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General Kamala D. Harris

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**
17 **official capacity as Governor of**
18 **California, KAMALA D. HARRIS,**
19 **Attorney General, in her official**
20 **capacity as Attorney General of**
21 **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.
23

CV-11-09916 SJO (SS)

NOTICE OF MOTION AND
MOTION TO DISMISS ACTION
UNDER FED. R. CIV. P. 12(B)(1)

Date: March 6, 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

24 TO (PRO SE) PLAINTIFF CHARLES NICHOLS:

25 PLEASE TAKE NOTICE that, at 10:0 a.m., on Tuesday, March 6, 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 Kamala D. Harris, Attorney
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1 General of the State of California (the “Attorney General”) will and hereby does
 2 move the Court to dismiss this action under Federal Rule of Civil Procedure
 3 12(b)(1), because of lack of subject-matter jurisdiction, on the specific grounds that
 4 Plaintiff Charles Nichols (“Nichols”) has alleged neither a cognizable injury nor a
 5 live case or controversy, the case is not ripe for adjudication, the Attorney General
 6 has immunity to Nichols’s claims under the U.S. Constitution’s Eleventh
 7 Amendment, and there is Eleventh Amendment immunity for Nichols’s claim
 8 under California state law.

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

12 This motion is made following the conference of Jonathan M. Eisenberg,
 13 counsel of record for AG Harris, and Plaintiff Charles Nichols, a *pro se* plaintiff,
 14 per Local Rule 7-3, which conference took place on January 24, 2012.

15 Dated: January 30, 2012

Respectfully submitted,

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

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

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CERTIFICATE OF SERVICE

Case Name: **Nichols, Charles v. Edmund G.
Brown Jr.**

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

I hereby certify that on January 30, 2012, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

NOTICE OF MOTION AND MOTION TO DISMISS ACTION UNDER FED. R. CIV. P. 12(B)(1)

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

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. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

I further certify that some of the participants in the case are not registered CM/ECF users. On January 30, 2012, I have caused to be mailed in the Office of the Attorney General's internal mail system, the foregoing document(s) by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within three (3) calendar days to the following non-CM/ECF participants:

Michael W. Webb
City Prosecutor
Redondo Beach City Attorney's Office
401 Diamond Street
Redondo Beach, CA 90277

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

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on January 30, 2012, at Los Angeles, California.

R. Velasco
Declarant

Signature