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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

GANIYU AYINLA JAIYEOLA,  
Plaintiff,  
v.  
RIVIAN,  
Defendant.

Case No. 22-cv-03982-BLF

**ORDER GRANTING DEFENDANT'S  
MOTION TO DISMISS**

[Re: ECF No. 29]

In this employment discrimination case, Plaintiff Ganiyu Ayinla Jaiyeola alleges that Defendant Rivian Automotive, LLC (Rivian) did not hire him because of his race, color, and national origin. Jaiyeola asserts claims under Title VII of the Civil Rights Act of 1964 and Michigan’s Elliot-Larsen Civil Rights Act (“ELCRA”).

Before the Court is Rivian’s Motion to Dismiss. Mot., ECF No. 29; *see also* Reply, ECF No. 34. Rivian moves to dismiss Jaiyeola’s Title VII claim under Federal Rule of Civil Procedure 12(b)(3) for improper venue and his ELCRA claim under Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction. Jaiyeola opposes. Opp’n, ECF No. 30. Pursuant to Civil Local Rule 7-1(b), the Court finds the matter suitable for submission without oral argument.

For the reasons that follow, Rivian’s motion to dismiss is GRANTED WITHOUT PREJUDICE TO FILING IN A DISTRICT WHERE VENUE IS PROPER.

**I. BACKGROUND**

Jaiyeola applied for a materials engineering position with Rivian on April 27, 2020. First Am. Compl. (“FAC”) ¶ 6, ECF No. 24. Over the next several months, Rivian interviewed Jaiyeola for the position by Zoom and phone call. *Id.* ¶¶ 7-19. Rivian informed Jaiyeola on June

1 24, 2020, that he would not be hired. *Id.* ¶ 20. Jaiyeola asserts that Rivian did not hire him  
2 because he is black, African American, and of Nigerian national origin. *Id.* ¶¶ 2-3, 37.

3 On August 17, 2020, Jaiyeola filed charges with the Michigan Department of Civil Rights  
4 (MDCR) and the United States Equal Employment Opportunity Commission (EEOC), alleging  
5 that he was not hired because of his race and national origin. *Id.* ¶ 23; *see also* Jaiyeola Decl.  
6 Ex. H (“MDCR-EEOC Compl.”), ECF No. 24-2.

7 The MDCR dismissed Jaiyeola’s charge on December 22, 2021, determining that there  
8 was insufficient evidence to proceed. FAC ¶ 24. The EEOC issued Jaiyeola a notice of right to  
9 sue on April 12, 2022. *Id.* ¶ 25.

10 Jaiyeola filed this action on July 7, 2022, alleging that Rivian violated Title VII and the  
11 ELCRA. Compl., ECF No. 1. The Court dismissed Jaiyeola’s complaint because Jaiyeola had not  
12 established that this Court was a proper venue for his Title VII claim and because Jaiyeola had  
13 failed to plausibly allege an ELCRA violation. Order, ECF No. 23.

14 Jaiyeola filed his FAC on March 7, 2023, realleging both of his claims. FAC ¶¶ 32-41.  
15 Rivian moves to dismiss both claims.

16 **II. LEGAL STANDARD**

17 **A. Motion to Dismiss for Improper Venue Under Rule 12(b)(3)**

18 A defense of improper venue may be raised by motion under Federal Rule of Civil  
19 Procedure 12(b)(3). When venue is improper, the court “shall dismiss, or if it be in the interest of  
20 justice, transfer such case to any district or division in which it could have been brought.”  
21 28 U.S.C. § 1406(a). The plaintiff bears the burden of showing that venue is proper. *See*  
22 *Piedmont Label Co. v. Sun Garden Packing Co.*, 598 F.2d 491, 496 (9th Cir. 1979) (“Plaintiff had  
23 the burden of showing that venue was properly laid in the Northern District of California.”).  
24 “When the plaintiff asserts multiple claims, it must establish that venue is proper as to each  
25 claim.” *Kaia Foods, Inc. v. Bellafigore*, 70 F. Supp. 3d 1178, 1183 (N.D. Cal. 2014). “However,  
26 where venue exists for the principal claim, federal courts will also adjudicate closely related  
27 claims, even if there is no independent source of venue for the related claims.” *Id.*

28 In ruling on a motion to dismiss based on improper venue, “the allegations in the

1 complaint need not be accepted as true and the Court may consider evidence outside the  
2 pleadings.” *eBay Inc. v. Digital Point Sols., Inc.*, 608 F. Supp. 2d 1156, 1161 (N.D. Cal. 2009)  
3 (citing *Murphy v. Schneider Nat’l, Inc.*, 362 F.3d 1133, 1137 (9th Cir. 2004)). Whether to dismiss  
4 for improper venue, or alternatively to transfer venue to a proper court, is a matter within the  
5 sound discretion of the district court. *King v. Russell*, 963 F.2d 1301, 1304 (9th Cir. 1992).

6 **B. Motion to Dismiss for Lack of Subject Matter Jurisdiction Under Rule 12(b)(1)**

7 A party may challenge the Court's subject matter jurisdiction by bringing a motion to  
8 dismiss under Federal Rule of Civil Procedure 12(b)(1). “A Rule 12(b)(1) jurisdictional attack  
9 may be facial or factual.” *Safe Air For Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004).

10 In a facial attack, the movant asserts that the lack of subject matter jurisdiction is apparent  
11 from the face of the complaint. *Id.*

12 In a factual attack, the movant disputes the truth of allegations that otherwise would give  
13 rise to federal jurisdiction. *Id.* “In resolving a factual attack on jurisdiction, the district court may  
14 review evidence beyond the complaint without converting the motion to dismiss into a motion for  
15 summary judgment.” *Id.* “The court need not presume the truthfulness of the plaintiff’s  
16 allegations.” *Id.* Once the moving party has presented evidence demonstrating the lack of subject  
17 matter jurisdiction, the party opposing the motion must present affidavits or other evidence  
18 sufficient to establish subject matter jurisdiction. *Id.* “However, in the absence of a full-fledged  
19 evidentiary hearing, disputes in the facts pertinent to subject-matter are viewed in the light most  
20 favorable to the opposing party.” *In re Facebook Privacy Litig.*, 791 F. Supp. 2d 705, 710 (N.D.  
21 Cal. 2011), *aff’d*, 572 F. App’x 494 (9th Cir. 2014) (citing *Dreier v. United States*, 106 F.3d 844,  
22 847 (9th Cir. 1996)). “The disputed facts related to subject-matter jurisdiction should be treated in  
23 the same way as one would adjudicate a motion for summary judgment.” *In re Facebook Privacy*  
24 *Litig.*, 791 F. Supp. 2d at 710 (citing *Dreier*, 106 F.3d at 847).

25 **III. REQUEST FOR JUDICIAL NOTICE**

26 Before turning to the merits, the Court addresses Rivian’s requests for judicial notice. A  
27 court “may judicially notice a fact that is not subject to reasonable dispute” because it “is generally  
28 known within the trial court’s territorial jurisdiction” or “can be accurately and readily determined

1 from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201. These  
2 documents of which Rivian asks the Court to take judicial notice can be broken into two  
3 categories: (1) court filings and (2) a public website.

4 First, Rivian asks the Court to take judicial notice of certain court filings. *See* Mot. RJN  
5 Exs. A-C; Reply RJN Exs. A-B. “A court may . . . take judicial notice of the existence of another  
6 court’s opinion or of the filing of pleadings in related proceedings; the Court may not, however,  
7 accept as true the facts found or alleged in such documents.” *GemCap Lending, LLC v. Quarles &*  
8 *Brady, LLP*, 269 F. Supp. 3d 1007, 1019 (C.D. Cal. 2017) (internal quotations omitted).  
9 Accordingly, the Court takes judicial notice of these court filings but does not take judicial notice  
10 of the facts within them. For example, the Court takes judicial notice of the claims asserted in the  
11 complaint filed in the Western District of Michigan. The Court does not, however, take judicial  
12 notice of any facts in these documents—including statements Jaiyeola may have made about his  
13 residence or employment. *See Reynoso v. Fid. Nat. Title Ins. Co.*, No. 03:13-CV-01600-HZ, 2013  
14 WL 6919666, \*5 (D. Or. Dec. 31, 2013) (“[T]he court may not take judicial notice of facts  
15 presented in [documents filed in another case] or in court opinions for the purpose of establishing  
16 those facts in the case currently before it.” (citing *Wyatt v. Terhune*, 315 F.3d 1108 (9th Cir.  
17 2003))). However, the Court does take judicial notice of Plaintiff’s own representations to the  
18 various courts of his residence address.

19 Second, Rivian asks the Court to take judicial notice of a screenshot of a LinkedIn page.  
20 Mot. RJN, ECF No. 29-2; Reply RJN, ECF No. 34-1. Rivian cites this screenshot to establish  
21 Jaiyeola’s location and employment. The Court denies Rivian’s request that the Court take  
22 judicial notice of these facts based on this screenshot. *McGucken v. Lonely Planet Glob., Inc.*, No.  
23 CV 22-5476-DMG (SKX), 2023 WL 4206107, at \*2 n.3 (C.D. Cal. May 11, 2023) (denying  
24 request to take judicial notice location of witnesses based on LinkedIn pages where the pages’  
25 accuracy had not been established).

#### 26 **IV. DISCUSSION**

27 Rivian moves to dismiss both of Jaiyeola’s claims. Rivian argues that the Court should  
28 dismiss Jaiyeola’s Title VII claim because Jaiyeola has not alleged or otherwise established that

1 venue is proper in this District under 42 U.S.C. § 2000e-5. Rivian argues that the Court should  
2 dismiss Jaiyeola’s ELCRA claim because Jaiyeola has not established diversity jurisdiction and  
3 the Court should decline to exercise supplemental jurisdiction over the claim.

4 **A. Title VII Claim**

5 Rivian moves under Federal Rule of Civil Procedure 12(b)(3) to dismiss Jaiyeola’s Title VII  
6 claim for improper venue. *See* Mot. 5. Rivian argues that the claim should be dismissed because  
7 Jaiyeola has not alleged facts demonstrating Title VII venue in this Court. *See id.*

8 Jaiyeola does not dispute that he has not addressed these deficiencies. *See* Opp’n 2. Nor  
9 does his briefing point to any new evidence that would establish that venue is proper in this Court.

10 Accordingly, for the reasons provided in this Court’s order on Rivian’s prior motion to  
11 dismiss (Order, ECF No. 23), Rivian’s motion to dismiss Jaiyeola’s Title VII claim for improper  
12 venue is GRANTED. Jaiyeola has now failed to plead or provide evidence supporting venue in  
13 this District multiple times. Jaiyeola’s Title VII claim is DISMISSED WITHOUT PREJUDICE  
14 to re-filing in a district where venue is proper under 42 U.S.C. § 2000e-5(f)(3) but WITH  
15 PREJUDICE to re-filing in this District.

16 **B. ELCRA Claim**

17 Rivian moves to dismiss Jaiyeola’s ELCRA claim on the basis that this Court lacks  
18 diversity jurisdiction and should not exercise supplemental jurisdiction.

19 **1. Diversity Jurisdiction**

20 Rivian argues that the Court lacks diversity jurisdiction over Jaiyeola’s ELCRA claim.  
21 Mot. 5-6. Jaiyeola argues that the parties are diverse because he was a citizen of Michigan when  
22 he filed the action and Rivian is a citizen of Delaware and California. Opp’n 3-4.

23 Under the diversity jurisdiction statute, federal courts have original jurisdiction where the  
24 opposing parties are citizens of different states and the amount in controversy exceeds  
25 \$75,000. 28 U.S.C. § 1332. The basic requirement in diversity cases is that all plaintiffs must be  
26 of different citizenship from all defendants or there is no federal diversity jurisdiction. *See Exxon*  
27 *Mobil Corp. v. Allapattah Services, Inc.*, 545 U.S. 546, 562 (2005). A court “measures all  
28 challenges to subject-matter jurisdiction premised upon diversity of citizenship against the state of

1 facts that existed at the time of filing.” *Grupo Dataflux v. Atlas Global Grp., L.P.*, 541 U.S. 567,  
2 571 (2004); *see also Lew v. Moss*, 797 F.2d 747, 749 (9th Cir. 1986 (“[T]he existence of domicile  
3 for purposes of diversity is determined as of the time the lawsuit is filed.”). “The party seeking to  
4 invoke the district court’s diversity jurisdiction always bears the burden of both pleading and  
5 proving diversity jurisdiction.” *Bass v. Bennett*, No. 20-CV-1081-FMO 2020 WL 4032466, at \*1  
6 (C.D. Cal. Apr. 10, 2020) (quoting *Rainero v. Archon Corp.*, 844 F.3d 832, 840 (9th Cir. 2016)).

7 Here, the parties do not dispute that Rivian was a citizen of California when Jaiyeola filed  
8 his complaint. But they do dispute whether Jaiyeola was a citizen of California.

9 A natural person is deemed to be a citizen of the state where he or she is domiciled, which  
10 is where he or she resides with the intention to remain. *See Kantor v. Wellesley Galleries,*  
11 *Ltd.*, 704 F.2d 1088, 1090 (9th Cir.1983); *Kanter v. Warner–Lambert Co.*, 265 F.3d 853, 857 (9th  
12 Cir. 2001). “[T]he determination of an individual's domicile involves a number of factors (no  
13 single factor controlling), including: current residence, voting registration and voting practices,  
14 location of personal and real property, location of brokerage and bank accounts, location of spouse  
15 and family, membership in unions and other organizations, place of employment or business,  
16 driver's license and automobile registration, and payment of taxes.” *Lew v. Moss*, 797 F.2d 747,  
17 750 (9th Cir. 1986).

18 Jaiyeola’s pleadings provide prima facie evidence that Jaiyeola was a citizen of California  
19 at the time of filing. “A person residing in a given state is not necessarily domiciled there, and  
20 thus is not necessarily a citizen of that state.” *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857  
21 (9th Cir. 2001). However, this Court agrees with the courts in this District that have held that “[a]  
22 party’s residence is ‘prima facie’ evidence of domicile.” *See, e.g., Zavala v. Deutsche Bank Tr.*  
23 *Co. Americas*, No. C 13-1040 LB, 2013 WL 3474760, at \*3 (N.D. Cal. July 10, 2013); *see also*  
24 *Cisneros Pantoja v. RAMCO Enterprises, L.P.*, No. 19-CV-03336-LHK, 2019 WL 5959630, at \*9  
25 (N.D. Cal. Nov. 13, 2019) (holding that “a person's residence is prima facie evidence of domicile  
26 and citizenship” but noting that the Ninth Circuit has “suggested that the issue was still open”).  
27 Jaiyeola alleged in his original complaint that he “resides at” an address in Cupertino, California.  
28 Compl. ¶ 1. Jaiyeola’s FAC does not contradict this admission. *See* FAC ¶ 26 (“Plaintiff is now a

1 resident of Cupertino, Santa Clara County, in the State of California.”). These factual assertions  
2 are judicial admissions, which are “conclusively binding” on Jaiyeola. *See Am. Title Ins. Co. v.*  
3 *Lacelaw Corp.*, 861 F.2d 224, 226 (9th Cir. 1988). These judicial admissions establish that  
4 Jaiyeola resided in California when he filed his complaint and therefore provide prima facie  
5 evidence that Jaiyeola was domiciled in California.

6 Jaiyeola fails to adduce facts that overcome this prima facie evidence. “It is a longstanding  
7 principle that “[t]he place where a person lives is taken to be his domicile until facts adduced  
8 establish the contrary.” *NewGen, LLC v. Safe Cig, LLC*, 840 F.3d 606, 614 (9th Cir. 2016)  
9 (quoting *Anderson v. Watts*, 138 U.S. 694, 706 (1891)). As evidence of his domicile, Jaiyeola  
10 submits a declaration and a copy of his Michigan driver’s license. Jaiyeola Decl. Ex. A, ECF No.  
11 30-1. He states in the declaration that the license shows his domicile in Michigan and his  
12 citizenship of the State of Michigan “when [he] filed the First Amended Complaint.” Jaiyeola  
13 Decl. ¶ 3. This evidence fails to overcome the prima facie evidence that Jaiyeola was domiciled in  
14 California when he filed his complaint for two reasons. First, the declaration discusses Jaiyeola’s  
15 domicile when he filed his FAC, not when he filed his initial complaint. Thus, the declaration  
16 does not provide evidence of domicile at the relevant time. *See Lew*, 797 F.2d at 750 (“[T]he  
17 existence of domicile for purposes of diversity is determined as of the time the lawsuit is filed.”).  
18 Second, while the Michigan driver’s license is evidence of domicile in Michigan on the date it was  
19 issued, June 11, 2021 (ECF No. 30-1), it does not relate to Plaintiff’s residence on July 7, 2022,  
20 when he filed this complaint, and does not outweigh Jaiyeola’s admission that he resided in  
21 California when he filed his complaint. Further, the Court notes that Jaiyeola filed a change of  
22 address on March 14, 2022, in the Western District of Michigan advising the Court of his new  
23 address in Cupertino, California. ECF No. 29-2. That notice predates the initial complaint in this  
24 case by almost four months. Jaiyeola has therefore not met his burden of establishing diversity of  
25 citizenship by a preponderance of the evidence. *Williams v. Sugar Hill Music Publ’g, Ltd.*, No. C  
26 05-03155 CRB, 2006 WL 1883350, at \*6 (N.D. Cal. July 7, 2006) (“The burden of establishing  
27 diversity is on the party seeking to invoke it and it must be proved by a preponderance of the  
28 evidence.”); *Cf. Thornhill Pub. Co. v. Gen. Tel. & Elecs. Corp.*, 594 F.2d 730, 733 (9th Cir. 1979)

1 (“Where the jurisdictional issue is separable from the merits of the case, the judge may consider  
2 the evidence presented with respect to the jurisdictional issue and rule on that issue, resolving  
3 factual disputes if necessary.”).

4 The Court finds that it lacks diversity jurisdiction over Jaiyeola’s claims. Thus, the Court  
5 turns to supplemental jurisdiction to determine whether Jaiyeola’s ELCRA claim should be  
6 dismissed.

7 **2. Supplemental Jurisdiction**

8 In light of the dismissal of Jaiyeola’s federal law claim and Jaiyeola’s failure to establish  
9 this Court’s diversity jurisdiction, the only basis for the Court to maintain jurisdiction over  
10 Jaiyeola’s ELCRA claim is supplemental jurisdiction. *See* 28 U.S.C. § 1367.

11 “A district court ‘may decline to exercise supplemental jurisdiction’ if it ‘has dismissed all  
12 claims over which it has original jurisdiction.’” *Sanford v. MemberWorks, Inc.*, 625 F.3d 550, 561  
13 (9th Cir. 2010) (quoting 28 U.S.C. § 1367(c)(3)). “[I]n the usual case in which all federal-law  
14 claims are eliminated before trial, the balance of factors to be considered under the pendent  
15 jurisdiction doctrine—judicial economy, convenience, fairness, and comity—will point toward  
16 declining to exercise jurisdiction over the remaining state-law claims.” *Id.* (quoting *Carnegie-*  
17 *Mellon Univ. v. Cohill*, 484 U.S. 343, 350 n.7 (1988)).

18 Here, the balance of factors favors declining supplemental jurisdiction. First, the case is  
19 still in its early stages, which favors declining supplemental jurisdiction. *Epikhin v. Game Insight*  
20 *N. Am.*, 145 F. Supp. 3d 896 (N.D. Cal. 2015). Second, Jaiyeola’s Title VII and ELCRA claim  
21 appear to be closely related, and thus declining supplemental jurisdiction to enable these claims to  
22 be litigated together serves convenience and judicial economy. Accordingly, the Court declines to  
23 exercise supplemental jurisdiction.

24 \* \* \*

25 In sum, the Court finds that it lacks diversity jurisdiction over Jaiyeola’s claims and  
26 declines to exercise supplemental jurisdiction over the ELCRA claim in light of the dismissal of  
27 the Title VII claim. Accordingly, Rivian’s motion to dismiss the ELCRA claim for lack of subject  
28 matter jurisdiction is GRANTED.




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**V. ORDER**

For the foregoing reasons IT IS HEREBY ORDERED THAT:

1. Rivian’s motion to dismiss Jaiyeola’s Title VII claim for improper venue is GRANTED; Jaiyeola’s Title VII claim is DISMISSED WITHOUT PREJUDICE to filing in a district where venue is proper under 42 U.S.C. § 2000e-5(f)(3) but WITH PREJUDICE to re-filing in the Northern District of California.
2. Rivian’s motion to dismiss Jaiyeola’s ELCRA claim for lack of subject matter jurisdiction is GRANTED WITHOUT PREJUDICE to filing in the proper court.

Dated: August 1, 2023

  
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BETH LABSON FREEMAN  
United States District Judge