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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EDUARDO GUILARTE,

Plaintiff,

v.

ANDREA MONTI, et al.,

Defendants.

Case No. [16-cv-01726-MMC](#)

**ORDER DIRECTING DEFENDANT
MONTI TO SERVE NOTICE ON
CALIFORNIA ATTORNEY GENERAL;
REVISING BRIEFING SCHEDULE ON
DEFENDANT MONTI'S MOTION TO
DISMISS; CONTINUING CASE
MANAGEMENT CONFERENCE**

On August 31, 2016, plaintiff Eduardo Guilarte ("Guilarte") filed his Second Amended Complaint, in which he alleges that his state law claims against defendant Andrea Monti ("Monti") are timely in light of § 351 of the California Code of Civil Procedure. In response thereto, Monti filed, on September 14, 2016, a motion to dismiss, in which Monti argues, *inter alia*, § 351 is unconstitutional as applied to the allegations in the SAC. Monti has not, however, complied with the Local Rules of this District, as she has not filed any document demonstrating she has provided notice of said constitutional challenge to the California Attorney Attorney. See Civil L.R. 3-8(b).

Accordingly, no later than September 23, 2016, Monti shall file with the Clerk of Court, and serve on the California Attorney General, a Notice of Claim of Unconstitutionality with a copy of the motion to dismiss and a copy of this Order attached thereto. Proof of such service shall be filed concurrently therewith. See Fed. R. Civ. P. 5.1(a)(2).

In light of the above, the Court sets the following revised schedule as to Monti's motion to dismiss:

1. Guilarte shall file his opposition no later than November 23, 2016.

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2. If the State of California wishes to intervene for the purpose of responding to Monti's constitutional challenge to § 351, it shall do so and file its response no later than November 23, 2016. See Fed. R. Civ. P. 5.1(c).

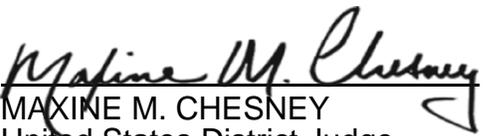
3. Monti shall file any reply no later than December 2, 2016.

4. The hearing on Monti's motion to dismiss is hereby CONTINUED from October 21, 2016, to December 16, 2016, at 9:00 a.m.

5. The Case Management Conference is hereby CONTINUED from October 7, 2016, to January 20, 2017, at 10:30 a.m. A Joint Case Management Statement shall be filed no later than January 13, 2017.

IT IS SO ORDERED.

Dated: September 20, 2016


MAXINE M. CHESNEY
United States District Judge