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 8 *Attorneys for Defendants*
 Rob Bonta, in his official capacity as
 9 Attorney General of California, and Tomás
 Aragón, in his official capacity as State
 10 Public Health Officer

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

14 **SARA ROYCE; SARAH CLARK;**
 15 **TIFFANY BROWN; and KRISTI**
 16 **CARAWAY,**
 17 Plaintiffs,
 18 v.
 19 **ROB BONTA, in his official capacity**
 20 **as Attorney General of California,**
 21 **TOMÁS ARAGÓN, in his official**
 22 **capacity as the State Public Health**
 23 **Officer,**
 24 Defendants.

23-CV-2012-H-BLM

**NOTICE OF MOTION AND
 MOTION TO DISMISS SECOND
 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: October 21, 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:

PLEASE TAKE NOTICE that on October 21, 2024, at 10:30 a.m., or as soon thereafter as the matter may be heard in Courtroom 12A of the above-entitled

1 court, located at the James M. Carter and Judith N. Keep Courthouse, 333
2 Broadway, San Diego, California 92101, Defendants Rob Bonta, in his official
3 capacity as Attorney General of California, and Tomás Aragón, in his official
4 capacity as State Public Health Officer, will and hereby do move this Court for an
5 order dismissing the Second Amended Complaint in this action with prejudice
6 pursuant to Federal Rules of Civil Procedure 12(b)(1) and (6) on the following
7 grounds:

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

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

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

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

4 Dated: August 23, 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, and
15 Tomás Aragón, in his official
16 capacity as State Public Health
17 Officer

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