

1 ROB BONTA
Attorney General of California
2 BENJAMIN G. DIEHL
Supervising Deputy Attorney General
3 DARIN L. WESSEL
Deputy Attorney General
4 State Bar No. 176220
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9125
7 Fax: (619) 645-2012
E-mail: Darin.Wessel@doj.ca.gov
8 *Attorneys for Defendant*
Tomás Aragón, in his official capacity as
9 *State Public Health Officer*

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

12 **SARA ROYCE; SARAH CLARK;**
13 **TIFFANY BROWN; and KRISTI**
CARAWAY,

14 Plaintiffs,

15 v.

16 **TOMÁS ARAGÓN, in his official**
17 **capacity as the State Public Health**
Officer,

18 Defendant.

23-CV-2012-H-BLM

NOTICE OF MOTION AND
MOTION TO DISMISS THIRD
AMENDED COMPLAINT

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

[Concurrently filed with Memorandum
of Points and Authorities in Support of
Motion to Dismiss Third Amended
Complaint; Request for Judicial Notice
and Exhibits]

Date: February 24, 2025
Time: 10:30 a.m.
Courtroom: 12A
Judge: The Honorable Marilyn L.
Huff
Trial Date: Not Set
Action Filed: 10/31/2023

24 TO THE COURT AND TO ALL PARTIES AND THEIR ATTORNEYS OF
25 RECORD:

26 PLEASE TAKE NOTICE that on February 24, 2025, 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 Tomás Aragón, in his official capacity as State
2 Public Health Officer, will and hereby does move this Court for an order dismissing
3 the Third Amended Complaint in this action with prejudice pursuant to Federal
4 Rules of Civil Procedure 12(b)(1) and (6) on the following grounds:

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

10 2. Plaintiffs’ Third Amended Complaint and its sole cause of action seeking
11 declaratory and injunctive relief for alleged violation of the Free Exercise
12 Clause of the First Amendment fails to state a claim (Fed. R. Civ. P.
13 12(b)(6)) because Senate Bill No. 277’s (SB 277) (Cal. Stats. 2015, ch.
14 35) repeal of California’s prior personal beliefs exemption does not
15 implicate First Amendment concerns—it is a law of neutral applicability,
16 personal beliefs are not protected under the Free Exercise Clause, and
17 California’s removal of its prior personal beliefs exemption serves a
18 legitimate and compelling public health interest. Further, even if the
19 Court were to subject SB 277 to strict scrutiny review, it is constitutional
20 and there is a failure to state a claim for violation of the Free Exercise
21 Clause of the First Amendment.

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

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1 Finally, this motion is further based upon the Third 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.
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5 Dated: January 10, 2025

Respectfully submitted,
ROB BONTA
Attorney General of California
BENJAMIN G. DIEHL
Supervising Deputy Attorney General

9 /s/ Darin L. Wessel
10 DARIN L. WESSEL
11 Deputy Attorney General
12 *Attorneys for Defendant*
Tomás Aragón, in his official
capacity as State Public Health
Officer

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