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10 IN THE UNITED STATES DISTRICT COURT
 11 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

13 **SARA ROYCE; SARAH CLARK;**
 14 **TIFFANY BROWN; and KRISTI**
 15 **CARAWAY,**
 16 Plaintiffs,
 17 v.
 18 **ROB BONTA, in his official capacity**
 19 **as Attorney General of California,**
 20 Defendant.

23-CV-2012-H-BLM

**NOTICE OF MOTION AND
 MOTION TO DISMISS FIRST
 AMENDED COMPLAINT**

[Fed. R. Civ. P. 12(b)(1) & (6)]

[Concurrently filed with Memorandum of Points and Authorities and Request for Judicial Notice with Exhibits]

Date: June 17, 2024
 Time: 10:30 a.m.
 Courtroom: 12A
 Judge: The Honorable Marilyn L. Huff
 Trial Date: Not Set
 Action Filed: 10/31/2023

TO THE PARTIES AND THEIR ATTORNEYS OF RECORD:

26 **PLEASE TAKE NOTICE** that on June 17, 2024, at 10:30 a.m., or as soon
 27 thereafter as the matter may be heard in Courtroom 12A of the above-entitled court,
 28 located at the James M. Carter and Judith N. Keep Courthouse, 333 Broadway, San

1 Diego, California 92101, Defendant Rob Bonta, in his official capacity as Attorney
2 General of California, will and hereby does move this Court for an order dismissing
3 the Complaint in this action with prejudice pursuant to Federal Rules of Civil
4 Procedure 12(b)(1) and (6) on the following grounds:

5 1. Plaintiffs' First Amended Complaint and its sole cause of action seeking
6 declaratory and injunctive relief for alleged violation of the Free Exercise Clause of
7 the First Amendment is subject to dismissal for lack of jurisdiction (Fed. R. Civ. P.
8 12(b)(1)) and/or fails to state a claim (Fed. R. Civ. P. 12(b)(6)) because it is barred
9 by Eleventh Amendment sovereign immunity.

10 2. Plaintiffs' First Amended Complaint and its sole cause of action seeking
11 declaratory and injunctive relief for alleged violation of the Free Exercise Clause of
12 the First Amendment fails to state a claim (Fed. R. Civ. P. 12(b)(6)) because Senate
13 Bill 277's (Cal. Stats. 2015, ch. 35) repeal of California's prior personal beliefs
14 exemption does not implicate First Amendment concerns—it is a law of neutral
15 applicability, personal beliefs are not protected under the Free Exercise Clause, and
16 California's removal of its prior personal beliefs exemption serves a legitimate and
17 compelling public health interest.

18 This Motion to Dismiss is based upon this notice of motion and motion, the
19 accompanying Memorandum of Points and Authorities in support thereof, and the
20 accompanying Request for Judicial Notice and attached exhibits.

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1 Finally, this motion is further based upon the First Amended Complaint, upon
2 the pleadings, records and files in this action, upon reply to any opposition, and
3 upon such oral argument as may be presented at the hearing of this motion.

4 Dated: May 15, 2024

Respectfully submitted,

5 ROB BONTA
6 Attorney General of California
7 BENJAMIN G. DIEHL
8 Supervising Deputy Attorney General

9 /s Darin L. Wessel
10 DARIN L. WESSEL
11 Deputy Attorney General
12 Attorneys for Defendant
13 Rob Bonta, in his official capacity as
14 Attorney General of California

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