

1 ROB BONTA
Attorney General of California
2 MARK R. BECKINGTON
Supervising Deputy Attorney General
3 KEVIN J. KELLY
Deputy Attorney General
4 State Bar No. 337425
300 South Spring Street, Suite 9012
5 Los Angeles, CA 90013
Telephone: (213) 269-6615
6 E-mail: Kevin.Kelly@doj.ca.gov
Attorneys for Defendant Rob Bonta
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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE CENTRAL DISTRICT OF CALIFORNIA
10

11 **JUNIOR SPORTS MAGAZINES**
12 **INCORPORATED ET AL.,**

13 Plaintiffs,

14 v.

15 **ROB BONTA, in his official capacity as**
16 **Attorney General of the State of California**
17 **et al.,**

18 Defendants.
19

2:22-cv-04663-CAS (JCx)

**DEFENDANT'S OPPOSITION TO
PLAINTIFFS' EX PARTE APPLICATION
FOR ORDER SHORTENING TIME FOR
HEARING ON PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Judges: Hon. Christina A. Snyder and
Magistrate Judge Jacqueline
Chooljian

Action Filed: July 8, 2022
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INTRODUCTION

Defendant respectfully requests that this Court deny plaintiffs' ex parte application for an order shortening the time for a hearing on their pending motion for a preliminary injunction, currently scheduled for August 22, 2022. Plaintiffs have failed to establish good cause for such an order, relying on arguments more appropriate for the preliminary injunction motion itself and failing to sufficiently explain why they did not seek emergency relief earlier, instead filing their motion nearly three weeks after the law they challenge went into effect. Moreover, the abbreviated schedule proposed by plaintiffs would prejudice the ability of defendants to fully respond to the motion.

If the Court does deny plaintiffs' application, defendant respectfully requests that the Court grant an additional one-week period for defendant to submit opposition papers to plaintiffs' preliminary injunction motion. Given the importance and complexity of the constitutional issues raised in this case, the number of plaintiffs and claims, and the voluminous briefings and other materials that plaintiffs have filed in support of their motion, defendant will require additional time to appropriately and sufficiently respond to plaintiffs' motion. Ultimately, this extension would allow the parties to assist the Court in coming to a more informed yet expeditious resolution of plaintiffs' motion.

Therefore, Defendants propose that the hearing remain scheduled for August 22, 2022, or the earliest available date thereafter on the Court's calendar, with the opposition due August 8, 2022, and any reply papers due on or before August 15, 2022.

RELEVANT FACTUAL AND PROCEDURAL BACKGROUND

On June 30, 2022, California Governor Gavin Newsom signed Assembly Bill 2571 ("AB 2571") into law. The bill amended the California Business & Professions Code to add section 22949.80, "Marketing or advertising attractive to minors; publishing material; definitions." Cal. Bus. & Prof. Code § 22949.80. The law took effect immediately on June 30, 2022. *See id.*

On July 8, 2022, more than one week after AB 2571 went into effect, plaintiffs filed the Complaint in the instant action. *See* ECF No. 1. The Complaint named eight individuals and entities as plaintiffs and purported to allege a variety of constitutional claims, including violations

1 of plaintiffs' First Amendment rights to "political & ideological speech," "commercial speech,"
 2 and "association & assembly," and their Fourteenth Amendment equal protection rights. *See*
 3 Complaint ¶¶ 107-141. At that time, plaintiffs did not seek any type of immediate injunctive or
 4 emergency relief as to the enforcement of AB 2571. Defendant was served with the Complaint on
 5 July 11, 2022. *See* ECF No. 10.

6 The parties filed no further substantive items in this case until July 20, 2022, when
 7 plaintiffs filed the instant motion and a motion for a preliminary injunction enjoining defendant
 8 from enforcing Cal. Bus. & Prof. Code § 22949.80. *See* ECF Nos. 12 & 13. Plaintiffs' motion
 9 papers for a preliminary injunction total some 565 pages, inclusive of declarations and exhibits.
 10 *See* ECF No. 12. To date, plaintiffs have not sought a temporary restraining order granting more
 11 immediate injunctive relief, or any other form of emergency injunctive relief in this case.

12 ARGUMENT

13 **I. PLAINTIFFS HAVE FAILED TO ESTABLISH GOOD CAUSE TO SHORTEN THE TIME FOR** 14 **A HEARING ON THEIR MOTION FOR PRELIMINARY INJUNCTION**

15 Under the Local Rules of the Central District of California, a notice of motion must be filed
 16 with the Clerk not later than 28 days before the date set for hearing. *See* Local Rule 6-1.
 17 Opposing papers must be filed not later than 21 days before the hearing. *See* Local Rule 7-9.
 18 Reply papers, if any, must be served and filed not later than 14 days before the hearing. *See* Local
 19 Rule 7-10. Pursuant to the Court's standing order in this case, motions are heard by the Court on
 20 each Monday of the month. *See* ECF No. 11, ¶ 2. Plaintiffs filed their motion on July 20, 2022,
 21 and thus their motion properly noticed a hearing date of Monday, August 22, 2022. *See* ECF No.
 22 12.

23 By the instant application, plaintiffs assert that they are entitled to an accelerated hearing
 24 schedule in their pending preliminary injunction motion, and that the motion should be heard two
 25 weeks earlier, on August 8, 2022. *See* Memorandum of Points and Authorities in Support of
 26 Plaintiffs' Ex Parte Application for Order Shortening Time for Hearing on Plaintiffs' Motion for
 27 Preliminary Injunction ("Plaintiff Memo") at 7. They also request that the Court shorten the due
 28 date for defendant's opposition by several days, to July 29, 2022. *See id.* In support, plaintiffs

1 reiterate some of the key arguments of their motion for a preliminary injunction itself, including
 2 that they will undergo irreparable harm if the hearing is not scheduled earlier (*see id.* at 5) and
 3 that AB 2571 violates their constitutional rights (*see id.* at 5-6). Defendant denies all of these
 4 allegations, and for the Court to credit these arguments in granting an earlier hearing would be
 5 premature, since these arguments have yet to be fully and adequately briefed by both sides (and
 6 since their complexity exceeds the scope of the instant motion).

7 Indeed, if plaintiffs believe that more immediate relief is necessary, they do not explain or
 8 address why they have not sought injunctive relief via an emergency application, such as by
 9 motion for a temporary restraining order (“TRO”). Instead, plaintiffs claim that the State, by
 10 lawfully promulgating AB 2571 as “urgency” legislation effective immediately, is responsible for
 11 their delay in filing a preliminary injunction motion. *See id.* at 6-7. Plaintiffs’ motion undoubtedly
 12 required considerable time and effort to draft and compile, but the fact remains that it was filed
 13 nearly three weeks after AB 2571 went into effect, demonstrating that the claimed urgency is
 14 simply not present.

15 Ultimately, an abbreviated briefing and hearing schedule would cause prejudice to
 16 defendant. It would put defendant on unequal footing with plaintiffs, who took several weeks to
 17 draft and file their preliminary injunction motion, the breadth of which will require considerable
 18 time and resources to address.

19 Accordingly, plaintiffs have failed to establish good cause for an accelerated hearing
 20 schedule, and their motion should be denied.

21 **II. IF THE COURT DENIES PLAINTIFFS’ APPLICATION, DEFENDANT RESPECTFULLY**
 22 **REQUESTS AN ADDITIONAL WEEK TO SUBMIT OPPOSITION TO THE PRELIMINARY**
 23 **INJUNCTION MOTION IN THE INTERESTS OF FAIRNESS AND JUDICIAL ECONOMY**

24 Under the Local Rules of the Central District of California, if plaintiffs’ instant application
 25 is denied, defendant’s opposition to the preliminary injunction motion will be due 21 days before
 26 the August 22 hearing date – that is, on August 1, 2022. Simply put, this is not sufficient time for
 27 defendant to adequately brief and inform the Court on the complex and important issues this case
 28 presents. Defendant would thus respectfully request a short one-week extension of time to

1 respond to plaintiffs' motion, to August 8, 2022, with any reply papers due on or before August
2 15, 2022.

3 As indicated above, plaintiffs' motion was filed nearly three weeks after AB 2571 became
4 effective and thus plaintiffs had much more time to adequately brief the complex issues of this
5 case than defendant will have had by the time their opposition is due, whether or not the Court
6 grants plaintiffs' motion. Additionally, plaintiffs have alleged constitutional challenges for which
7 they argue defendant carries the burden to rebut, and defendants may need additional time to
8 assess and prepare responsive evidence, possibly including declarations, in support of their
9 opposition papers. Furthermore, plaintiffs have filed the instant motion concurrently with their
10 preliminary injunction motion. As the motion clock ticks, defendant has had to expend time and
11 resources to address and respond to the instant motion, which could have been used to begin
12 reviewing, analyzing, and composing a response to the preliminary injunction motion itself.

13 Above all, plaintiffs allege important constitutional claims affecting the public interest that
14 should be resolved carefully and expeditiously. Defendant respectfully submits that providing
15 additional briefing time would allow the parties to assist the Court in coming to a more informed
16 and just conclusion on plaintiffs' motion. To that end, defendant would not object to additional
17 time for plaintiffs to file reply papers, should plaintiffs request it and the Court deem it
18 appropriate.

19 CONCLUSION

20 Plaintiffs' motion for an order shortening the time for a hearing on their motion for
21 preliminary injunction should be denied, and the hearing date should remain scheduled for
22 August 22, 2022. If the Court does deny it, defendant respectfully requests an additional one-
23 week period to submit opposition, by August 8, 2022, with reply papers, if any, due on or before
24 August 15, 2022.

1 Dated: July 21, 2022

Respectfully Submitted,

2 ROB BONTA
3 Attorney General of California
4 MARK R. BECKINGTON
5 Supervising Deputy Attorney General

6 /s/ Kevin J. Kelly
7 KEVIN J. KELLY
8 Deputy Attorney General
9 *Attorneys for Defendant Rob Bonta, in his*
10 *official capacity as Attorney General of the*
11 *State of California*
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