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In Pro Per

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July 14, 2017  
by cm/ecf

Ms. Molly C. Dwyer  
Clerk, United States Court of Appeals  
for the Ninth Circuit  
95 Seventh Street  
San Francisco, CA 94103

RE: *Charles Nichols v. Edmund Brown, Jr., et al* 9th Cir. No.: 14-55873

Dear Ms. Dwyer:

Plaintiff-Appellant Nichols submits *REPLY TO OBJECTION to Report and Recommendation (Issued) 162 filed by Defendant Kamala D Harris. (Eisenberg, Jonathan) (Entered: 04/14/2014)* (District Court Docket # 164) as supplemental authority under FRAP Rule 28(j).

The Report and Recommendation by the Magistrate Judge ER8-51 was accepted by Order of the district court judge ER2-7.

The REPORT AND RECOMMENDATION BY THE MAGISTRATE JUDGE recommended that the Defendant-Appellee Attorney General's Motion for Judgment on the Pleadings be granted and Plaintiff-Appellant Nichols' Motion for

Partial Summary Judgment be denied because the material facts were not at issue. ER50 and ER42.

Defendant-Appellee Attorney General filed the above referenced reply stating on page 2, line 3, **“The Attorney General agrees with the R & R...”**

Defendant-Appellee Attorney General forfeited any challenge to the Report and Recommendation by filing a document agreeing with the Report and Recommendation and by not filing a notice of appeal and by not challenging the finding of the report and recommendation in the district court and by not properly challenging the Order of the district court on appeal.

The motion could not have been granted had there been a material issue of fact remaining, *Hal Roach Studios v. Richard Feiner and Co.*, 896 F. 2d 1542, 1550 (9th Cir. 1990) and presumably any competent attorney would not file a 12(c) motion while believing that there was a material issue of fact remaining.

“The facts are not in dispute. *Nichols*’ appeal involves solely pure questions of law.” Reply Brief at 5, 33.

Dismissal on the pleadings pursuant to Rule 12(c) is reviewed *de novo*. Constitutional questions are reviewed de novo. *Am. Acad. of Pain Mgmt. v. Joseph*, 353 F.3d 1099, 1103 (9th Cir. 2004). Appellant’s Opening Brief at 30.

Given that the facts are not in dispute, all that remains are pure questions of law.

*Nichols* submits that the Defendant-Appellees do not have standing to raise any factual challenge or dispute on appeal and have clearly forfeited any standing they might have had regarding factual disputes.

The body of this letter contains 333 words.

Sincerely,

/s/ Charles Nichols

Charles Nichols  
Plaintiff-Appellant in Pro Per

cc: counsel of record (by cm/ecf)