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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 CLINT DIDIER, et al.,

9 Plaintiffs,

v.

10 JAY INSLEE, in his capacity as
11 Governor of the state of Washington,

12 Defendant.

CASE NO. C20-5408 BHS

ORDER TO SHOW CAUSE

13 This matter comes before the Court on Plaintiffs Clint Didier, Patty DeTro, Tim
14 Eyman, Jason Bernica, Lisa Thomas, Lawanda Joy Hatch, and Dean Wellsfry's
15 ("Plaintiffs") amended complaint, Dkt. 13, and motion for preliminary injunction, Dkt.
16 15.

17 On May 18, 2020, Plaintiffs filed an amended complaint against Defendant Jay
18 Inslee in his official capacity as Governor of the State of Washington. Dkt. 13. Plaintiffs
19 assert five claims that Governor Inslee's Proclamations under his emergency powers in
20 response to the COVID-19 pandemic infringe rights guaranteed by the United States
21 Constitution. *Id.* ¶¶ 65–140.
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1 On June 11, 2020, Plaintiffs filed a motion for preliminary injunction. Dkt. 15.
2 On July 6, 2020, Governor Inslee responded and in relevant part argued that he is
3 immune from suit under the Eleventh Amendment and is not subject to the exception set
4 forth in *Ex parte Young*, 209 U.S. 123 (1908). Dkt. 18 at 21–22. The Court has
5 concluded that this position is valid, warrants denial of a similar preliminary injunction,
6 and could divest the Court of jurisdiction to consider Plaintiffs’ claims. *See MacEwen v.*
7 *Inslee*, C20-5423BHS, Dkt. 43 (W.D. Wash. July 24, 2020) (order denying preliminary
8 injunction and to show cause regarding jurisdiction).

9 “Eleventh Amendment sovereign immunity limits the jurisdiction of the federal
10 courts and can be raised by a party at any time during judicial proceedings or by the court
11 sua sponte.” *In re Jackson*, 184 F.3d 1046, 1048 (9th Cir. 1999).

12 In this case, the Court raises the issue of Eleventh Amendment sovereign
13 immunity sua sponte and orders any party to show cause why Plaintiffs’ complaint
14 should not be dismissed without prejudice for lack of jurisdiction. Failure to show
15 adequate cause or otherwise respond will result in dismissal without prejudice. Any party
16 may show cause no later than July 31, 2020.

17 **IT IS SO ORDERED.**

18 Dated this 24th day of July, 2020.

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21 BENJAMIN H. SETTLE
22 United States District Judge