

1 XAVIER BECERRA
 Attorney General of California
 2 MARK R. BECKINGTON
 Supervising Deputy Attorney General
 3 AMIE L. MEDLEY
 Deputy Attorney General
 4 State Bar No. 266586
 300 South Spring Street, Suite 1702
 5 Los Angeles, CA 90013
 Telephone: (213) 269-6226
 6 Fax: (213) 897-5775
 E-mail: Amie.Medley@doj.ca.gov
 7 Attorneys for Attorney General Xavier
 Becerra

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 9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
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12
 13 **DON HIGGINSON,**

14 Plaintiff,

15 v.

16 **XAVIER BECERRA, in his official**
 17 **capacity as ATTORNEY GENERAL**
 18 **OF CALIFORNIA; and CITY OF**
 19 **POWAY, CALIFORNIA,**

20 Defendants.

3:17-CV-2032 WQHJLB

**DEFENDANT XAVIER
 BECERRA’S NOTICE OF
 MOTION AND MOTION TO
 DISMISS COMPLAINT**

Judge: Hon. William Q. Hayes
 Date: December 26, 2017

**No Oral Argument Unless
 Requested by the Court**

21 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

22 Please take NOTICE that on December 26, 2017, or as soon thereafter as
 23 possible, in Courtroom 14B of the above-captioned court, located at 333 West
 24 Broadway, San Diego, CA 92101, Defendant Xavier Becerra, California Attorney
 25 General (the “Attorney General”), will and hereby does move, under Federal Rules
 26 of Civil Procedure 12(b)(1) and 12(b)(6), to dismiss the complaint of Plaintiff Don
 27 Higginson (“Plaintiff”) in its entirety.
 28

1 The grounds for this motion are that Plaintiff lacks standing to maintain his
2 challenge to the California Voting Rights Act, and that even if he could establish
3 standing, Plaintiff has failed to allege sufficient facts to state a claim for which
4 relief may be granted. Therefore, the Attorney General respectfully requests that
5 the complaint be dismissed in its entirety. Because no amendment would cure the
6 deficiencies in the complaint, the Attorney General requests that the complaint be
7 dismissed without leave to amend.

8 The motion will be based on this Notice of Motion and Motion, the
9 Memorandum of Points and Authorities filed herewith, and the pleadings and
10 papers filed herein. This motion is made following the conference of counsel
11 which took place on November 9, 2017.

12
13 Dated: November 22, 2017

Respectfully submitted,

14 XAVIER BECERRA
15 Attorney General of California
16 MARK R. BECKINGTON
Supervising Deputy Attorney General

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18 *s/ Amie L. Medley*
19 AMIE L. MEDLEY
20 Deputy Attorney General
21 *Attorneys for Attorney General Xavier*
22 *Becerra*
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CERTIFICATE OF SERVICE

Case Name: **Higginson, Don v. Xavier
Becerra, et al.**

No. **3:17-CV-2032 WQHJLB**

I hereby certify that on November 22, 2017, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**DEFENDANT XAVIER BECERRA'S NOTICE OF MOTION AND
MOTION TO DISMISS 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 November 22, 2017, at Los Angeles, California.

Beth Capulong
Declarant

/s/ Beth Capulong
Signature