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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
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13 **KIM RHODE et al.,**

14 Plaintiffs,

15 **v.**

16 **XAVIER BECERRA, in his official**
17 **capacity as Attorney General of the**
18 **State of California, et al.,**

19 Defendants.
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3:18-cv-00802-BEN-JLB

**DEFENDANT XAVIER
BECERRA'S NOTICE OF
MOTION AND MOTION TO
DISMISS**

Judge: Hon. Roger T. Benitez
Date: June 25, 2018
Time: 9:00 a.m.
Courtroom: 5A
Action Filed: April 26, 2018

NOTICE OF MOTION AND MOTION TO DISMISS

PLEASE TAKE NOTICE THAT on June 25, 2018 at 9:00 a.m., or as soon thereafter as the matter may be heard before the Honorable Roger T. Benitez in Courtroom 5A of the Edward J. Schwartz U.S. Courthouse, located at 221 West Broadway, San Diego, California 92101, the Court will hear the motion filed by Defendant Xavier Becerra, in his official capacity as Attorney General of the State of California, to dismiss portions of the Complaint for Declaratory and Injunctive Relief.

The Attorney General moves to dismiss under to Federal Rule of Civil Procedure 12(b)(6) on the grounds that:

1. The first claim for relief for alleged violations of the dormant Commerce Clause of the United States Constitution (Compl. ¶¶ 77-85, ECF No. 1) fails to state a claim upon which relief can be granted; and

2. The seventh claim for relief for alleged violations of the Equal Protection Clause of the United States Constitution (Compl. ¶¶ 114-21, ECF No. 1) fails to state a claim upon which relief can be granted.

This motion is based on this filing, the concurrently filed memorandum of points and authorities, the papers and pleadings on file in this action, and upon such matters as may be presented to the Court at the time of the hearing.

Dated: May 18, 2018

Respectfully Submitted,

XAVIER BECERRA
Attorney General of California
TAMAR PACHTER
Supervising Deputy Attorney General

/s/ Nelson Richards
NELSON R. RICHARDS
Deputy Attorney General
*Attorneys for Defendant Attorney
General Xavier Becerra*