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 9 IN THE UNITED STATES DISTRICT COURT  
 10 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
 11 WESTERN DIVISION

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 13 **CHARLES NICHOLS,**  
 14 Plaintiff,  
 15 v.  
 16 **EDMUND G. BROWN JR., in his**  
**official capacity as Governor of**  
 17 **California, KAMALA D. HARRIS, in**  
**her official capacity as Attorney**  
 18 **General of California, CITY OF**  
**REDONDO BEACH, CITY OF**  
 19 **REDONDO BEACH POLICE**  
**DEPARTMENT, CITY OF**  
 20 **REDONDO BEACH POLICE**  
**CHIEF JOSEPH LEONARDI and**  
 21 **DOES 1 to 10,**  
 22 Defendants.

2:11-cv-09916-SJO-(SS)  
**DEFENDANT KAMALA D.**  
**HARRIS'S RESPONSE TO**  
**PLAINTIFF CHARLES**  
**NICHOLS'S OBJECTIONS TO U.S.**  
**MAGISTRATE JUDGE REPORT**  
**AND RECOMMENDATION**  
 Date: N/A  
 Time: N/A  
 Crtrm.: 1 – 2nd Flr.  
 Judge: Hon. S. James  
 Otero  
 Trial Date: Not Yet Set  
 Action Filed: Nov. 30, 2011

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 24 Defendant Kamala D. Harris, Attorney General of California (the “Attorney  
 25 General”), submits the following response to the objections (“Objection”) of  
 26 Plaintiff Charles Nichols (“Nichols”) to U.S. Magistrate Judge Suzanne H. Segal’s  
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 28

1 March 18, 2014, report and recommendation (“R & R”) about the potentially  
2 dispositive motions pending in the present case.

3 The Attorney General agrees with the R & R and disagrees with Nichols’s  
4 objections, which seem largely duplicative of his rejected contentions in the motion  
5 papers. The Attorney General makes the present submission, nonetheless, in order  
6 to respond to two new points that Nichols has raised in his Objection.

7 First, Nichols is incorrect in asserting that the Attorney General  
8 “acknowledged her defeat on” Nichols’s supposed claim of race-based  
9 discrimination in the enforcement of the firearm “open-carry” laws in question in  
10 this case. Objection, 6:19-7:5; *accord, id.*, at 21:27-23:5. The Attorney General  
11 has not conceded any part of Nichols’s claim, and in fact has denied that Nichols  
12 has properly articulated the claim. (See, e.g., footnote 3 to the Attorney General’s  
13 memorandum of points and authorities in support of her motion for judgment on the  
14 pleadings (Nov. 12, 2013).) Furthermore, Nichols improperly cites to passages in  
15 an *erroneously filed draft* version of the Attorney General’s opposition to Nichols’s  
16 (offensive) motion for partial summary judgment. The Attorney General’s  
17 corrected pleading, filed a day later with a notice of errata, does not include the  
18 passages cited by Nichols. (Compare Dkt. # 140 (Dec. 2, 2013) with Dkt. # 141-1  
19 (Dec. 3, 2013).)

20 Second, the Attorney General objects to Nichols’s new declaration claiming  
21 that he is of (some undefined) mixed-race heritage. Opposition, 22:19-22:26.  
22 Nichols did not present any evidence on this issue in the summary-judgment papers,  
23 although Nichols did assert what his age and gender were (see Dkt. # 136 at 32:11-

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1 32:12). Nichols should not be allowed to introduce new evidence about his race, a  
2 matter not pleaded, in an objection to the R & R.

3 Dated: April 14, 2014

Respectfully submitted,

4 KAMALA D. HARRIS  
5 Attorney General of California  
6 MARK R. BECKINGTON  
7 Supervising Deputy Attorney General

8 /s/  
9 JONATHAN M. EISENBERG  
10 Deputy Attorney General  
11 *Attorneys for Defendant California*  
12 *Attorney General Kamala D. Harris*

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**DECLARATION OF SERVICE BY U.S. MAIL**

Court Name: **U.S. District Court, Central District of California**

Case Name: *Nichols v. Brown*

Case No.: **11-cv-09916-SJO-SS**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. My business address is 300 South Spring Street, Suite 1702, Los Angeles, CA 90013.

On April 14, 2014, I served the attached **DEFENDANT KAMALA D. HARRIS'S RESPONSE TO PLAINTIFF CHARLES NICHOLS'S OBJECTIONS TO U.S. MAGISTRATE JUDGE REPORT AND RECOMMENDATION** by placing a true copy thereof enclosed in a sealed envelope, with postage thereon fully prepaid, in the U.S. mail at Los Angeles, California, addressed as follows:

Charles Nichols  
P.O. Box 1302  
Redondo Beach, CA 90278

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on April 14, 2014, at Los Angeles, California.

Jonathan M. Eisenberg

Declarant

*/s/ Jonathan M. Eisenberg*

Signature