

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 1 2023

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CALVARY CHAPEL SAN JOSE, a
California Non-Profit Corporation; MIKE
MCCLURE,

Plaintiffs-Appellants,

v.

COUNTY OF SANTA CLARA; JAMES R.
WILLIAMS,

Defendants-Appellees,

and

SARA H. CODY, in her official capacity as
Santa Clara County Public Health Officer; et
al.,

Defendants.

No. 23-15445

D.C. No. 5:20-cv-03794-BLF
Northern District of California,
San Jose

ORDER

Before: NGUYEN, FRIEDLAND, and SUNG, Circuit Judges.

The partial motion to dismiss this appeal for lack of jurisdiction (Docket Entry No. 10) is denied without prejudice to renewing the arguments in the answering brief. *See Nat'l Indus. v. Republic Nat'l Life Ins. Co.*, 677 F.2d 1258, 1262 (9th Cir. 1982) (merits panel may consider appellate jurisdiction despite earlier denial of motion to dismiss).

The motion to expedite this appeal (Docket Entry No. 5) is denied. *See* 9th

Cir. R. 27-12. The existing briefing schedule remains in effect.