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Edmund G. Brown Jr.

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

12
 13 **CHARLES NICHOLS,**
 14 Plaintiff,
 15 v.
 16 **EDMUND G. BROWN, Jr., in his**
official capacity as Governor of
California, KAMALA D. HARRIS,
Attorney General, in her official
capacity as Attorney General of
California, CITY OF REDONDO
BEACH, CITY OF REDONDO
BEACH POLICE DEPARTMENT,
CITY OF REDONDO BEACH
POLICE CHIEF JOSEPH
LEONARDI and DOES 1 to 10,
 22 Defendants.

CV-11-09916 SJO (SS)
GOV. EDMUND G. BROWN JR.'S
NOTICE OF MOTION AND
MOTION TO DISMISS ACTION
UNDER FED. R. CIV. P. 12(B)(1)
 Date: April 10, 2012
 Time: 10:00 a.m.
 Crtrm.: 23 – 3rd Flr.
 Judge: Hon. Suzanne H.
 Segal
 Trial Date: Not Yet Set
 Action Filed: Nov. 30, 2011

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 24 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

25 PLEASE TAKE NOTICE that, at 10:00 a.m., on Tuesday, April 10, 2012, or
 26 as soon thereafter as the matter may be heard in the above-entitled Court, located at
 27 312 North Spring St. in Los Angeles, Defendant Edmund G. Brown Jr., Governor
 28

1 of the State of California (the “Governor”), will and hereby does move the Court to
2 dismiss this action under Federal Rule of Civil Procedure 12(b)(1), because of lack
3 of subject-matter jurisdiction, on the specific grounds that the Governor has
4 immunity to Plaintiff Charles Nichols’s (“Nichols”) claims under the U.S.
5 Constitution’s Eleventh Amendment; Nichols has alleged neither a cognizable
6 injury nor a live case or controversy; the case is not ripe for adjudication; and there
7 is Eleventh Amendment immunity for Nichols’s claim under California state law.

8 This motion is based on the instant notice of motion and motion, the
9 accompanying supporting memorandum of points and authorities, and the pleadings
10 and papers on file in this action.

11 This motion is made following the conference of Jonathan M. Eisenberg,
12 counsel of record for the Governor, and Nichols, a *pro se* plaintiff, per Local Rule
13 7-3, which conference took place on March 2, 2012.

14 Dated: March 8, 2012

Respectfully submitted,

15 KAMALA D. HARRIS
16 Attorney General of California
17 PETER K. SOUTHWORTH
Supervising Deputy Attorney General

18 */s/ Jonathan M. Eisenberg*
19 JONATHAN M. EISENBERG
20 Deputy Attorney General
Attorneys for Defendant California
Governor Edmund G. Brown Jr.

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CERTIFICATE OF E-FILING AND SERVICE

Case Name: Nichols v. Brown No. U.S.D.C., C.D. Cal., 11-cv-09916-SJO-SS

I hereby certify that, on March 8, 2012, I caused to be electronically filed with the U.S. District Court, Central District of California, Clerk of the Court, through the CM/ECF system, the document(s) with the following title(s):

GOV. EDMUND G. BROWN JR.'S NOTICE OF MOTION AND MOTION TO DISMISS ACTION UNDER FED. R. CIV. P. 12(B)(1)

I certify that at least some of the participants in the above-entitled case are registered CM/ECF users.

I am employed in Los Angeles, California, in the Office of the Attorney General, Department of Justice, State of California ("OACG"), which is the office of a member of the California State Bar, at which member's direction the following service is made.

I am 18 years of age or older and not a party to this matter. I am familiar with the business practices at the OACG for collection and processing of correspondence for mailing with the U.S. Postal Service. In accordance with those practices, correspondence placed in the internal mail collection system at the OACG is deposited with the U.S. Postal Service, with postage thereon fully prepaid, that same day, in the ordinary course of business.

I further certify that at least some of the participants in the case are not registered CM/ECF users.

On March 8, 2012, I caused to be mailed, in the OACG's internal mail system, by First-Class Mail, postage prepaid, the foregoing document(s) to the following person(s) at the following address(es):

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

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on March 8, 2012, at Los Angeles, California.

R. Velasco
Declarant

/s/ R. Velasco
Signature