

BY FAX

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**Exempt From Filing Fees
Government Code § 6103**

FILED

APR 23 2018

JAMES M. KIM, Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: E. Chais, Deputy

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF MARIN

12
13 **JARVIS JAY MASTERS and WITNESS
TO INNOCENCE,**

14 Plaintiffs,

15 v.

16
17 **SCOTT KERNAN, Secretary of the
California Department of Corrections and
18 Rehabilitation, et al.,**

19 Defendants.

Case No. CIV 1800580

**NOTICE OF MOTION AND MOTION
TO STRIKE PORTIONS OF PRAYER
FOR RELIEF**

Date: 5/30/2018
Time: 1:30 PM
Dept: B
Judge: The Honorable Roy O. Chernus
Trial Date: Not Set
Action Filed: February 21, 2018

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21 **TO: PLAINTIFFS JARVIS JAY MASTERS and WITNESS TO INNOCENCE and
22 their counsel of record:**

23 Please take notice that on 5/30/18, at 1:30 p.m., or as soon thereafter as the
24 matter may be heard, in Department B of the Superior Court of California, County of Marin, 3501
25 Civic Center Drive, San Rafael, California, 94903, defendants California Department of
26 Corrections and Rehabilitation (CDCR), Kernan, and Davis will, and hereby do, move to strike
27 portions of the prayer for relief contained in the complaint filed on February 16, 2018. This
28 motion is filed under Code of Civil Procedure section 435, et. seq., on grounds that the prayer for

1 relief, paragraphs 1 and 3 (Compl. at p. 13:6-8, 13:14-17), contain false, irrelevant, and improper
2 matter. This motion will be based on this notice; the supporting memorandum of points and
3 authorities; the pleadings and papers on file in this action; and on such other materials as may
4 properly come before the court.

5 **PLEASE TAKE FURTHER NOTICE** that by 2:00 p.m. on the court business day
6 preceding the hearing date, a tentative ruling will be available online at the court's website. If
7 you wish to appear for oral argument, you must notify the court and opposing counsel by 4:00
8 p.m. one court day before the scheduled hearing, pursuant to California Rule of Court 3.1308.
9 Absent a request for oral argument, the tentative ruling will be adopted as final at the time set for
10 hearing.

11 **PLEASE TAKE FURTHER NOTICE** that Superior Court of California, County of Marin
12 Local Rule 8.20 governs the appearance of parties telephonically through CourtCall.¹ CourtCall
13 arrangements may be made by contacting CourtCall, LLC at the toll free telephone number 1-
14 888-882-6878.

15
16 Dated: April 10, 2018

Respectfully Submitted,

17 XAVIER BECERRA
18 Attorney General of California
19 JAY M. GOLDMAN
Supervising Deputy Attorney General

20 

21 R. LAWRENCE BRAGG
22 Supervising Deputy Attorney General
23 *Attorneys for Defendants California*
24 *Department of Corrections and*
Rehabilitation, Kernan and Davis

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27 _____
28 ¹ A copy of this local rule was served on plaintiff with this motion to strike.

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Masters v. Kernan, et al.**
No.: **CIV 1800580**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On April 23, 2018, I served the attached **NOTICE OF MOTION AND MOTION TO STRIKE PORTIONS OF PRAYER FOR RELIEF** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

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Linda Lye, Esq.
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39 Drumm St., 2nd Floor
San Francisco, CA 94111
Attorneys for Plaintiffs,
Jarvis Masters, C-35169

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 April 23, 2018, at Sacramento, California.

M. Schwarzkopf
Declarant


Signature