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8
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
17 California, KAMALA D. HARRIS,
Attorney General, in her official
18 capacity as Attorney General of
California, CITY OF REDONDO
19 BEACH, CITY OF REDONDO
20 BEACH POLICE DEPARTMENT,
CITY OF REDONDO BEACH
21 POLICE CHIEF JOSEPH
LEONARDI and DOES 1 to 10,**

22 Defendants.
23

CV-11-09916 SJO (SS)

**DEFENDANT KAMALA D.
HARRIS'S ANSWER TO
PLAINTIFF CHARLES
NICHOLS'S SECOND AMENDED
COMPLAINT**

Trial Date: Not Yet Set
Action Filed: Nov. 30, 2011

24 Defendant Kamala D. Harris, Attorney General of the State of California (the
25 "Attorney General"), answers the second amended complaint herein of Plaintiff
26 Charles Nichols ("Nichols") as follows:
27
28

JURISDICTION AND VENUE

1
2 1. Answering enumerated paragraph 1, the Attorney General understands
3 and contends that the paragraph contains assertions or statements of law only and
4 does not require an answer, yet denies each and every allegation of the paragraph.

5 2. Answering enumerated paragraph 2, the Attorney General understands
6 and contends that the paragraph contains assertions or statements of law only and
7 does not require an answer, yet denies each and every allegation of the paragraph.

PARTIES

8
9 3. Answering enumerated paragraph 3, the Attorney General admits that
10 Nichols is a natural person, i.e., a human being, but, for lack of sufficient
11 information, knowledge, and belief, denies each and every other allegation of the
12 paragraph.

13 4. Answering enumerated paragraph 4, the Attorney General admits that,
14 since January 3, 2011, she has been (and presently is) the Attorney General of the
15 State of California, and further that she must comply with her legal obligations as
16 the Attorney General of the State of California, which legal obligations are found in
17 various sources, including the U.S. Constitution, the California Constitution,
18 statutes, and case law, which sources speak for themselves. The Attorney General
19 denies each and every other allegation of the paragraph.

20 5. Answering enumerated paragraph 5, the Attorney General admits that
21 Co-Defendant City of Redondo Beach (“Redondo Beach”) “is and was a duly
22 organized public entity...existing under the laws of the State of California.” The
23 Attorney General is informed and believes, and on that basis admits, that, at all
24 times relevant to the present case, Redondo Beach employed police officers and
25 city prosecutors. For lack of sufficient information, knowledge, and belief, the
26 Attorney General denies each and every other allegation of the paragraph.

27 6. Answering enumerated paragraph 6, the Attorney General understands
28 the paragraph merely to re-allege prior paragraphs, and the Attorney General

1 correspondingly incorporates herein her prior responses to those paragraphs, and
2 denies each and every other allegation of the instant paragraph, to the extent such
3 other allegations were made.

4 **BACKGROUND ALLEGATIONS**

5 7. Answering enumerated paragraph 7, the Attorney General understands
6 and contends that the paragraph contains assertions or statements of law only and
7 does not require an answer, yet the Attorney General admits that the U.S. Supreme
8 Court issued the decision known as *District of Columbia v. Heller*, 554 U.S. 470
9 (2008), which decision speaks for itself, and denies each and every other allegation
10 of the paragraph.

11 8. Answering enumerated paragraph 8, the Attorney General understands
12 and contends that the paragraph contains assertions or statements of law only and
13 does not require an answer, yet the Attorney General admits that Nichols is not
14 challenging the constitutionality of, or the constitutionality of enforcement of,
15 certain state or federal laws, and denies each and every other allegation of the
16 paragraph.

17 9. Answering enumerated paragraph 9, the Attorney General understands
18 and contends that the paragraph contains assertions or statements of law only and
19 does not require an answer, yet the Attorney General admits the existence of the
20 legal authorities to which the paragraph appears to refer, which legal authorities
21 speak for themselves, and denies each and every other allegation of the paragraph.

22 10. Answering enumerated paragraph 10, the Attorney General
23 understands and contends that the paragraph contains assertions or statements of
24 law only and does not require an answer, yet the Attorney General admits the
25 existence of the legal authorities to which the paragraph appears to refer, which
26 legal authorities speak for themselves, and denies each and every other allegation of
27 the paragraph, and denies each and every other allegation of the paragraph.

28 11. Answering enumerated paragraph 11, the Attorney General

1 understands and contends that the paragraph contains assertions or statements of
2 law only and does not require an answer, yet the Attorney General admits the
3 existence of the legal authorities to which the paragraph appears to refer, which
4 legal authorities speak for themselves, and denies each and every other allegation of
5 the paragraph, and denies each and every other allegation of the paragraph.

6 12. Answering enumerated paragraph 12, the Attorney General admits that
7 she complies with her responsibilities set forth in the California Penal Code. The
8 paragraph appears to contain assertions or statements of law that, the Attorney
9 General understands and contends, do not require an answer, yet the Attorney
10 General admits the existence of the legal authorities to which the paragraph appears
11 to refer, which legal authorities speak for themselves, and denies each and every
12 other allegation of the paragraph.

13 13. Answering enumerated paragraph 13, the Attorney General
14 understands and contends that the paragraph contains assertions or statements of
15 law only and does not require an answer, yet the Attorney General admits the
16 existence of the legal authorities to which the paragraph appears to refer, which
17 legal authorities speak for themselves, and denies each and every other allegation of
18 the paragraph.

19 **STATE LAWS AND COUNTY ORDINANCES**

20 14. Answering enumerated paragraph 14, the Attorney General
21 understands the paragraph merely to re-allege prior paragraphs, and the Attorney
22 General correspondingly incorporates herein her prior responses to those
23 paragraphs, and denies each and every other allegation of the instant paragraph, to
24 the extent such other allegations were made.

25 15. Answering enumerated paragraph 15, the Attorney General
26 understands and contends that the paragraph merely restates a statute, which speaks
27 for itself, and on that basis the Attorney General denies each and every allegation of
28 the paragraph.

1 16. Answering enumerated paragraph 16, the Attorney General
2 understands and contends that the paragraph merely restates a statute, which speaks
3 for itself, and on that basis the Attorney General denies each and every allegation of
4 the paragraph.

5 17. Answering enumerated paragraph 17, the Attorney General
6 understands and contends that the paragraph merely restates a statute, which speaks
7 for itself, and on that basis the Attorney General denies each and every allegation of
8 the paragraph.

9 18. Answering enumerated paragraph 18, the Attorney General
10 understands and contends that the paragraph merely restates a statute, which speaks
11 for itself, and on that basis the Attorney General denies each and every allegation of
12 the paragraph.

13 19. Answering enumerated paragraph 19, the Attorney General
14 understands and contends that the paragraph merely restates a statute, which speaks
15 for itself, and on that basis the Attorney General denies each and every allegation of
16 the paragraph.

17 20. Answering enumerated paragraph 20, the Attorney General
18 understands and contends that the paragraph merely restates a statute, which speaks
19 for itself, and on that basis the Attorney General denies each and every allegation of
20 the paragraph.

21 21. Answering enumerated paragraph 21, the Attorney General
22 understands and contends that the paragraph merely restates a statute, which speaks
23 for itself, and on that basis the Attorney General denies each and every allegation of
24 the paragraph.

25 22. Answering enumerated paragraph 22, the Attorney General
26 understands and contends that the paragraph merely restates a statute, which speaks
27 for itself, and on that basis the Attorney General denies each and every allegation of
28 the paragraph.

1 23. Answering enumerated paragraph 23, the Attorney General
2 understands and contends that the paragraph merely restates a statute, which speaks
3 for itself, and on that basis the Attorney General denies each and every allegation of
4 the paragraph.

5 24. Answering enumerated paragraph 24, the Attorney General
6 understands and contends that the paragraph merely restates a statute, which speaks
7 for itself, and on that basis the Attorney General denies each and every allegation of
8 the paragraph.

9 25. Answering enumerated paragraph 25, the Attorney General
10 understands and contends that the paragraph merely restates a statute, which speaks
11 for itself, and on that basis the Attorney General denies each and every allegation of
12 the paragraph.

13 26. Answering enumerated paragraph 26, the Attorney General
14 understands and contends that the paragraph merely restates a statute, which speaks
15 for itself, and on that basis the Attorney General denies each and every allegation of
16 the paragraph.

17 27. Answering enumerated paragraph 27, the Attorney General
18 understands and contends that the paragraph merely restates a statute, which speaks
19 for itself, and on that basis the Attorney General denies each and every allegation of
20 the paragraph.

21 28. Answering enumerated paragraph 28, the Attorney General
22 understands and contends that the paragraph merely restates a statute, which speaks
23 for itself, and on that basis the Attorney General denies each and every allegation of
24 the paragraph.

25 29. Answering enumerated paragraph 29, the Attorney General
26 understands and contends that the paragraph merely restates a statute, which speaks
27 for itself, and on that basis the Attorney General denies each and every allegation of
28 the paragraph.

30. Answering enumerated paragraph 30, the Attorney General understands and contends that the paragraph merely restates a statute, which speaks for itself, and on that basis the Attorney General denies each and every allegation of the paragraph.

31. Answering enumerated paragraph 31, the Attorney General understands and contends that the paragraph merely restates a statute, which speaks for itself, and on that basis the Attorney General denies each and every allegation of the paragraph.

32. Answering enumerated paragraph 32, the Attorney General understands and contends that the paragraph merely restates a statute, which speaks for itself, and on that basis the Attorney General denies each and every allegation of the paragraph.

33. Answering enumerated paragraph 33, the Attorney General understands and contends that the paragraph merely restates an ordinance, which speaks for itself, and on that basis the Attorney General denies each and every allegation of the paragraph.

34. Answering enumerated paragraph 34, the Attorney General understands and contends that the paragraph merely restates an ordinance, which speaks for itself, and on that basis the Attorney General denies each and every allegation of the paragraph.

FACTS

35. Answering enumerated paragraph 35, the Attorney General understands the paragraph merely to re-allege prior paragraphs, and the Attorney General correspondingly incorporates herein her prior responses to those paragraphs, and denies each and every other allegation of the instant paragraph, to the extent such other allegations were made.

36. Answering enumerated paragraph 36, the Attorney General admits that she has not specifically instructed Redondo Beach in how to construe the local

1 ordinances mentioned or tried to intervene in Redondo Beach's criminal
2 prosecution of Nichols. The paragraph appears to contain assertions or statements
3 of law that, the Attorney General understands and contends, do not require an
4 answer, yet the Attorney General admits the existence of the legal authorities to
5 which the paragraph appears to refer, which legal authorities speak for themselves,
6 and denies each and every other allegation of the paragraph.

7 37. Answering enumerated paragraph 37, the Attorney General admits that
8 she has not specifically instructed Redondo Beach in how to construe the local
9 ordinances mentioned or tried to intervene in Redondo Beach's criminal
10 prosecution of Nichols. The paragraph appears to contain assertions or statements
11 of law that, the Attorney General understands and contends, do not require an
12 answer, yet the Attorney General admits the existence of the legal authorities to
13 which the paragraph appears to refer, which legal authorities speak for themselves,
14 and denies each and every other allegation of the paragraph.

15 38. Answering enumerated paragraph 38, the Attorney General admits that
16 she has not specifically instructed Redondo Beach in how to construe the local
17 ordinances mentioned. The paragraph appears to contain assertions or statements
18 of law that, the Attorney General understands and contends, do not require an
19 answer, yet the Attorney General admits the existence of the legal authorities to
20 which the paragraph appears to refer, which legal authorities speak for themselves,
21 and denies each and every other allegation of the paragraph.

22 39. Answering enumerated paragraph 39, the Attorney General admits that
23 the Office of the Attorney General publishes California crime statistics information,
24 which publications speak for themselves. The paragraph appears to contain
25 assertions or statements of law that, the Attorney General understands and
26 contends, do not require an answer, yet the Attorney General admits the existence
27 of the legal authorities to which the paragraph appears to refer, which legal
28 authorities speak for themselves, and denies each and every other allegation of the

1 paragraph.

2 40. Answering enumerated paragraph 40, the Attorney General admits that
3 the California Department of Justice has one database or more containing
4 information about arrests made for “weapons offenses,” and denies each and every
5 other allegation of the paragraph.

6 41. Answering enumerated paragraph 41, the Attorney General admits that
7 the Office of the Attorney General “has participated in [the] enforcement”
8 (although that phrase is ambiguous) of California Penal Code section 25850. The
9 paragraph appears to contain assertions or statements of law that, the Attorney
10 General understands and contends, do not require an answer, yet the Attorney
11 General admits the existence of the legal authorities to which the paragraph appears
12 to refer, which legal authorities speak for themselves, and denies each and every
13 other allegation of the paragraph.

14 42. Answering enumerated paragraph 42, the Attorney General admits
15 that, in the past, the Office of the Attorney General “has participated in the
16 enforcement” (although that phrase is ambiguous) of California Penal Code
17 sections 25850, 26350, 26150, and 26155. The paragraph appears to contain
18 assertions or statements of law that, the Attorney General understands and
19 contends, do not require an answer, yet the Attorney General admits the existence
20 of the legal authorities to which the paragraph appears to refer, which legal
21 authorities speak for themselves, and denies each and every other allegation of the
22 paragraph.

23 43. Answering enumerated paragraph 43, the Attorney General
24 understands and contends that the paragraph contains assertions or statements of
25 law only and does not require an answer, yet the Attorney General admits the
26 existence of the legal authorities to which the paragraph appears to refer, which
27 legal authorities speak for themselves, and denies each and every other allegation of
28 the paragraph.

1 44. Answering enumerated paragraph 44, the Attorney General
2 understands and contends that the paragraph contains assertions or statements of
3 law only and does not require an answer, yet the Attorney General admits the
4 existence of the legal authorities to which the paragraph appears to refer, which
5 legal authorities speak for themselves, and denies each and every other allegation of
6 the paragraph.

7 45. Answering enumerated paragraph 45, the Attorney General admits that
8 she has not tried to intervene in Redondo Beach's criminal prosecution of Nichols.
9 The paragraph appears to contain assertions or statements of law that, the Attorney
10 General understands and contends, do not require an answer, yet the Attorney
11 General admits the existence of the legal authorities to which the paragraph appears
12 to refer, which legal authorities speak for themselves, and, for lack of sufficient
13 information, knowledge, and belief, denies each and every other allegation of the
14 paragraph.

15 46. Answering enumerated paragraph 46, for lack of sufficient
16 information, knowledge, and belief, the Attorney General denies each and every
17 other allegation of the paragraph.

18 47. Answering enumerated paragraph 47, the Attorney General admits that
19 she complies with her responsibilities set forth in the California Penal Code. The
20 paragraph appears to contain assertions or statements of law that, the Attorney
21 General understands and contends, do not require an answer, yet the Attorney
22 General admits the existence of the legal authorities to which the paragraph appears
23 to refer, which legal authorities speak for themselves, and, for lack of sufficient
24 information, knowledge, and belief, denies each and every other allegation of the
25 paragraph.

26 48. Answering enumerated paragraph 48, the Attorney General admits that
27 Nichols "obtained a Law Enforcement Gun Release" letter from the California
28 Department of Justice, and that the Attorney General has not instructed Redondo

1 Beach with regard to returning or not returning any firearms or other property that
2 Nichols alleges are his yet are being held by Redondo Beach. The paragraph
3 appears to contain assertions or statements of law that, the Attorney General
4 understands and contends, do not require an answer, yet the Attorney General
5 admits the existence of the legal authorities to which the paragraph appears to refer,
6 which legal authorities speak for themselves, and, for lack of sufficient information,
7 knowledge, and belief, denies each and every other allegation of the paragraph.

8 49. Answering enumerated paragraph 49, the Attorney General notes that
9 the paragraph contains predictions of Nichols's future behavior which are not
10 appropriately or possibly subject to admissions or denials. The paragraph appears
11 to contain assertions or statements of law that, the Attorney General understands
12 and contends, do not require an answer, yet the Attorney General admits the
13 existence of the legal authorities to which the paragraph appears to refer, which
14 legal authorities speak for themselves, and denies each and every other allegation of
15 the paragraph.

16 50. Answering enumerated paragraph 50, the Attorney General admits that
17 that, in the past, the Office of the Attorney General has handled appeals of
18 convictions under California Penal Code section 25850, and that the Attorney has
19 not specifically instructed Redondo Beach in how to construe the local ordinances
20 mentioned or tried to intervene in Redondo Beach's criminal prosecution of
21 Nichols. The paragraph appears to contain assertions or statements of law that, the
22 Attorney General understands and contends, do not require an answer, yet the
23 Attorney General admits the existence of the legal authorities to which the
24 paragraph appears to refer, which legal authorities speak for themselves, and, for
25 lack of sufficient information, knowledge, and belief, denies each and every other
26 allegation of the paragraph.

27 51. Answering enumerated paragraph 51, the Attorney General admits that
28 she has not specifically instructed Redondo Beach in how to construe the state law

1 mentioned or tried to intervene in Redondo Beach's criminal prosecution of
2 Nichols. The paragraph appears to contain assertions or statements of law that, the
3 Attorney General understands and contends, do not require an answer, yet the
4 Attorney General admits the existence of the legal authorities to which the
5 paragraph appears to refer, which legal authorities speak for themselves, and, for
6 lack of sufficient information, knowledge, and belief, denies each and every other
7 allegation of the paragraph.

8 52. Answering enumerated paragraph 52, the Attorney General admits that
9 she has not specifically instructed Redondo Beach in how to construe the local
10 ordinances mentioned or tried to intervene in Redondo Beach's criminal
11 prosecution of Nichols. The paragraph appears to contain assertions or statements
12 of law that, the Attorney General understands and contends, do not require an
13 answer, yet the Attorney General admits the existence of the legal authorities to
14 which the paragraph appears to refer, which legal authorities speak for themselves,
15 and, for lack of sufficient information, knowledge, and belief, denies each and
16 every other allegation of the paragraph.

17 53. Answering enumerated paragraph 53, for lack of sufficient
18 information, knowledge, and belief, the Attorney General denies each and every
19 allegation of the paragraph.

20 54. Answering enumerated paragraph 54, the Attorney General denies
21 each and every other allegation of the paragraph.

22 **FIRST CLAIM FOR RELIEF [ETC.]**

23 55. Answering enumerated paragraph 55, the Attorney General
24 understands the paragraph merely to re-allege prior paragraphs, and the Attorney
25 General correspondingly incorporates herein her prior responses to those
26 paragraphs, and denies each and every other allegation of the instant paragraph, to
27 the extent such other allegations were made.

28 56. Answering enumerated paragraph 56, the Attorney General

1 understands and contends that the paragraph contains assertions or statements of
2 law only and does not require an answer, yet the Attorney General admits that the
3 U.S. Supreme Court issued the decisions known as *District of Columbia v. Heller*,
4 554 U.S. 470 (2008), and *McDonald v. City of Chicago*, 561 U.S. 3025 (2010),
5 which decisions speaks for itself, and denies each and every other allegation of the
6 paragraph.

7 57. Answering enumerated paragraph 57, the Attorney General
8 understands and contends that the paragraph contains assertions or statements of
9 law only and does not require an answer, yet the Attorney General admits the
10 existence of the legal authorities to which the paragraph appears to refer, which
11 legal authorities speak for themselves, and denies each and every other allegation of
12 the paragraph.

13 58. Answering enumerated paragraph 58, the Attorney General
14 understands and contends that the paragraph contains assertions or statements of
15 law only and does not require an answer, yet the Attorney General admits the
16 existence of the legal authorities to which the paragraph appears to refer, which
17 legal authorities speak for themselves, and denies each and every other allegation of
18 the paragraph.

19 59. Answering enumerated paragraph 59, the Attorney General
20 understands and contends that the paragraph contains assertions or statements of
21 law only and does not require an answer, yet the Attorney General admits the
22 existence of the legal authorities to which the paragraph appears to refer, which
23 legal authorities speak for themselves, and denies each and every other allegation of
24 the paragraph.

25 60. Answering enumerated paragraph 60, the Attorney General
26 understands and contends that the paragraph contains assertions or statements of
27 law only and does not require an answer, yet the Attorney General admits the
28 existence of the legal authorities to which the paragraph appears to refer, which

1 legal authorities speak for themselves, and denies each and every other allegation of
2 the paragraph.

3 61. Answering enumerated paragraph 61, the Attorney General
4 understands and contends that the paragraph contains assertions or statements of
5 law only and does not require an answer, yet the Attorney General admits the
6 existence of the legal authorities to which the paragraph appears to refer, which
7 legal authorities speak for themselves, and denies each and every other allegation of
8 the paragraph.

9 62. Answering enumerated paragraph 62, the Attorney General
10 understands and contends that the paragraph contains assertions or statements of
11 law only and does not require an answer, yet the Attorney General admits the
12 existence of the legal authorities to which the paragraph appears to refer, which
13 legal authorities speak for themselves, and denies each and every other allegation of
14 the paragraph.

15 63. Answering enumerated paragraph 63, the Attorney General
16 understands and contends that the paragraph contains assertions or statements of
17 law only and does not require an answer, yet the Attorney General admits the
18 existence of the legal authorities to which the paragraph appears to refer, which
19 legal authorities speak for themselves, and denies each and every other allegation of
20 the paragraph.

21 64. Answering enumerated paragraph 64, the Attorney General
22 understands and contends that the paragraph contains assertions or statements of
23 law only and does not require an answer, yet the Attorney General admits the
24 existence of the legal authorities to which the paragraph appears to refer, which
25 legal authorities speak for themselves, and denies each and every other allegation of
26 the paragraph.

27 65. Answering enumerated paragraph 65, the Attorney General
28 understands and contends that the paragraph contains assertions or statements of

1 law only and does not require an answer, yet the Attorney General admits the
2 existence of the legal authorities to which the paragraph appears to refer, which
3 legal authorities speak for themselves, and denies each and every other allegation of
4 the paragraph.

5 66. Answering enumerated paragraph 66, the Attorney General
6 understands and contends that the paragraph contains assertions or statements of
7 law only and does not require an answer, yet the Attorney General admits the
8 existence of the legal authorities to which the paragraph appears to refer, which
9 legal authorities speak for themselves, and denies each and every other allegation of
10 the paragraph.

11 67. Answering enumerated paragraph 67, the Attorney General admits that
12 Nichols is pursuing his lawsuit pro se. The paragraph appears to contain assertions
13 or statements of law that, the Attorney General understands and contends, do not
14 require an answer, yet the Attorney General admits the existence of the legal
15 authorities to which the paragraph appears to refer, which legal authorities speak for
16 themselves, and denies each and every other allegation of the paragraph.

17 68. Answering enumerated paragraph 68, the Attorney General
18 understands and contends that the paragraph contains assertions or statements of
19 law that, the Attorney General understands and contends, do not require an answer,
20 yet the Attorney General denies each and every allegation of the paragraph.

21 69. Answering enumerated paragraph 69, the Attorney General
22 understands and contends that the paragraph contains assertions or statements of
23 law that, the Attorney General understands and contends, do not require an answer,
24 yet the Attorney General admits the existence of the legal authorities to which the
25 paragraph appears to refer, which legal authorities speak for themselves, and denies
26 each and every other allegation of the paragraph.

27 **SECOND CLAIM FOR RELIEF [ETC.]**

28 70. Answering enumerated paragraph 70, the Attorney General

1 understands the paragraph merely to re-allege prior paragraphs, and the Attorney
2 General correspondingly incorporates herein her prior responses to those
3 paragraphs, and denies each and every other allegation of the instant paragraph, to
4 the extent such other allegations were made.

5 71. Answering enumerated paragraph 71, the Attorney General admits that
6 Nichols filed the original complaint in this matter on or around November 30, 2011,
7 and amended the complaint on or around May 30, 2012. The paragraph appears to
8 contain assertions or statements of law that, the Attorney General understands and
9 contends, do not require an answer, yet the Attorney General admits the existence
10 of the legal authorities to which the paragraph appears to refer, which legal
11 authorities speak for themselves, and, for lack of sufficient information, knowledge,
12 and belief, denies each and every other allegation of the paragraph.

13 72. Answering enumerated paragraph 72, the Attorney General
14 understands and contends that the paragraph contains assertions or statements of
15 law that, the Attorney General understands and contends, do not require an answer,
16 yet the Attorney General admits the existence of the legal authorities to which the
17 paragraph appears to refer, which legal authorities speak for themselves, and, for
18 lack of sufficient information, knowledge, and belief, denies each and every other
19 allegation of the paragraph.

20 73. Answering enumerated paragraph 73, for lack of sufficient
21 information, knowledge, and belief, the Attorney General denies each and every
22 allegation of the paragraph.

23 74. Answering enumerated paragraph 74, for lack of sufficient
24 information, knowledge, and belief, the Attorney General denies each and every
25 allegation of the paragraph.

26 75. Answering enumerated paragraph 75, for lack of sufficient
27 information, knowledge, and belief, the Attorney General denies each and every
28 allegation of the paragraph.

1 76. Answering enumerated paragraph 76, for lack of sufficient
2 information, knowledge, and belief, the Attorney General denies each and every
3 allegation of the paragraph.

4 77. Answering enumerated paragraph 77, the Attorney General
5 understands and contends that the paragraph contains assertions or statements of
6 law that, the Attorney General understands and contends, do not require an answer,
7 yet the Attorney General admits the existence of the legal authorities to which the
8 paragraph appears to refer, which legal authorities speak for themselves, and, for
9 lack of sufficient information, knowledge, and belief, denies each and every other
10 allegation of the paragraph.

11 78. Answering enumerated paragraph 78, for lack of sufficient
12 information, knowledge, and belief, the Attorney General denies each and every
13 allegation of the paragraph.

14 79. Answering enumerated paragraph 79, for lack of sufficient
15 information, knowledge, and belief, the Attorney General denies each and every
16 allegation of the paragraph.

17 **THIRD CLAIM FOR RELIEF [ETC.]**

18 80. Answering enumerated paragraph 80, the Attorney General
19 understands the paragraph merely to re-allege prior paragraphs, and the Attorney
20 General correspondingly incorporates herein her prior responses to those
21 paragraphs, and denies each and every other allegation of the instant paragraph, to
22 the extent such other allegations were made.

23 81. Answering enumerated paragraph 81, the Attorney General
24 understands and contends that the paragraph contains assertions or statements of
25 law only and does not require an answer, yet the Attorney General admits the
26 existence of the legal authorities to which the paragraph appears to refer, which
27 legal authorities speak for themselves, and, for lack of sufficient information,
28 knowledge, and belief, denies each and every other allegation of the paragraph.

1 82. Answering enumerated paragraph 82, the Attorney General
2 understands and contends that the paragraph contains assertions or statements of
3 law that, the Attorney General understands and contends, do not require an answer,
4 yet the Attorney General admits the existence of the legal authorities to which the
5 paragraph appears to refer, which legal authorities speak for themselves, and, for
6 lack of sufficient information, knowledge, and belief, denies each and every other
7 allegation of the paragraph.

8 **SCOPE OF REQUESTED INJUNCTIVE RELIEF**

9 83. Answering enumerated paragraph 83, the Attorney General
10 understands the paragraph merely to re-allege prior paragraphs, and the Attorney
11 General correspondingly incorporates herein her prior responses to those
12 paragraphs, and denies each and every other allegation of the instant paragraph, to
13 the extent such other allegations were made.

14 84. Answering enumerated paragraph 84, the Attorney General
15 understands and contends that the paragraph contains assertions or statements of
16 law that, the Attorney General understands and contends, do not require an answer,
17 yet the Attorney General admits the existence of the legal authorities to which the
18 paragraph appears to refer, which legal authorities speak for themselves, and denies
19 each and every other allegation of the paragraph.

20 85. Answering enumerated paragraph 85, the Attorney General
21 understands and contends that the paragraph contains assertions or statements of
22 law that, the Attorney General understands and contends, do not require an answer,
23 yet the Attorney General admits the existence of the legal authorities to which the
24 paragraph appears to refer, which legal authorities speak for themselves, and denies
25 each and every other allegation of the paragraph.

26 **PRAYER FOR RELIEF**

27 The Attorney General denies that Nichols is entitled to any and all of the
28 relief requested. The Attorney General prays, instead, as follows:

- 1 1. This case should be dismissed with prejudice.
- 2 2. Nichols should garner no relief in this case.
- 3 3. Nichols should take nothing by his complaint.
- 4 4. The Court should order Nichols to and he should reimburse the
- 5 Attorney General for her costs of suit.
- 6 5. The Court should grant such other and further relief as the Court
- 7 deems just and proper.

8 **DEMAND FOR JURY TRIAL**

9 The Attorney General denies that Nichols is entitled to a jury trial against the

10 Attorney General.

11 **SEPARATE AND ADDITIONAL DEFENSES**

12 The Attorney General asserts the following separate and additional defenses:

13 **FIRST SEPARATE AND ADDITIONAL DEFENSE**

14 Nichols fails to state a claim upon which relief can be granted.

15 **SECOND SEPARATE AND ADDITIONAL DEFENSE**

16 The Court lacks subject-matter jurisdiction, and would render an

17 unconstitutional advisory opinion by deciding this case on the merits.

18 **THIRD SEPARATE AND ADDITIONAL DEFENSE**

19 Nichols lacks standing to pursue this case against the Attorney General.

20 **FOURTH SEPARATE AND ADDITIONAL DEFENSE**

21 The Attorney General is immune from this lawsuit under the Eleventh

22 Amendment to the U.S. Constitution.

23 **FIFTH SEPARATE AND ADDITIONAL DEFENSE**

24 Nichols cannot disprove that the Attorney General's alleged actions are

25 justified under the appropriate standard of review; to the extent the Attorney

26 General bears the burden of proof regarding such justification, the Attorney

27 General's alleged actions are justified.

28

1 **SIXTH SEPARATE AND ADDITIONAL DEFENSE**

2 Nichols's claims against the Attorney General are barred by the applicable
3 statutes of limitations.

4 **SEVENTH SEPARATE AND ADDITIONAL DEFENSE**

5 Nichols's claims against the Attorney General are barred by the doctrine of
6 laches.

7 **EIGHTH SEPARATE AND ADDITIONAL DEFENSE**

8 Nichols's claims against the Attorney General are barred by the applicable
9 doctrine of estoppel.

10 **NINTH SEPARATE AND ADDITIONAL DEFENSE**

11 Nichols's claims against the Attorney General are barred by the doctrine of
12 waiver.

13 Dated: April 16, 2013

Respectfully submitted,

14 KAMALA D. HARRIS
15 Attorney General of California
16 MARK R. BECKINGTON
 Supervising Deputy Attorney General

17 /s/ Jonathan M. Eisenberg
18 JONATHAN M. EISENBERG
19 Deputy Attorney General
 Attorneys for Defendant California
 Attorney General Kamala D. Harris

DECLARATION OF SERVICE BY ELECTRONIC MEANS AND U.S. MAIL

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

Case Name: ***Nichols v. Harris***

Case No.: **CV-11-09916 SJO (SS)**

I declare:

I am employed in the Office of the California Attorney General (the "OCAG"), 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 St., Ste. 1702, Los Angeles, CA 90013.

It is my understanding that there are participants in this case who are registered CM/ECF users, and that participants in the case who are registered CM/ECF users will be served by the CM/ECF system. I certify that I caused to be made, via the CM/ECF system, electronic service of the attached **DEFENDANT KAMALA D. HARRIS'S ANSWER TO PLAINTIFF CHARLES NICHOLS'S SECOND AMENDED COMPLAINT** with the Clerk of the Court.

It is my understanding that there are other participants in this case who are not registered CM/ECF users, and that participants in the case who are not registered CM/ECF users will not be served by the CM/ECF system and must be served by other means. I am familiar with the business practice at the OCAG for collection and processing of correspondence for mailing with the U.S. Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the OCAG is deposited with the U.S. Postal Service with postage thereon fully prepaid that same day in the ordinary course of business. On April 16, 2013, I served the attached **DEFENDANT KAMALA D. HARRIS'S ANSWER TO PLAINTIFF CHARLES NICHOLS'S SECOND AMENDED COMPLAINT** by placing a true copy thereof, enclosed in a sealed envelope, with postage thereon fully prepaid, in the internal mail collection system at the OCAG at 300 South Spring St., Ste. 1702, Los Angeles, CA 90013, addressed as follows:

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

I declare under penalty of perjury under the laws of the United States of America the foregoing is true and correct and that this declaration was executed on April 16, 2013, at Los Angeles, California.

R. Velasco

Declarant

Signature