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12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE EASTERN DISTRICT OF CALIFORNIA
14

15 **MICHAEL RICHARDSON,**

16 Plaintiff,

17 v.

18 **JEFFERSON SESSIONS, in his official**
19 **capacities; XAVIER BECERRA, in his**
20 **official capacities,**

21 Defendants.
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2:17-cv-1838 JAM AC PS

JOINT STATUS REPORT

Date: May 16, 2018
Time: 10:00 a.m.
Courtroom: 26
Judge: Magistrate Judge Allison
Claire
Trial Date: None set
Action Filed: September 5, 2017

1 Pursuant to this Court's Order Setting Status Conference, dated September 14, 2017, and
2 Local Rule 240, and in anticipation of the Status (Pretrial Scheduling) Conference currently set
3 for May 16, 2018, Plaintiff Michael Richardson (Plaintiff) and Defendant Attorney General
4 Xavier Becerra (Defendant) jointly submit the following Joint Status Report. This Joint Status
5 Report follows the parties' conference pursuant to Federal Rule of Procedure rule 26(f) on April
6 23, 2018.

7 This case involves Plaintiff's as-applied constitutional challenges to California's Sex
8 Offender Registration Act (Cal. Pen. Code § 290–290.024) and Megan's Law (Cal. Pen. Code §
9 290.46).

10 **a. Service of Process**

11 Service of process in this action is complete. Defendant Attorney General Becerra filed
12 an executed Waiver of Service of Summons on November 24, 2017. ECF No. 9. Defendant
13 Attorney General Session was dismissed from this action by order of this Court on February 8,
14 2018, following Plaintiff's motion to dismiss him. ECF Nos. 17, 21.

15 **b. Joinder of Additional Parties**

16 The parties do not anticipate the joinder of any additional parties.

17 **c. Amendment of the Pleadings**

18 Plaintiff's position: Plaintiff anticipates possible amendments to the complaint dependent
19 upon the substance in the answer from the Defendant on Plaintiff's first through fifth claims of
20 Plaintiff's complaint or other pleadings by Defendant and dependent upon Defendant's
21 forthcoming motion for judgment on the pleadings with leave to amend (see section e.,
22 below). Also, amendment may be dependent upon the Court's ruling on Defendant's pending
23 motion to dismiss claims six through nine of Plaintiff's complaint and if the Court finds Plaintiff
24 must amend and grants leave to amend.

25 Defendant's position: Defendant has not yet filed an answer to the complaint.

26 **d. Jurisdiction and Venue**

27 The parties do not dispute that this court has jurisdiction over this action or that this is the
28 proper venue.

1 **e. Anticipated Motions and Their Scheduling**

2 Plaintiff's position: Plaintiff anticipates motions, or other necessary pleadings, dependent
3 upon the substance in the answer from the Defendant on Plaintiff's first through fifth claims of
4 Plaintiff's complaint or other pleadings by Defendant.

5 Plaintiff anticipates filing motion in limine pursuant to Federal Rules of Evidence 103(a)-
6 (e) and Federal Rules of Evidence 702(a)-(d), and Rule 703 concerning the inadmissibility of
7 evidence pursuant to Federal Rules of Evidence Rules 402 and 403 all dependent upon the
8 substance of full discovery.

9 Defendant's position: Defendant anticipates filing a motion for judgment on the pleadings
10 pursuant to Federal Rules of Civil Procedure rule 12(c) on Plaintiff's first through fifth claims in
11 the complaint within 30 days of the district judge's ruling on Defendant's pending motion to
12 dismiss Plaintiff's sixth through ninth claims. If any claims remain following this motion,
13 Defendant anticipates filing a motion for summary judgment prior to the deadline for hearings on
14 non-discovery matters. Defendant would also anticipate filing motions in limine.

15 **f. Fed. R. Civ. Proc. Rule 26(f) Discovery Plan**

- 16 1. What changes should be made in the timing, form, or requirement for disclosures
17 under Rule 26(a), including a statement of when initial disclosures were made or
18 will be made

19 The parties do not believe that any changes should be made to the timing, form, or
20 requirement for disclosures under Rule 26(a). The parties have agreed to exchange initial
21 disclosures no later than May 7, 2018.

- 22 2. The subjects on which discovery may be needed, when discovery should be
23 completed, and whether discovery should be conducted in phases or be limited to
24 or focused on particular issues

25 Plaintiff's position: Plaintiff anticipates needing full discovery that is in Defendant's
26 possession as well as all requirements under Federal Rules of Civil Procedure Rule 26 et seq.

27 Defendant's position: Defendant believes that this action can be resolved as a matter of
28 law based on his forthcoming motion for judgment on the pleadings. However, in case that

1 motion is denied, in whole or in part, Defendant intends to conduct discovery on the nature of
2 Plaintiff's remaining claims, the burdens which Plaintiff purports to experience as a result of the
3 statutes at issue, the scientific studies that Plaintiff relies on in support of his position, and any
4 other matter than may appear to be at issue based on Plaintiff's initial disclosures.

5 The parties do not believe that discovery should be conducted in phases or limited to or
6 focused on particular issues.

7 The parties' proposed dates for the completion of discovery are included in response to
8 section g., below.

9 3. Any issues about disclosure, discovery, or preservation of electronically stored
10 information, including the form or forms in which it should be produced

11 The parties do not foresee any conflicts regarding these issues. The parties discussed their
12 obligations to preserve evidence during their Rule 26(f) conference.

13 4. Any issues about claims of privilege or of protection as trial-preparation materials,
14 including—if the parties agree on a procedure to assert these claims after
15 production—whether to ask the court to include their agreement in an order under
16 Federal Rule of Evidence 502

17 At this time, the parties do not foresee any conflicts related to these issues and do not ask
18 the court to enter any order under Federal Rule of Evidence 502.

19 5. What changes should be made in the limitations on discovery imposed under these
20 rules or by local rule, and what other limitations should be imposed

21 The parties do not believe that any changes should be made to the limitations on
22 discovery.

23 6. Any other orders that the court should issue under Rule 26(c) or under Rule 16(b)
24 and (c)

25 The parties do not believe that the court should issue any such orders at this time.
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1 **g. Future Proceedings**

2 The parties propose the following cut-off dates for discovery and law and motion, and
3 dates for the pretrial conference and trial:

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5 Disclosure of experts	August 7, 2018
6 Supplemental disclosure of experts	September 6, 2018
7 Discovery cut-off (including hearings on discovery matters)	October 19, 2018
8 Hearings on non-discovery matters	November 16, 2018
9 Pretrial conference	November 28, 2018
10 Trial	December 5, 2018

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13 **h. Special Procedures**

14 The parties do not anticipate that this action requires or will involve any special procedures.

15 **i. Estimated Trial Time**

16 The parties estimate that trial will last approximately 2–3 days.

17 **j. Modification of Standard Pretrial Procedures**

18 The parties do not believe it is necessary to modify the standard pretrial procedures for
19 this action.

20 **k. Relation to Other Cases**

21 The parties are unaware of any pending case related to this action.

22 **l. Scheduling of Settlement Conference**

23 The parties do not believe a settlement conference would be beneficial. Because this case
24 involves an as-applied constitutional challenge to California statutes, settlement is extremely
25 unlikely. The parties therefore ask this Court not to schedule a settlement conference.

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m. Stipulation to Magistrate Judge for Settlement Conference

Although the parties ask the Court not to schedule a settlement conference, if this Court nevertheless orders a settlement conference, the parties stipulate to the magistrate judge acting as the settlement judge.

n. Other Matters

Plaintiff believes the absent of guidance in federal rules concerning partial motions to dismiss, as well as divided case law concerning such a motion, will be discussed during Status (Pretrial Scheduling) Conference and the concerns will need to be addressed by the Court.

Dated:

Michael Richardson
Plaintiff in pro per

Dated:

XAVIER BECERRA
Attorney General of California
MARK BECKINGTON
Supervising Deputy Attorney General

By:

GABRIELLE D. BOUTIN
Deputy Attorney General
*Attorneys for Defendant
Attorney General Xavier Becerra*

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