department in San Bernardino,” while
5 downplaying the fact that the Orange County Superior Court has in fact deemed this matter
6 complex as well. *See* Defendants’ Coordination Petition, at 6:6; Defendants’ Coordination
7 Petition Exhibit C, 1/25/21 Order in Orange County Superior Court (“[t]he court further finds
8 that these two actions are complex under the definition of CRC Rule 3.400.”). This matter will
9 proceed on the complex docket in either venue, making the complexity designation a non-factor
10 in determining proper venue.

11 To the extent that coordination of these proceedings requires a court with a dedicated
12 complex litigation department and more judicial resources to handle these disputes, Plaintiffs
13 propose Sacramento County. Sacramento offers the same efficiency as Plaintiffs and defendants
14 first agreed upon choice of Orange County, but has far more convenient accessibility, parking,
15 and lodging for witnesses, California parties, out-of-town parties flying into California from out
16 of state for this matter.

17 **II. FACTUAL AND PROCEDURAL BACKGROUND**

18 Plaintiffs, who are the victims or loved ones of those wounded and killed in a tragic
19 November 2017 “ghost gun” shooting rampage, filed their complaints on November 14, 2019.
20 To date, Plaintiffs have named fourteen defendants in these lawsuits who make the same kind of
21 ghost gun kits used by the killer in the November 2017 shooting to build an unserialized and
22 untraceable AR-15. Defendants have all been served with the summons and complaint in both
23 matters, and the courts in both matters have continued to stay proceedings until coordination is
24 finalized.

25 **III. COORDINATION IS APPROPRIATE**

26 Plaintiffs agree with defendants that the matters should be coordinated because the
27 matters meet the requirements set forth in Section 404.1 of the California Code of Civil
28

1 Procedure. The cases share many common questions of law and fact. Coordination to a single
2 superior court will be convenient for plaintiffs, defendants, witnesses, and respective counsel. It
3 will also be a more efficient use of judicial resources, avoid duplicative rulings, and prevent
4 inconsistent rulings.

5 Thus, the petition for coordination should be granted as coordination of the suits “will
6 promote the ends of justice.” Cal. Civ. Proc. Code § 404.1.

7 **IV. COORDINATION IN EITHER ORANGE COUNTY OR SACRAMENTO** 8 **COUNTY BEST SERVES THE INTERESTS OF JUSTICE**

9 The appropriate coordination site is the one that is most convenient for the majority of
10 witnesses and parties and that possesses the resources to handle the volume and complexity of
11 the litigation at hand.² That Plaintiffs had filed their non-opposition to coordination based on
12 defendants’ original intention to seek coordination in Orange County aside, Orange County
13 possesses many factors that make it a favorable venue for coordinated proceedings. First,
14 defendants’ contention that San Bernardino would be better for Plaintiffs because seventeen
15 plaintiffs in McFadyen chose to file their action there lacks grounding considering *all* plaintiffs
16 are in agreement that Orange County is both the more convenient and preferred venue. Second,
17 there are an equal number of California-based defendants in both Orange County (3) as there are
18 in San Bernardino County (3). Orange County is just as close (if not closer) to the evidence,
19 witnesses, and parties in the two matters as San Bernardino County is, and defendants had
20 originally sought to coordinate in Orange County.

21 Plaintiffs’ request that proceedings be coordinated in Sacramento is only in the
22 alternative to coordination in the parties’ originally agreed upon coordination site of Orange
23 County. Several other relevant factors under Rule 3.530 favor coordination in either Orange
24 County or Sacramento.

25
26 ² Under Rule 3.530, in granting a petition for coordination, the coordination motion judge shall
27 recommend a site for the coordination proceedings, considering “any relevant factors”, including
28 “[t]he efficient use of court facilities and judicial resources”, “[t]he locations of witnesses and
evidence”, “[t]he convenience of the parties and witnesses” and “[t]he ease of travel to and
availability of accommodations in particular locations”. Cal. Rules of Court, Rule 3.530.

1 **A. “The efficient use of court facilities and judicial resources”, R. 3.530(b)(3)**

2 Considering the size of this litigation, the number of out-of-state parties privy to it, and
3 the potentially burdensome strain that coordination of these matters can have on smaller counties
4 like San Bernardino, Sacramento County serves as the best alternative. Courts in Sacramento
5 have the experience and resources necessary to handle coordination, but Sacramento County also
6 has a designated complex litigation department that routinely handles claims involving multiple
7 defendants. Moreover, there is no question that Sacramento, the state capital, has the judicial
8 resources to handle coordination of these suits.

9 **B. “The locations of witnesses and evidence”, R. 3.530(b)(4)**

10 Sacramento County is hundreds of miles closer than San Bernardino County to the site
11 of the underlying shootings in this case, which occurred in Tehama County. As a result, most of
12 the witnesses and physical evidence are located in Tehama County. Coordination in Sacramento
13 will therefore allow for easier access to the physical and documentary evidence, which is
14 predominately expected to be in Tehama County.

15 **C. “The convenience of the parties and witnesses”, R. 3.530(b)(5); “[t]he office**
16 **locations of counsel for the parties”, R. 3.530(b)(7); “[t]he ease of travel to and availability**
17 **of accommodations in particular locations”, R. 3.530(b)(8)**

18 Although most of the Rule 3.530 factors concern location and convenience, defendants’
19 request coordination in San Bernardino without materially addressing these issues. Here,
20 location and convenience decisively favor Sacramento County—not San Bernardino.
21 Sacramento County is the most accessible option to individuals traveling from out-of-state while
22 not being too far removed from the Southern California counties, and remaining close to the
23 location of the physical and documentary evidence. The difference in travel time is substantial.
24 For the parties, counsels, evidence, and witnesses near Tehama, driving to Sacramento is far
25 simpler than flying to Southern California.

26 The difference in cost to out-of-town parties is also significant. Sacramento also has a
27 large, international airport. Moreover, parties and witnesses traveling to San Bernardino also will
28

1 need to navigate Los Angeles traffic, deal with parking, and cover other costs that are not present
2 in Sacramento.

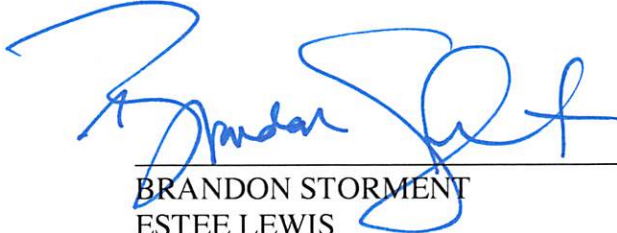
3 Thus, the location and convenience factors, which make up the bulk of Rule 3.530,
4 strongly favor Sacramento over San Bernardino.

5 **V. CONCLUSION**

6 For the foregoing reasons, Plaintiffs respectfully request coordination of these actions in
7 Orange County, as defendants first requested, or, in the alternative, in Sacramento County where
8 coordination would be most favorable under Rule 3.530.

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12 DATED: April 26, 2021

BARR & MUDFORD

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17 BRANDON STORMENT
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Attorneys for San Bernardino Plaintiffs

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PROOF OF SERVICE

I am a citizen of the United States and a resident of the County of Shasta, State of California. I am over the age of 18 years and not a party to the within action; my business mailing address is Post Office Box 994390, Redding, California 96099-4390. I am familiar with this firm's practice whereby the mail, after being placed in a designated area, is given the appropriate postage and is deposited in a U.S. mailbox after the close of the day's business.

XX On the date indicated below, I served the document(s) designated below on all parties in said action by placing a true copy thereof in a sealed envelope in the designated area for outgoing mail addressed as set forth below:

_____ On the date indicated below, I served the document(s) designated below on all parties in said action by placing a true copy thereof in a sealed envelope and mailed it via overnight mail with Federal Express addressed as set forth below:

_____ On the date indicated below, I personally served the document(s) designated below by transmitting a true copy thereof via electronic mail in .pdf format as an e-mail attachment to each addressee set forth below:

XX By Electronic Transmission: Pursuant to CCP §1010.6(e)(1), effective September 18, 2020, or an agreement of the parties to accept service by electronic transmission, I caused the document(s) to be electronically sent to the persons at the email address(es) indicated below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

**RESPONSE BY SAN BERNARDINO PLAINTIFFS TO DEFENDANTS' PETITION FOR
COORDINATION OF CASES**

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed April 26, 2021, at Redding, California.



JENNIL. RITTER

SEE ATTACHED SERVICE LIST

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