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7 CITY OF REDONDO BEACH

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11 CHARLES NICHOLS,

12 Plaintiff,
13 vs.

14 KAMALA D. HARRIS, Attorney
General, in her official capacity as
Attorney General of California, CITY
15 OF REDONDO BEACH and DOES 1 to
10,

16 Defendants.
17
18

Case No. CV-11-9916 SJO (SS)

**NOTICE OF MOTION AND
MOTION BY DEFENDANT CITY OF
REDONDO BEACH TO DISMISS
THE SECOND AND THIRD CLAIMS
IN THE SECOND AMENDED
COMPLAINT OR, IN THE
ALTERNATIVE, MOTION FOR
MORE DEFINITE STATEMENT**

[MEMORANDUM OF POINTS AND
AUTHORITIES FILED
CONCURRENTLY WITH THIS
NOTICE]

(Filed Under Fed. R. Civ. P. 12(b)(1),
12(b)(6), and 12(e))

Magistrate Judge: Hon. Suzanne H.
Segal

Date: May 21, 2013
Time: 10:00 a.m.
Ctm: 23

Action Filed: November 30, 2011

25
26 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

27 PLEASE TAKE NOTICE that on May 21, 2013 at 10:00 a.m., or as soon
28 thereafter as the matter may be heard in the United States District Court for the

1 Central District of California, located at 312 North Spring Street, Los Angeles,
2 California, in Courtroom 23, the Honorable Suzanne H. Segal, United States
3 Magistrate Judge, presiding, Defendant City of Redondo Beach (City) will move this
4 Court for an Order as to the following claims in plaintiff's Second Amended
5 Complaint:

6
7 1. Dismissing the Second and Third Claims for relief under Rule 12(b)(1)
8 of the Federal Rules of Civil Procedure on the ground that plaintiff lacks standing to
9 bring those claims and the Court therefore does not have subject matter jurisdiction
10 over those claims;

11 2. Dismissing the Second and Third Claims for relief under Rule 12(b)(6)
12 of the Federal Rules of Civil Procedure on the ground that plaintiff fails to state a
13 claim upon which relief can be granted to the extent he asserts a violation against the
14 City under the Second Amendment to the United States Constitution.

15 3. Dismissing the Second and Third Claims for relief under Rule 12(b)(6)
16 of the Federal Rules of Civil Procedure on the ground that plaintiff fails to state a
17 claim upon which relief can be granted to the extent he asserts a violation against the
18 City under the Fourth Amendment to the United States Constitution.

19 4. Dismissing the Second and Third Claims for relief under Rule 12(b)(6)
20 of the Federal Rules of Civil Procedure on the ground that plaintiff fails to state a
21 claim upon which relief can be granted to the extent he asserts a violation against the
22 City under the Equal Protection Clause of the Fourteenth Amendment to the United
23 States Constitution.

24 5. Dismissing the Second and Third Claims for relief under Rule 12(b)(6)
25 of the Federal Rules of Civil Procedure on the ground that plaintiff fails to state a
26 claim upon which relief can be granted to the extent he asserts a violation against the
27 City under the First Amendment to the United States Constitution.

28 6. Abstaining from hearing the Second Claim for relief under Rule

1 12(b)(1) of the Federal Rules of Civil Procedure on the ground that abstention is
2 required under the *Younger* doctrine.

3 7. Dismissing the Third Claim for relief under Rule 12(b)(1) of the Federal
4 Rules of Civil Procedure on the ground that abstention is required under the *Younger*
5 doctrine.

6 8. Ordering a more definite statement under Rule 12(e) of the Federal
7 Rules of Civil Procedure as to the Second and Third Claims for relief.

8
9 This Motion is based upon this Notice of Motion, the accompanying
10 Memorandum of Points and Authorities, the pleadings and papers on file in this case,
11 and upon such other matters as may be presented to the Court at the time of hearing.

12 This Motion is made following the telephone conversation between plaintiff
13 Charles Nichols, and counsel for defendant City of Redondo Beach, T. Peter Pierce,
14 on April 4, 2013 from 11:45 a.m. until 12:00 noon, under Local Rule 7-3.

15
16 Dated: April 15, 2013

RICHARDS, WATSON & GERSHON
A Professional Corporation
T. PETER PIERCE
LISA BOND

17
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19 By: 

20 T. PETER PIERCE
21 Attorneys for Defendant
22 CITY OF REDONDO BEACH
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PROOF OF SERVICE

I, Clotilde Bigornia, declare:

I am a resident of the state of California and over the age of eighteen years and not a party to the within action. My business address is 355 South Grand Avenue, 40th Floor, Los Angeles, California 90071-3101. On April 15, 2013, I served the within document(s) described as:

**NOTICE OF MOTION AND MOTION BY DEFENDANT CITY
OF REDONDO BEACH TO DISMISS THE SECOND AND
THIRD CLAIMS IN THE SECOND AMENDED COMPLAINT
OR, IN THE ALTERNATIVE, MOTION FOR MORE DEFINITE
STATEMENT**

on the interested parties in this action as stated below:

Charles Nichols
P.O. Box 1302
Redondo Beach, CA 90278
Tel: (424) 634-7381

Jonathan Michael Eisenberg
Office of the California Attorney General
Government Law Section
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Tel: (213) 897-6505
Fax: (213) 897-1071
Email: jonathan.eisenberg@doj.ca.gov

[X] (BY MAIL) By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as set forth above. I am readily familiar with the firm's practice for collection and processing correspondence for mailing with the United States Postal Service. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing contained in this affidavit.

I certify that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on April 15, 2013, at Los Angeles, California.

I declare under penalty of perjury that the foregoing is true and correct.


Clotilde Bigornia