

1 XAVIER BECERRA
 Attorney General of California
 2 MARK R. BECKINGTON
 Supervising Deputy Attorney General
 3 R. MATTHEW WISE, SBN 238485
 Deputy Attorney General
 4 1300 I Street, Suite 125
 P.O. Box 944255
 5 Sacramento, CA 94244-2550
 Telephone: (916) 210-6046
 6 Fax: (916) 324-8835
 E-mail: Matthew.Wise@doj.ca.gov
 7 *Attorneys for Defendant Attorney General Xavier
 Becerra*

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 9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE EASTERN DISTRICT OF CALIFORNIA
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 13 **MARK BAIRD and RICHARD**
GALLARDO,
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 Plaintiffs,
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 v.
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XAVIER BECERRA, in his official capacity
as Attorney General of the State of
 17 **California, and DOES 1-10,**
 18
 Defendant.
 19
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Case No. 2:19-cv-00617-KJM-AC

**DEFENDANT’S NOTICE OF MOTION
 AND MOTION TO DISMISS
 PLAINTIFFS’ COMPLAINT**

[Fed. R. Civ. P. 12(b)(6)]

Date: July 26, 2019
 Time: 10:00 a.m.
 Courtroom: 3
 Judge: Kimberly J. Mueller
 Trial Date: None set
 Action Filed: April 9, 2019

1 TO PLAINTIFFS MARK BAIRD AND RICHARD GALLARDO:

2 PLEASE TAKE NOTICE that on July 26, 2019, at 10:00 a.m., or as soon thereafter as the
3 matter may be heard before the Honorable Kimberly J. Mueller in Courtroom 3 on the 15th Floor
4 of the United States District Court for the Eastern District of California, located at the Robert T.
5 Matsui Federal Courthouse at 501 I Street, Sacramento, California 95814, Defendant Attorney
6 General Xavier Becerra will and hereby does move under Rule 12(b)(6) of the Federal Rules of
7 Civil Procedure for an order dismissing Counts 5, 6, 7, 8, 12, 13, and 14 from Plaintiffs Mark
8 Baird and Richard Gallardo's complaint. The Attorney General moves for dismissal of these
9 claims on grounds that each of these counts in Plaintiffs' complaint fails to state a claim for relief.
10 On the same grounds, the Attorney General also moves for an order dismissing corresponding
11 allegations in Counts 9 and 10 that Plaintiffs' Fourth and Fourteenth Amendment rights were
12 violated. This motion is based on this Notice of Motion and Motion to Dismiss, the
13 accompanying Memorandum of Points and Authorities, all pleadings and papers on file in this
14 action, and such other matters as may properly come before the Court.

15 In accordance with this Court's standing order, counsel for Plaintiffs and the Attorney
16 General met and conferred by phone on May 23, 2019, in an attempt to resolve the claims that are
17 the subject of this motion. After a thorough discussion, counsel agreed that these claims remain
18 in dispute, and that meet-and-confer efforts have been exhausted.

19 Dated: June 6, 2019

Respectfully submitted,

20 XAVIER BECERRA
21 Attorney General of California
22 MARK R. BECKINGTON
23 Supervising Deputy Attorney General

24 /s/ R. Matthew Wise
25 R. MATTHEW WISE
26 Deputy Attorney General
27 Attorneys for Defendant Attorney General
28 Xavier Becerra

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CERTIFICATE OF SERVICE

Case Name: Baird, Mark v. Xavier Becerra No. 2:19-cv-00617-KJM-AC

I hereby certify that on June 6, 2019, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

DEFENDANT'S NOTICE OF MOTION AND MOTION TO DISMISS PLAINTIFFS' COMPLAINT

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

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 June 6, 2019, at Sacramento, California.

Eileen A. Ennis

Declarant

/s/ Eileen A. Ennis

Signature