

1 ROB BONTA
 Attorney General of California
 2 MARK BECKINGTON
 Supervising Deputy Attorney General
 3 ROBERT L. MEYERHOFF
 Deputy Attorney General
 4 State Bar No. 298196
 300 South Spring Street, Suite 1702
 5 Los Angeles, CA 90013-1230
 Telephone: (213) 269-6177
 6 Fax: (916) 731-2144
 E-mail: Robert.Meyerhoff@doj.ca.gov
 7 *Attorneys for Defendants Rob Bonta in his*
official capacity as Attorney General of the
 8 *State of California*

9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
 11 CIVIL DIVISION

12
 13 **SOUTH BAY ROD & GUN CLUB,
 INC., et al.,**

14 Plaintiffs,

15 v.

16
 17 **ROBERT BONTA, et al.,**

18 Defendants.
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Case No. 3:22-cv-01461-JO-WVG

**DEFENDANT’S SPECIAL
 APPEARANCE AND OBJECTION
 TO NOTICE OF RELATED CASE**

Courtroom: 4C
 Judge: Hon. Jinsook Ohta

Action Filed: September 28, 2022

1 **TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF**
 2 **RECORD:**

3 Defendant Rob Bonta, in his official capacity as the Attorney General of the
 4 State of California, hereby specially appears to object to the Notice of Related Case
 5 filed in his action. Dkt. 3.¹

6 The Notice of Related Case identifies *Duncan v. Bonta*, No. 17-cv-1017-BEN-
 7 JLB (S.D. Cal.), *Rhode v. Bonta*, No. 18-cv-00802-BEN-JLB, and *Miller v.*
 8 *Becerra*, No. 19-cv-01537-BEN-JLB (S.D. Cal.) as “potentially related cases” to this
 9 one. Dkt. 3 at 2. They are not. Under Local Civil Rule 40.1(g), an action may be
 10 related to another action where both actions involve (i) “some of the same parties and
 11 are based on the same or similar claims,” (ii) the same “property, transaction, patent,
 12 trademark, or event,” or (iii) “substantially the same facts and the same questions of
 13 law.” *Id.* Actions involve the same or similar “claims” where they arise out of the
 14 same nucleus of operative facts. *See Owens v. Kaiser Found. Health Plan, Inc.*, 244
 15 F.3d 708, 714 (9th Cir. 2001) (noting that claims are sufficiently similar for res
 16 judicata purposes where they “arise out of the same transactional nucleus of facts”).

17 This action has been brought by some of the same plaintiffs in two (but not all
 18 three) of the “potentially related” actions, *see* Dkt. 3 at 2, and are brought against the
 19 same defendant as in the three prior actions (*i.e.*, the Attorney General), *id.* at 3. But
 20 the similarities end there. Plaintiffs’ claims in this case do not “result” from their
 21 claims in the *Duncan*, *Rhode*, and *Miller* actions, which are principally Second
 22 Amendment challenges to California’s restrictions on large-capacity magazines, its
 23 regulations on ammunition sales, and its Assault Weapons Control Act, respectively.
 24 Instead, Plaintiffs here assert claims under the Bill of Attainder doctrine, the First
 25 Amendment, the Due Process Clause, the Equal Protection Clause, the Supremacy
 26 Clause, the void for vagueness doctrine, and the All Writs Act challenging a fee-

27 ¹ Defendant has not yet been served with a copy of the summons and
 28 complaint (Dkt. 1). Defendant specially appears at this time for the limited purpose
 of asserting their objection to the Notice of Related Case.

1 shifting provision contained in Senate Bill 1327 (Stats. 2022, ch. 146 § 2), a newly
2 enacted statute adding section 1021.11 to the California Code of Civil Procedure,
3 which will not become effective until January 1, 2023.

4 Judicial resolution of the *Duncan*, *Rhode*, and *Miller* actions will involve
5 consideration of different legislative records and different facts than those at issue
6 here. This action does not involve the same or similar claims, the same property,
7 transaction or event, or substantially the same facts and legal questions as were
8 presented in the *Duncan*, *Rhode*, and *Miller* actions. Other arguments raised by
9 Plaintiffs in support of their assertion that these prior actions are “potentially related”
10 to this case (e.g., that Plaintiffs’ counsel in this case also represent plaintiffs in
11 *Duncan* and *Rhode* (Dkt. 3 at 2), and that the issues raised by this case will impact the
12 litigation strategy of the plaintiffs in the *Rhode* case (*id.*)) are irrelevant under Local
13 Civil Rule 40.1(g) in the determining whether cases are “related.” Accordingly,
14 Plaintiffs fail to satisfy any of the requirements for relatedness enumerated in Local
15 Civil Rule 40.1(g). The constitutionality of section 1021.11 may be assessed
16 independently of these prior actions, and the interests of judicial economy would not
17 be served by deeming the instant action as related to that case.

18 Random assignment of cases guarantees “fair and equal distribution of cases to
19 all judges, avoids public perception or appearance of favoritism in assignments, and
20 reduces opportunities for judge-shopping.” *J&K Prods., LLC v. Small Bus. Admin.*, --
21 - F. Supp. 3d ---, 2022 WL 703835, at *1 (D.D.C. Mar. 9, 2022) (finding that the case
22 plaintiff identified as related was in fact not related to two prior actions); *see also*
23 *UCP Int’l Co. Ltd. v. Balsam Brands Inc.*, 261 F. Supp. 3d 1056, 1060 (N.D. Cal.
24 2017) (“Our random-assignment process aims to ensure the integrity of the judicial
25 system and is taken quite seriously by our judges, to eliminate any hint of the
26 appearance of judge- or case-shopping.”). Particularly when weighed against these
27 important concerns, Plaintiffs’ failure to satisfy any of the requirements of Local Rule
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1 40.1(g) weighs strongly against a finding that this action is related to the prior actions
2 Plaintiffs identify.

3 For these reasons, Defendants respectfully object to the Notice of Related Case
4 filed in this action. Dkt. 3.

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6 Dated: September 29, 2022

Respectfully submitted,

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ROB BONTA
Attorney General of California
8 MARK BECKINGTON
Supervising Deputy Attorney General
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/s/ Robert L. Meyerhoff
ROBERT L. MEYERHOFF
Deputy Attorney General

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*Attorneys for Defendant Rob Bonta
in his Official Capacity as Attorney
14 General of the State of California*

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