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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DAVID J. RADICH; LI-RONG RADICH,

Plaintiffs-Appellees,

v.

ROBERT A. GUERRERO, in his official
capacity as Commissioner of the
Department of Public Safety of the CNMI;
LARRISA LARSON,

Defendants-Appellees,

v.

TANAPAG MIDDLE SCHOOL PARENT
TEACHER STUDENT ASSOCIATION,
Proposed Intervenor,

Movant-Appellant.

No. 16-16065

DC No. CV 14-20 RVM

MEMORANDUM*

Appeal from the District of the Northern Mariana Islands
Ramona V. Manglona, Chief District Judge, Presiding

Argued and Submitted June 15, 2018
Honolulu, Hawaii

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

Before: TASHIMA, W. FLETCHER, and HURWITZ, Circuit Judges.

Tanapag Middle School Parent Teacher Association (“PTSA”) appeals from the district court’s denial of its motion to intervene for purposes of appeal after the court granted summary judgment for Li-Rong and David Radich in their action against the Commonwealth of the Northern Mariana Islands (“CNMI”). The district court agreed with the Radiches that certain provisions of the CNMI’s Weapons Control Act violated the Second and Fourteenth Amendments. The CNMI did not appeal, but the PTSA moved to intervene to appeal and to contend on appeal that the Act was valid. The district court denied the motion. We have jurisdiction under 28 U.S.C. § 1291 and affirm.

“Post-judgment intervention for purposes of appeal may be appropriate if the intervenors act promptly after judgment and meet traditional standing criteria.” *Legal Aid Soc’y of Alameda Cty. v. Brennan*, 608 F.2d 1319, 1328 (9th Cir. 1979) (internal citations omitted); *see also United Airlines, Inc. v. McDonald*, 432 U.S. 385, 395 (1977). Traditional standing criteria require that PTSA has “(1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision.” *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016). On appeal, a plaintiff has standing if its “interests have been adversely affected by the [district court]

judgment” and this court’s reversal would redress that injury. *Organized Vill. of Kake v. U.S. Dep’t of Agric.*, 795 F.3d 956, 963–64 (9th Cir. 2015) (en banc) (citation and quotation marks omitted). A plaintiff “cannot manufacture standing merely by inflicting harm on [itself] based on [its] fears of hypothetical future harm that is not certainly impending.” *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 416 (2013).

The PTSA claims that the district court’s order striking down the Act will require the PTSA to install metal detectors in schools or hire security guards to protect against an increased danger of gun violence. Yet the PTSA, a voluntary association, has not shown that it has a legal duty to take such protective measures or that the district court’s order requires the PTSA “to do or refrain from doing anything.” *Hollingsworth v. Perry*, 570 U.S. 693, 705 (2013); *see also Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1018 (9th Cir. 2013) (“An organization has direct standing to sue [when] it show[s] a drain on its resources from both a diversion of its resources and frustration of its mission.”) (internal quotation marks and citations omitted) (alterations in original). Rather, the PTSA’s claimed injury is no different than the generalized injury that may be suffered by other CNMI residents as a result of the district court’s order. *See Lujan v. Defs. of Wildlife*, 504

U.S. 555, 560 n.1 (1992) (explaining that an injury must be “particularized,” such that plaintiff was affected “in a personal and individual way”).

The PTSA also claims that because teachers have a duty to protect students and some PTSA members are teachers, the PTSA has organizational standing. Even if the district court’s order affects any duty to protect students that the teachers owe in their capacity as teachers, such a duty would not be a basis for PTSA organizational standing. *See Friends of the Earth, Inc. v. Laidlaw Env’tl. Servs. (TOC), Inc.*, 528 U.S. 167, 181 (2000) (noting that to provide associational standing, affected interests of members must be “germane to the organization’s purpose”). Ultimately, “Article III requires more than a desire to vindicate value interests.” *Diamond v. Charles*, 476 U.S. 54, 66 (1986). Because the PTSA has not made such a showing, it lacks standing. Therefore, the district court did not err in denying the PTSA’s motion to intervene.¹

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The judgment of the district court is **AFFIRMED**.

¹ Because we conclude that the PTSA lacks standing, we decline to address the Radiches’ argument that the appeal is moot, as well as the PTSA’s challenges on the merits to the district court’s summary judgment order.

United States Court of Appeals for the Ninth Circuit

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Information Regarding Judgment and Post-Judgment Proceedings

Judgment

- This Court has filed and entered the attached judgment in your case. Fed. R. App. P. 36. Please note the filed date on the attached decision because all of the dates described below run from that date, not from the date you receive this notice.

Mandate (Fed. R. App. P. 41; 9th Cir. R. 41-1 & -2)

- The mandate will issue 7 days after the expiration of the time for filing a petition for rehearing or 7 days from the denial of a petition for rehearing, unless the Court directs otherwise. To file a motion to stay the mandate, file it electronically via the appellate ECF system or, if you are a pro se litigant or an attorney with an exemption from using appellate ECF, file one original motion on paper.

Petition for Panel Rehearing (Fed. R. App. P. 40; 9th Cir. R. 40-1)

Petition for Rehearing En Banc (Fed. R. App. P. 35; 9th Cir. R. 35-1 to -3)

(1) A. Purpose (Panel Rehearing):

- A party should seek panel rehearing only if one or more of the following grounds exist:
 - ▶ A material point of fact or law was overlooked in the decision;
 - ▶ A change in the law occurred after the case was submitted which appears to have been overlooked by the panel; or
 - ▶ An apparent conflict with another decision of the Court was not addressed in the opinion.
- Do not file a petition for panel rehearing merely to reargue the case.

B. Purpose (Rehearing En Banc)

- A party should seek en banc rehearing only if one or more of the following grounds exist:

- ▶ Consideration by the full Court is necessary to secure or maintain uniformity of the Court's decisions; or
- ▶ The proceeding involves a question of exceptional importance; or
- ▶ The opinion directly conflicts with an existing opinion by another court of appeals or the Supreme Court and substantially affects a rule of national application in which there is an overriding need for national uniformity.

(2) Deadlines for Filing:

- A petition for rehearing may be filed within 14 days after entry of judgment. Fed. R. App. P. 40(a)(1).
- If the United States or an agency or officer thereof is a party in a civil case, the time for filing a petition for rehearing is 45 days after entry of judgment. Fed. R. App. P. 40(a)(1).
- If the mandate has issued, the petition for rehearing should be accompanied by a motion to recall the mandate.
- *See* Advisory Note to 9th Cir. R. 40-1 (petitions must be received on the due date).
- An order to publish a previously unpublished memorandum disposition extends the time to file a petition for rehearing to 14 days after the date of the order of publication or, in all civil cases in which the United States or an agency or officer thereof is a party, 45 days after the date of the order of publication. 9th Cir. R. 40-2.

(3) Statement of Counsel

- A petition should contain an introduction stating that, in counsel's judgment, one or more of the situations described in the "purpose" section above exist. The points to be raised must be stated clearly.

(4) Form & Number of Copies (9th Cir. R. 40-1; Fed. R. App. P. 32(c)(2))

- The petition shall not exceed 15 pages unless it complies with the alternative length limitations of 4,200 words or 390 lines of text.
- The petition must be accompanied by a copy of the panel's decision being challenged.
- An answer, when ordered by the Court, shall comply with the same length limitations as the petition.
- If a pro se litigant elects to file a form brief pursuant to Circuit Rule 28-1, a petition for panel rehearing or for rehearing en banc need not comply with Fed. R. App. P. 32.

- The petition or answer must be accompanied by a Certificate of Compliance found at Form 11, available on our website at www.ca9.uscourts.gov under *Forms*.
- You may file a petition electronically via the appellate ECF system. No paper copies are required unless the Court orders otherwise. If you are a pro se litigant or an attorney exempted from using the appellate ECF system, file one original petition on paper. No additional paper copies are required unless the Court orders otherwise.

Bill of Costs (Fed. R. App. P. 39, 9th Cir. R. 39-1)

- The Bill of Costs must be filed within 14 days after entry of judgment.
- See Form 10 for additional information, available on our website at www.ca9.uscourts.gov under *Forms*.

Attorneys Fees

- Ninth Circuit Rule 39-1 describes the content and due dates for attorneys fees applications.
- All relevant forms are available on our website at www.ca9.uscourts.gov under *Forms* or by telephoning (415) 355-7806.

Petition for a Writ of Certiorari

- Please refer to the Rules of the United States Supreme Court at www.supremecourt.gov

Counsel Listing in Published Opinions

- Please check counsel listing on the attached decision.
- If there are any errors in a published opinion, please send a letter **in writing within 10 days** to:
 - ▶ Thomson Reuters; 610 Opperman Drive; PO Box 64526; Eagan, MN 55123 (Attn: Jean Green, Senior Publications Coordinator);
 - ▶ and electronically file a copy of the letter via the appellate ECF system by using “File Correspondence to Court,” or if you are an attorney exempted from using the appellate ECF system, mail the Court one copy of the letter.

United States Court of Appeals for the Ninth Circuit

BILL OF COSTS

This form is available as a fillable version at:

<http://cdn.ca9.uscourts.gov/datastore/uploads/forms/Form%2010%20-%20Bill%20of%20Costs.pdf>.

Note: If you wish to file a bill of costs, it **MUST** be submitted on this form and filed, with the clerk, with proof of service, within 14 days of the date of entry of judgment, and in accordance with 9th Circuit Rule 39-1. A late bill of costs must be accompanied by a motion showing good cause. Please refer to FRAP 39, 28 U.S.C. § 1920, and 9th Circuit Rule 39-1 when preparing your bill of costs.

v. 9th Cir. No.

The Clerk is requested to tax the following costs against:

Cost Taxable under FRAP 39, 28 U.S.C. § 1920, 9th Cir. R. 39-1	REQUESTED <i>(Each Column Must Be Completed)</i>				ALLOWED <i>(To Be Completed by the Clerk)</i>			
	No. of Docs.	Pages per Doc.	Cost per Page*	TOTAL COST	No. of Docs.	Pages per Doc.	Cost per Page*	TOTAL COST
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Opening Brief	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
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TOTAL:				\$ <input type="text"/>	TOTAL: \$ <input type="text"/>			

* *Costs per page:* May not exceed .10 or actual cost, whichever is less. 9th Circuit Rule 39-1.

** *Other:* Any other requests must be accompanied by a statement explaining why the item(s) should be taxed pursuant to 9th Circuit Rule 39-1. Additional items without such supporting statements will not be considered.

Attorneys' fees **cannot** be requested on this form.

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Form 10. Bill of Costs - Continued

I, , swear under penalty of perjury that the services for which costs are taxed were actually and necessarily performed, and that the requested costs were actually expended as listed.

Signature

("s/" plus attorney's name if submitted electronically)

Date

Name of Counsel:

Attorney for:

(To Be Completed by the Clerk)

Date

Costs are taxed in the amount of \$

Clerk of Court

By: , Deputy Clerk