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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KEITH TROUT,
Plaintiff,
v.
COUNTY OF MADERA, et al.,
Defendants.

Case No. 21-cv-06061-PJH

**ORDER OF DISMISSAL FOR
IMPROPER VENUE**

Re: Dkt. Nos. 86, 89, 90-1, 92, 94

Before the court are several motions to dismiss the complaint. The matter is fully briefed and suitable for decision without oral argument. Having read the parties' papers and carefully considered their arguments and the relevant legal authority, and good cause appearing, the court hereby DISMISSES the complaint for the following reasons.

BACKGROUND

Calley Jean Garay ("Calley") was fatally shot by her estranged husband, Julio Garay, Sr. ("Julio Sr."), as she was leaving a medical appointment at Camarena Health Clinic in Madera County, California, on July 14, 2020.¹ Plaintiff Keith Trout is the maternal grandfather and guardian ad litem of Calley's four minor children, DA, JG1, JG2, and JG3.

Plaintiff seeks to hold 19 defendants liable for their respective roles in Calley's death and the events that followed. Defendants are listed as follows: County of Madera;

¹ The Attorney General's briefing notes, "As the last name 'Garay' is shared by numerous parties related to this case, Calley and others will be referred to by their first names. No disrespect is intended." Dkt. 92 at 8 n.1. The court concurs and follows the same pattern here.

1 Community Action Partnership of Madera County, Inc. (“CAPMC”); Martha Diaz Shelter;
2 Camarena Health; Camarena Health Foundation; Lorena Blanco Elenez; Deborah
3 Martinez, Director of the County of Madera Department of Social Services; Will
4 Lightbourne, Director of the California Department of Health Care Services (“DHCS”);
5 Kim Johnson, Director of the California Department of Social Services (“DSS”); Danny
6 Morris, sued as an individual and as deputy director of the County of Madera Department
7 of Social Services; Sara Bosse, sued as an individual and as the Public Health Director of
8 the Madera County Department of Public Health; Mattie Mendez, sued as an individual
9 and acting as the executive director of the CAPMC; Xavier Becerra, Secretary of the
10 United States Department of Health and Human Services (“HHS”); Bronco Professional
11 Park, LLC; Bronco Professional Park Owners Association; Rose Alvarado; Julio L. Garay,
12 Sr. (“Julio Sr.”); Julio J. Garay, Jr. (“Julio Jr.”); and Amanda M. Garay.

13 **A. Death of Calley**

14 Calley was tragically murdered by her estranged spouse, Julio Sr., on July 14,
15 2020. FAC ¶¶ 20, 55, 122-69. As alleged, Calley and her children had long suffered
16 physical abuse at the hands of Julio Sr. See FAC ¶¶ 121-27. She reported the abuse to
17 the Chowchilla Police Department, which led to Julio Sr.’s arrest and charges of criminal
18 spousal and child abuse. FAC ¶¶ 127-29. Calley and the children became residents of
19 the Martha Diaz Shelter, a domestic violence shelter in Madera County owned and
20 operated by defendant CAPMC. FAC ¶ 128.

21 During their stay at the shelter, some three months after Calley separated from
22 her husband, she planned to attend a medical appointment. Prior to the medical
23 appointment, defendant Lorena Blanco Elenez, an employee of defendant Camarena
24 Health, called the telephone number Calley previously provided to remind Calley of her
25 appointment. FAC ¶ 135. The number Elenez called reached Julio Sr.’s residence, and
26 Elenez provided information regarding the time and place of Calley’s upcoming
27 appointment. FAC ¶ 135.

28

1 On July 14, 2020, a staff member from the Martha Diaz Shelter drove Calley to the
2 scheduled medical appointment at Camarena Health. FAC ¶ 154-56. Calley’s three
3 boys accompanied her to the appointment. FAC ¶¶ 150, 154. While Calley was
4 attending the appointment, Julio Sr. waited in the parking lot in front of Camarena Health
5 for Calley to re-emerge, having been informed of her presence by Elenez. FAC ¶ 151.
6 After the appointment, Calley left the building, and walked to the waiting transportation
7 van with her son. FAC ¶ 172. Calley was in the process of putting her son inside the
8 vehicle when Julio Sr. approached them from behind and shot her several times. FAC
9 ¶¶ 173-75. Calley attempted to shield her sons and died from her injuries. Julio Sr. fled
10 but was subsequently caught, tried, and convicted of her murder. FAC ¶ 179.

11 **B. Subsequent Abuse of Three Boys**

12 Following the death of their mother, JG1, JG2, and JG3 (“the three boys”) were
13 placed in the custody of Child Welfare Services, a program of the County’s Department of
14 Social Services. FAC ¶ 184. The three boys spent weekdays in foster care and
15 weekends with their mother’s friend, Sarah Rodriguez, and her husband, Pete Rodriguez,
16 beginning in July 2020. FAC ¶ 191. Child Welfare Services removed the three boys from
17 foster care and placed them with Julio Garay, Jr. (“Julio Jr.”), in September 2020. FAC
18 ¶ 192. The Rodriguezes’ weekend visitations with the three boys were cut down to once
19 monthly. FAC ¶ 193. The Rodriguezes found the boys’ behavior to become more
20 aggressive and dysregulated following their placement with Julio Jr., and the
21 Rodriguezes found bruises and signs of physical abuse on the boys. FAC ¶¶ 194-201.
22 Plaintiff alleges that the County of Madera as well as several employees and
23 subcontractors “failed and refused to employ or allow the boys treatment care
24 examination by competent providers to provide psychotherapy and treatment for the
25 mental disorders and mental health of” the three boys. FAC ¶ 204.

26 **C. Transfer of Real Property**

27 During the course of their marriage, up until the separation, Julio Sr. and Calley
28 lived with their three boys at 1101 Sonoma Avenue in Chowchilla, which is situated in

1 Madera County. FAC ¶ 63. Plaintiff alleges that Julio Sr. and Calley had been the true
2 owners of the property since 1998, though title was recorded in the name of Julio Sr.'s
3 mother as a strawman to hide the residence from his creditors. FAC ¶ 216. Julio Sr.'s
4 mother, Alvarado, never collected rent nor held any beneficial interest in the property,
5 and Julio Sr. at all times occupied and paid the incidents of ownership, including taxes,
6 insurance, and maintenance. FAC ¶¶ 216-18.

7 On or about the date of the shooting, July 14, 2020, Julio Sr. directed Alvarado to
8 deed the property to his daughter, Amanda, and he rushed the filing of a transfer deed to
9 be recorded in the Office of the County Recorder of Madera County. FAC ¶ 220. No
10 consideration was paid for the transfer. FAC ¶ 221-22. Plaintiff alleges that Julio Sr.,
11 Alvarado, and Amanda together conspired to hide the property and to hinder creditors.
12 FAC ¶ 228-31. Plaintiff alleges the transfer of the property was fraudulent. FAC ¶ 232.
13 Julio Sr.'s creditors include the minors based on (1) the community property and family
14 support to which Calley would have been entitled following the separation as well as
15 (2) the damages owed to the minors as heirs and survivors. FAC ¶¶ 210-11.

16 **D. Procedural History**

17 Plaintiff, a resident of North Dakota, filed the original complaint initiating this
18 lawsuit on August 6, 2021. Dkt. 1. The parties stipulated to a briefing schedule for
19 defendants' responsive pleadings. Dkt. 46. Defendants submitted various motions
20 seeking dismissal and/or transfer of venue, and plaintiff filed the first amended complaint
21 ("FAC") in response. Dkt. 71.

22 The FAC includes several causes of action that are not clearly enumerated. In
23 general, plaintiff's claims fall within the following theories of liability: (1) constitutional
24 violations, (2) negligence and gross negligence, (3) wrongful death, (4) violation of
25 privacy, (5) survivorship, and (6) fraudulent conveyance.

26 The parties again stipulated to a briefing schedule for defendants' motions
27 challenging the complaint. Dkt. 78. The court accepted the stipulation, noting that any
28 hearing would take place after April 11, 2022. Dkt. 80.

1 defendant if service of process is insufficient. See Omni Capital Int’l v. Rudolf Wolff &
 2 Co., 484 U.S. 97, 104 (1987). “Once service is challenged, plaintiffs bear the burden of
 3 establishing that service was valid under Rule 4.” Brockmeyer v. May, 383 F.3d 798, 801
 4 (9th Cir. 2004). If the plaintiff is unable to satisfy this burden, the court has the discretion
 5 to either dismiss the action or retain the action and quash the service of process. See
 6 Stevens v. Sec. Pac. Nat’l Bank, 538 F.2d 1387, 1389 (9th Cir. 1976). “The court may
 7 consider evidence outside the pleadings in resolving a Rule 12(b)(5) motion.” Cotti v.
 8 City of San Jose, No. 18-cv-02980-BLF, 2019 WL 2579206, at *5 (N.D. Cal. June 24,
 9 2019) (citation omitted). A plaintiff must serve a summons and a copy of the complaint in
 10 the manner and within the time prescribed. Fed. R. Civ. P. 4(c)(1). “If a defendant is not
 11 served within 90 days after the complaint is filed, the court—on motion or on its own after
 12 notice to the plaintiff—must dismiss the action without prejudice against that defendant or
 13 order that service be made within a specified time.” Fed. R. Civ. P. 4(m).

14 **2. Service of a State Official**

15 Federal rules permit service of process on a state (or its officers in their official
 16 capacity) in conformity with forum-state procedures. Fed. R. Civ. Proc. 4(j)(2). California
 17 Code of Civil Procedure section 416.50 provides that a public agency may be served by
 18 delivering a copy of the summons and complaint to the agency’s presiding officer. A
 19 gubernatorial appointment of an agency official is effective even before the appointment
 20 is confirmed by the State Senate. Cal. Gov’t. Code § 1774.

21 Review of the timeline is relevant here. Plaintiff initiated this lawsuit on August 6,
 22 2021, naming Director Lightbourne as a defendant in his official capacity. Dkt. 1.
 23 Governor Newsom announced the appointment of Baass as the new Director of the
 24 agency on September 10, 2021. Baass Decl. ¶ 2 (Dkt. 94-1 at 2). Lightbourne’s last day
 25 at DHCS was September 14, 2021, and Baass assumed all Director responsibilities on
 26 September 15, 2021. Baass Decl. ¶¶ 3, 4 (Dkt. 94-1 at 2). The day after Baass officially
 27 took over the job, September 16, 2021, plaintiff delivered process to Lightbourne at his
 28 home address in Santa Cruz County. Dkt. 32. Lightbourne was no longer Director of the

1 agency and did not have actual authority to accept service on behalf of the agency at the
2 time he was served with process. Though plaintiff argues that Baass did not actually
3 start her position until after September 15, 2021, he ignores the publicly announced
4 effective date of her appointment and the statutorily determined conclusion that she
5 ascended to the role on that date. Therefore, as a matter of law, plaintiff's delivery of
6 process to Lightbourne was not effective to serve the Director of DHCS—he instead
7 served a recently-retired civilian.

8 Plaintiff cites to a declaration filed in Pharmacists Association, et al. v. Michelle
9 Baass, 4:19-cv-02999-JSW, another case in this district, in which Baass was substituted
10 for Lightbourne as Director of DHCS. That declaration stated that Baass' start date as
11 Director was September 21, 2021, and plaintiff argues that she is judicially estopped from
12 taking the different position she asserts here related to her start date. However, plaintiff's
13 argument falls well short of precluding Baass' declaration in this case because (1) a
14 notice of errata has since been filed in the Pharmacists Association case correcting the
15 start date noted therein (see Case No. 4:19-cv-02999-JSW, Dkt. 112), and (2) plaintiff
16 does not identify any of the factors necessary to trigger exclusion of Baass' position
17 based on judicial estoppel (see Ah Quin v. Cty. of Kauai Dep't of Transp., 733 F.3d 267,
18 270 (9th Cir. 2013)). In sum, plaintiff's September 16, 2021, delivery of papers to
19 Lightbourne's residence was not effective service of process on the Director of DHCS.

20 **3. Ostensible Authority**

21 "Ostensible authority is such as a principal, intentionally or by want of ordinary
22 care, causes or allows a third person to believe the agent to possess." Cal. Civ. Code
23 § 2317. A plaintiff can only establish ostensible authority by satisfying three "essential
24 elements": a "[1] representation by the principal, [2] justifiable reliance thereon by a third
25 person, and [3] change of position or injury resulting from such reliance." Yanchor v.
26 Kagan, 22 Cal.App.3d 544, 549 (1971); see also Brockmeyer v. May, 383 F.3d 798, 801
27 (9th Cir. 2004) (noting that it is the plaintiff's burden to establish proper service). When
28 the third party relies on an agent's ostensible authority in good faith and without want of

1 ordinary care, the principal is bound by the acts of its agent. Cal. Civ. Code § 2334.

2 Plaintiff argues that Lightbourne continued to hold ostensible authority to accept
3 service on behalf of DHCS based on a few representations. First, DHCS continued to
4 issue form publications with Lightbourne’s name listed as the Director on letterhead until
5 October 25, 2021. Thimesch Decl., Ex. 3 (Dkt. 105-4). Second, the “About the Director”
6 page on the DHCS website continued to display Lightbourne’s photo and biography until
7 at least September 30, 2021. Thimesch Decl. ¶¶ 11-12 (Dkt. 105-1 at 3). Plaintiff’s
8 counsel notes, however, that Baass’ name replaces Lightbourne’s as Director at certain
9 places on the DHCS website on September 16, 2021. Thimesch Decl. ¶ 11 (Dkt. 105-1
10 at 3). Finally, plaintiff’s counsel notes that the Attorney General’s office, counsel for
11 Baass and another defendant, did not challenge service on Lightbourne for some 51 days
12 following service despite regular exchanges between counsel acknowledging service.
13 Thimesch Decl., Ex. 4 (Dkt. 105-3).

14 Here, plaintiff’s references are less than compelling to establish that DHCS
15 represented that Lightbourne was still its Director and to justify plaintiff’s service on him.
16 The first reference, the forms that DHCS continued to distribute with Lightbourne’s name
17 on the letterhead, were clearly not directives issued on Lightbourne’s behalf. Plaintiff
18 draws too much from these informational notices—they are not signed by Lightbourne,
19 they do not suggest that Lightbourne directed their distribution, and it is reasonable to
20 infer that his name is only left in the header as a result of inherent administrative delays
21 in bureaucratic transitions. Regarding the second reference, plaintiff also places too
22 much stock in the “About the Director” biography page of the DHCS website. Plaintiff’s
23 counsel acknowledges that Lightbourne’s name was replaced with Baass’ at some points
24 on the website beginning at least on September 16, the date of service, even though
25 Lightbourne’s biography was not replaced with hers until September 21. Thimesch Decl.
26 ¶¶ 11-12. The inconsistency of the names on the website beginning at least on the date
27 of service weakens plaintiff’s inference that the website represented Lightbourne was still
28 Director. The agency’s Twitter announcement of the transition on September 15

1 additionally weakens plaintiff's reference. See Dkt. 94-1 at 2. And, as with the
2 letterhead, the delay in posting Baass' biography is easily accepted as a result of
3 inherent administrative delays in bureaucratic transitions. These two references fall short
4 of the first two elements necessary to support ostensible authority. DHCS did not
5 represent that Lightbourne was still Director through either of these references, and given
6 the announcements that a new Director had been introduced, reliance on these
7 weakened representations to establish that Lightbourne still had authority was not
8 justified.

9 For the third reference, counsel from the Attorney General's office states to
10 plaintiff's counsel, "I understand that you recently served the head of DHCS. I represent
11 his office. Please agree to grant DHCS the same extension granted to DSS for purposes
12 of responding to the complaint." Thimesch Decl., Ex. 2 (Dkt. 105-3 at 2). The gendered
13 reference to the Director as well as the acknowledgement that he had already been
14 served may support an inference that Lightbourne had authority to accept service.
15 Though this representation is not from the agency or Lightbourne himself, it is a
16 communication from counsel that may be accepted as a representation from the principal
17 and reasonably relied upon. However, even if the court accepted these points, plaintiff's
18 argument falls short on the third element of the ostensible authority assessment. Plaintiff
19 does not show a change in position based on counsel's after-the-fact comments—
20 delivery of process to Lightbourne had already been completed and he took no steps
21 differently based on a representation from the DHCS Director or counsel. Plaintiff's
22 argument regarding ostensible authority falls short because the representation of counsel
23 took place *after* plaintiff's delivery of process to Lightbourne.

24 In sum, Baass establishes that Lightbourne did not have actual authority to accept
25 service of process on behalf of the agency on September 16, 2021. The court finds that
26 Lightbourne did not have ostensible authority to accept service of process on behalf of
27 the agency on that date either. There was no service effective to give this court
28 jurisdiction over the office of the Director of DHCS, and the agency must be dismissed.

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B. Improper Venue

1. Legal Standard

“The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” 28 U.S.C. § 1406(a). When a defendant files a Rule 12(b)(3) motion to dismiss for improper venue, the burden shifts to the plaintiff to establish that venue is proper. See Piedmont Label Co. v. Sun Garden Packing Co., 598 F.2d 491, 496 (9th Cir. 1979). “Analysis under Rule 12(b)(3) . . . permits the district court to consider facts outside of the pleadings.” Argueta v. Banco Mexicano, S.A., 87 F.3d 320, 324 (9th Cir. 1996), overruled on other grounds, Atl. Marine Constr. Co., Inc. v. U.S. Dist. Court for Western Dist. of Texas, 571 U.S. 49 (2013).

“When venue is challenged, the court must determine whether the case falls within one of the three categories set out in § 1391(b). If it does, venue is proper; if it does not, venue is improper, and the case must be dismissed or transferred under § 1406(a).” Atl. Marine Constr. Co., 571 U.S. at 56. First, the plaintiff may bring suit in “a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located.” 28 U.S.C. § 1391(b)(1). Second, the plaintiff may bring suit in “a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated.” 28 U.S.C. § 1391(b)(2). Third, if there is not a proper district under the first two provisions, the plaintiff may bring the suit in “any judicial district in which any defendant is subject to the court’s personal jurisdiction with respect to such action.” 28 U.S.C. § 1391(b)(3). Residency is determined under Title 28 U.S.C. § 1391(c).

Venue is also proper in actions where the defendant is an officer or employee of the United States “in any judicial district in which (A) a defendant in the action resides, (B) a substantial part of the events or omissions giving rise to the claim occurred, . . . or (C) the plaintiff resides if no real property is involved in the action.” 28 U.S.C. § 1391(e)(1).

1 **2. Analysis**

2 Plaintiff makes clear in his opposition brief that he relies on only one of the three
3 primary grounds for venue, that expressed in Title 28 U.S.C. § 1391(b)(1). Plaintiff
4 contends that all defendants reside in California, and therefore, venue is proper here in
5 the Northern District based on the personal residence of former DHCS Director
6 Lightbourne in Santa Cruz County. Plaintiff also argues that HHS funding to Madera
7 County flows through Regional Office 9 in San Francisco, which is also located in this
8 judicial district. Plaintiff suggests without cite that Secretary Becerra, though named in
9 his official capacity, is a lifelong resident of California. All of plaintiff's contentions lack
10 merit.

11 **a. Residences of DHCS Director and HHS Secretary**

12 A state officer sued in his official capacity is not a natural person within the
13 meaning of section 1391(c). Umphress v. Hall, 479 F. Supp. 3d 344, 349 (N.D. Tex. Aug.
14 14, 2020) ("the key difference between a 'natural person' and a state official sued solely
15 in his official capacity is that a lawsuit involving an official-capacity defendant follows the
16 office and not the natural person."). "Obviously, state officials literally are persons. But a
17 suit against a state official in his or her official capacity is not a suit against the official but
18 rather is a suit against the official's office." Will v. Michigan Dep't of State Police, 491
19 U.S. 58, 71 (1989). If an official-capacity defendant ceases to hold office, the successor
20 official is substituted as a party defendant, so a venue determination based on a current
21 or past government official's personal residence is improper. See Karcher v. May, 484
22 U.S. 72, 77 (1987) (affirming that "the public officer's successor is automatically
23 substituted as a party"); Fed. R. Civ. P. 25(d) ("An action does not abate when a public
24 officer who is a party in an official capacity dies, resigns, or otherwise ceases to hold
25 office while the action is pending. The officer's successor is automatically substituted as
26 a party.")

27 For purposes of venue, official-capacity residence is determined under section
28 1391(c)(2), which applies to entities. Umphress, 479 F. Supp. 3d at 350; see 28 U.S.C.

1 § 1391(c)(2) (“an entity with the capacity to sue and be sued in its common name . . .
 2 shall be deemed to reside, if a defendant, in any judicial district in which such defendant
 3 is subject to the court’s personal jurisdiction”). Federal officers are considered to reside
 4 where the officers perform their official duties. See Reuben H. Donnelley Corp. v. F.T.C.,
 5 580 F.2d 264, 266 n.3 (7th Cir. 1978) (“The residence of a federal officer has always
 6 been determined by the place where he performs his official duties.”) (citations omitted).
 7 Furthermore, the mere presence of a regional agency office in a judicial district does not
 8 create residency in the district for the purpose of venue analysis. Id. at 267. Treating
 9 official-capacity defendants as representative of their office or state under section
 10 1391(c)(2) fits with “the general rule” that “if a suit is brought against a state official in his
 11 official capacity, the official’s residence is where he performs his official duties.” See
 12 Missouri Electric Cooperatives v. Missouri, 229 F.Supp.3d 888, 891 (E.D. Mo. 2017); see
 13 also Venue Based on Residence, Rutter Group, Fed. Civ. Pro. Before Trial Ch. 4-C(f)
 14 (citing Berry v. New York Dept. Corr. Servs., 808 F. Supp. 1106, 1108 (S.D.N.Y. 1992)).
 15 An official-capacity suit is, in essence, a suit against the agency whose residency for
 16 purposes of venue is fixed by the location of its headquarters and offices.

17 Plaintiff’s reliance on the out-of-circuit case Navajo Health Foundation v. Burwell,
 18 86 F. Supp. 3d 1211 (D.N.M. 2015), for the proposition that the personal residence of the
 19 head of a federal agency might ever be relevant for purposes of venue in an official
 20 capacity suit, is misplaced. The holding in Navajo Health Foundation (1) ignores the fact
 21 that in an official capacity suit a federal official is not sued as a “natural person”; (2) has
 22 been criticized as wrongly decided, see Umphress, 479 F. Supp. 3d at 350-51; and (3) in
 23 any event conflicts with the consistent line of cases in this Circuit, including cases
 24 decided after Congress amended § 1391 in 2012, holding that federal defendants sued in
 25 their official capacity reside at the agency’s official residence, where the official duties are
 26 performed. See, e.g., Tsi Akim Maidu of Taylorsville Rancheria v. United States, No. 16-
 27 cv-07189-LB, 2017 WL 2289203, at *2 (N.D. Cal. May 25, 2017); Al Hada v. Pompeo,
 28 No. 18-cv-8002, 2018 WL 6264999, at *2 (C.D. Cal. Sept. 17, 2018); J.P. v. Sessions,

1 No. 18-cv-06081-JAK, 2019 WL 6723686, at *43 (C.D. Cal. Nov. 5, 2019).

2 Plaintiff sued former DHCS Director Lightbourne exclusively in his official capacity.
 3 FAC ¶ 32; Dkt. 108 at 1-2. Plaintiff creatively argues that Lightbourne performed his
 4 official duties from his Santa Cruz County residence because he worked from home
 5 during the COVID-19 pandemic. FAC ¶ 9. Plaintiff fails, however, to offer any authority
 6 for this unique position that contradicts prior authority emphasizing that official-capacity
 7 residence is established where an officer officially performs his or her duties. Because
 8 DHCS offices—including those of the agency’s director—are located in Sacramento
 9 County, within the Eastern District of California, that is where DHCS (and its officers sued
 10 in their official capacity) resides for purposes of § 1391(c)(2). On this basis, the court
 11 concludes that venue in this district is improper because no defendant resides here. See
 12 28 U.S.C. § 1391(b)(1). This assessment is only further bolstered by the court’s
 13 determination above that service on Lightbourne was ineffective. Without service on
 14 Lightbourne at his personal residence in Santa Cruz County, there remains little
 15 argument that any defendant resides in the Northern District.

16 Plaintiff similarly sues HHS Secretary Becerra exclusively in his official capacity.
 17 FAC ¶ 32. Plaintiff reasons that federal officers may hold “dual residency” for purposes
 18 of venue, citing to a case brought against a Pentagon-based Air Force officer.
 19 Dehaemers v. Wynne, 522 F. Supp. 2d 240, 248 (D.D.C. 2007). However, the residency
 20 inquiry in Dehaemers focused only on the location where the officer performed his official
 21 duties—either in Washington, D.C., or Arlington, Virginia, the location of the Pentagon—
 22 the inquiry did not propose that an officer’s residency can be based on their personal
 23 residences for an official-capacity suit. Id. at 248. Plaintiff suggests without cite that
 24 Becerra maintains a personal residence in California, but even so, plaintiff misses the
 25 mark. There is no support for the premise that Becerra performs official duties in
 26 California. Because HHS offices—including those of the Secretary—are located within
 27 the District of Columbia, that is where HHS (and its officers sued in their official capacity)
 28 resides for purposes of § 1391(c)(2). See Reuben H. Donnelley Corp., 580 F.2d at

1 266 n.3. The presence of a regional office in San Francisco does not change the venue
2 analysis because a regional office does not create residency. On this basis as well, the
3 court concludes that venue in this district is improper because not all defendants reside in
4 California. See 28 U.S.C. § 1391(b)(1).

5 **b. Section 1391(e)**

6 Special provisions govern venue in civil actions in which the United States is a
7 defendant. The federal-entity venue provision provides in relevant part:

8 A civil action in which a defendant is an officer or employee of
9 the United States or any agency therefor acting in his official
10 capacity . . . or an agency of the United States, or the United
11 States, may, except as otherwise provided by law, be brought
12 in any judicial district in which (A) a defendant in the action
13 resides, (B) a substantial part of the events or omissions giving
14 rise to the claim occurred, or a substantial part of property that
15 is the subject of the action is situated, or (C) the plaintiff resides
16 if no real property is involved in the action.

17 28 U.S.C. § 1391(e)(1).

18 Here, plaintiff brings claims against a federal defendant, Secretary Beccera, in his
19 official role as the head of HHS. FAC ¶ 32. Apart from HHS, the other defendants are all
20 located in either Madera County or Sacramento County. Both Counties are located
21 within the boundaries of the Eastern District of California. As a result, the Northern
22 District of California is not a proper venue for this lawsuit under § 1391(e)(1)(A) because
23 no defendant resides here.

24 Similarly, there are no factual allegations that indicate that “a substantial part of
25 the events or omissions giving rise to the claim occurred” in this judicial district, so
26 § 1391(e)(1)(B) is also not a basis for proper venue in this court. All three of the main
27 events giving rise to plaintiff’s claims took place in Madera County, including (1) the
28 shooting of Calley, (2) the abuse of the three sons, and (3) the fraudulent transfer of the
Chowchilla property. The events that gave rise to this action occurred within Eastern
District of California, and this court thus finds that the appropriate venue for this action
lies there. 28 U.S.C. § 1391(e)(1)(B). Though the FAC alleges that some actions
occurred here, namely, failures of the federal HHS to supervise the state and local

1 officials occurred in the San Francisco Region 9 office, at the Office of Civil Rights (FAC
2 ¶ 10), the allegations lack any specific connection to that office (see Leoz Decl. ¶¶ 3-4
3 (Dkt. 98-1 at 2)). The FAC does not meet the necessary showing that a “substantial part
4 of the events or omissions occurred” in this district.

5 Lastly, neither plaintiff nor any of the minors he represents reside in this district
6 (see FAC ¶ 11(a)-(c)), and plaintiff brings a claim for fraudulent conveyance involving the
7 real property held by some of the defendants in Chowchilla, California, which is also in
8 the Eastern District. These considerations prevent venue in this district under
9 § 1391(e)(1)(C). Therefore, the special venue rules triggered by the inclusion of a federal
10 defendant additionally preclude venue in this district.

11 **CONCLUSION**

12 For the reasons stated above, including that service on Lightbourne was improper,
13 that no defendant resides in this judicial district, and that venue is ultimately improper in
14 this district, the court DISMISSES the operative complaint. Dismissal is without prejudice
15 to filing in the proper district court. The court TERMINATES without reaching the various
16 other motions challenging the pleading, though several appear meritorious. Plaintiff
17 should take the opportunity before re-filing to assess whether this plethora of claims and
18 defendants are properly joined.

19 **IT IS SO ORDERED.**

20 Dated: May 6, 2022

21 /s/ Phyllis J. Hamilton

22 PHYLLIS J. HAMILTON
23 United States District Judge
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