

FILED

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2013 JUL 12 PM 2:05

CLERK, U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES

BY \_\_\_\_\_

7  
8 **United States District Court**  
9 **Central District of California**  
10

11 Charles Nichols,

12 PLAINTIFF,

13 vs.

14 KAMALA D. HARRIS, Attorney

15 General, in her official capacity as

16 Attorney General of California, CITY

17 OF REDONDO BEACH and DOES 1

18 to 10,

19 Defendants.  
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22  
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24  
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27  
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**Case No.: CV-11-9916 SJO (SS)**

**PLAINTIFF'S MEMORANDUM,  
REASONS AND POINTS AND  
AUTHORITIES IN SUPPORT OF  
PLAINTIFF'S EX PARTE  
APPLICATION FOR STAY  
PENDING APPEAL**

**[L.R. 7-19]**

Date: TBD

Time: TBD

Location: United States Courthouse

312 North Spring Street

Los Angeles, CA 90012-4701

Courtroom: 1 - 2nd Floor

Judge: Samuel James Otero

Date Action Filed: November 30, 2011

1 Pursuant to L.R. 7-19 "...the name, address, telephone number and e-mail  
2 address of counsel for the opposing party..." are (based on the PACER record of  
3 July 11, 2013):

4  
5 Lisa Marie Bond

6 Richards Watson & Gershon

7 355 S Grand Ave, 40th Fl

8 Los Angeles, CA 90071-3101

9 213-626-8484

10 213-626-0078 (fax)

11 lbond@rwglaw.com

12 Assigned: 06/28/2012

13 LEAD ATTORNEY

14 ATTORNEY TO BE NOTICED representing City of Redondo Beach  
15 (Defendant)

16  
17  
18 Jonathan Michael Eisenberg

19 Office of the California Attorney General

20 Government Law Section

21 300 South Spring Street, Suite 1702

22 Los Angeles, CA 90013

23 213-897-6505

24 213-897-1071 (fax)

25 jonathan.eisenberg@doj.ca.gov

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28 ATTORNEY TO BE NOTICED representing Kamala D Harris (Defendant).

1 Thomas Peter Pierce

2 Richards Watson and Gershon

3 355 S Grand Avenue 40th Floor

4 Los Angeles, CA 90071-3101

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7 ppierce@rwglaw.com

8 Assigned: 05/07/2013

9 ATTORNEY TO BE NOTICED representing City of Redondo Beach  
10 (Defendant)

11  
12 Pursuant to L.R. 7-19, "...the reasons for the seeking of an ex parte order,  
13 and points and authorities in support thereof" are:

14 WHEREAS, this Court entered a denial of Plaintiff's Motion for Preliminary  
15 Injunction on July 3, 2013;

16 WHEREAS, Plaintiff timely appealed this Court's denial of his Motion  
17 for Preliminary Injunction to the Ninth Circuit Court of Appeals on July 8,  
18 2013;

19 WHEREAS, "[t]he filing of a notice of appeal is an event of jurisdictional  
20 significance" that "confers jurisdiction on the court of appeals and divests the  
21 district court of its control over those aspects of the case involved in the appeal,"  
22 *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (per curiam);

23 WHEREAS, even pending an appeal of a preliminary injunction denial, a  
24 district court must refrain from ruling on issues over which appellate review is  
25 imminent. 16 Charles A. Wright, Arthur R. Miller & Edward H. Cooper, Federal  
26 Practice and Procedure § 3921.2 at 56 (2d ed.1997);

27 WHEREAS, the Court retains jurisdiction to stay its own proceedings  
28 pending appeal, see, e.g., *Gray v. Golden Gate Nat'l Recreation Area*, No. 08-

00722, 2011 WL 6934433, at \*1 (N.D. Cal. Dec. 29, 2011); see also Fed. R. App. P. 8;

WHEREAS, here, a stay of further proceedings is warranted because Plaintiffs' appeal raises serious questions of constitutional law, see *Guifu Li v. A Perfect Franchise, Inc.*, No. 10-01189, 2011 WL 2293221, at \*3 (N.D. Cal. June 8, 2011);

WHEREAS, none of the parties will be harmed by the issuance of a stay – instead, “granting a stay will benefit both parties to this action by sparing them the expense of contemporaneous litigation and the accompanying fees and expenditure of time” inherent in pursuing litigation in both this Court and the Court of Appeals, Order at 6, *Baker v. Kealoha*, No. 11-00528 (D. Haw. June 19, 2012);

WHEREAS a favorable ruling in the Court of Appeals would likely allow Plaintiff to surmount CITY's municipal ordinances, see *Maldonado v. Morales*, 556 F. 3d 1037 - Court of Appeals, 9th Circuit 2009 at 1043-1044;

PLAINTIFF HEREBY REQUESTS that, subject to court approval, all further proceedings in this matter, including the Federal Rule of Civil Procedure scheduling requirements per Rules 16(b) and 26(f) , discovery, pre-trial motions, and trial, shall be stayed until further order of this Court, pending resolution of Plaintiffs' appeal of this Court's interlocutory order denying Plaintiffs' Motion for Preliminary Injunction.

Respectfully submitted this 12th Day of July, 2013.



By: Charles Nichols  
 PLAINTIFF in Pro Per  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of **PLAINTIFF'S MEMORANDUM, REASONS AND POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S EX PARTE APPLICATION FOR STAY PENDING APPEAL [L.R. 7-19]** was served via United States Mail, postage prepaid, on this 12th, day of July, 2013; on the following:

KAMALA D. HARRIS  
Attorney General of California  
JONATHAN M. EISENBERG  
Deputy Attorney General  
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AND

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Attorneys for Defendant:  
CITY OF REDONDO BEACH



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Charles Nichols  
Plaintiff, In Pro Per  
Case No. CV-11-9916 SJO (SS)