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

**DEFENDANT’S OBJECTION TO
 PLAINTIFF’S NOTICE OF INTENT TO
 PRESENT SWORN TESTIMONY AT
 THE HEARING ON PLAINTIFF’S
 PRELIMINARY INJUNCTION MOTION**

Date: October 8, 2019
 Time: 10:00 a.m.
 Courtroom: 3
 Judge: Hon. Kimberly J. Mueller
 Trial Date: None set
 Action Filed: April 9, 2019

22 On September 6, 2019, Plaintiffs’ counsel filed a letter informing the Court of Plaintiffs’
 23 “intention to present the sworn testimony of one witness” at the October 8, 2019 hearing on their
 24 preliminary injunction motion. ECF No. 22. Plaintiffs’ counsel noted that the witness’s direct
 25 testimony would take thirty minutes or less and that she had met and conferred with defense
 26 counsel about this request.

27 Defendant Attorney General Xavier Becerra objects to Plaintiffs’ request. Eastern District
 28 Local Rule 231(d)(3), which addresses preliminary injunction motions, requires “[a]ll parties [to]

1 inform the Court in their briefs . . . whether they desire to present oral testimony at the
2 hearing. . . .” But when Plaintiffs filed their preliminary injunction motion, they failed to provide
3 notice of their intent to present oral testimony at the hearing. *See* ECF Nos. 14, 14-1, 14-2, 14-3,
4 and 18. Nor have Plaintiffs, in any filing, confirmed their witness’s identity, disclosed his
5 qualifications and the nature of his testimony, or explained why testimony by written declaration
6 would be inadequate. Without such disclosures, Defendant cannot reasonably prepare to cross-
7 examine Plaintiffs’ witness or determine whether to call a rebuttal witness at the hearing.¹

8 Plaintiffs’ request to present the sworn testimony of a witness at the hearing on their
9 preliminary injunction motion should be denied.

10 Dated: September 9, 2019

Respectfully submitted,

11 XAVIER BECERRA
12 Attorney General of California
13 MARK R. BECKINGTON
14 Supervising Deputy Attorney General

/s/ R. Matthew Wise

15 R. MATTHEW WISE
16 Deputy Attorney General
17 *Attorneys for Defendant Attorney General*
18 *Xavier Becerra*

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27 ¹ If required to call a rebuttal witness, Defendant may need to request to continue the
28 hearing to accommodate that witness’s availability. Such delay—in addition to an unnecessarily
prolonged hearing—would not serve the Court’s interest in judicial economy.

CERTIFICATE OF SERVICE

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

I hereby certify that on September 9, 2019, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

DEFENDANT'S OBJECTIONS TO PLAINTIFF'S NOTICE OF INTENT TO PRESENT SWORN TESTIMONY AT THE HEARING ON PLAINTIFF'S PRELIMINARY INJUNCTION MOTION

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 September 9, 2019, at Sacramento, California.

Tracie L. Campbell

Declarant

/s/ Tracie Campbell

Signature