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By Fax

1 KAMALA D. HARRIS
2 Attorney General of California
3 THOMAS S. PATTERSON
4 Supervising Deputy Attorney General
5 State Bar No. 202890
6 455 Golden Gate Avenue, Suite 11000
7 San Francisco, CA 94102-7004
8 Telephone: (415) 703-5727
9 Fax: (415) 703-5843
10 E-mail: Thomas.Patterson@doj.ca.gov
11 *Attorneys for Defendants*
12 *California Department of Corrections and*
13 *Rehabilitation and Matthew Cate*

FILED

APR 26 2012

KIM TURNER
Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: S. McConnell, Deputy

(Exempt from filing fees—
Gov. Code, § 6103.)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF MARIN

MITCHELL SIMS,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION, et al.,

Defendants.

Case No. CIV1004019

NOTICE OF APPEAL

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN that defendants the California Department of Corrections and Rehabilitation and its Secretary, Matthew Cate, appeal to the Court of Appeal for the First District from the judgment filed on February 21, 2012, in favor of plaintiff Mitchell Sims.

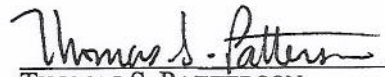
The state has expended significant time and resources developing a three-drug lethal-injection protocol for carrying out the death penalty, and this protocol conforms with a procedure that has been upheld by the United States Supreme Court. This notice of appeal is filed because the state's three-drug protocol is the law of California and should not be abandoned without

1 appellate review, and because the superior court made fundamental errors in issuing its decision.
2 At the same time, appellants recognize that the availability of the three drugs comprising the
3 current protocol is uncertain. If it becomes certain in the future that the drugs needed to
4 implement the protocol have, in fact, become unavailable, appellants will reevaluate whether this
5 appeal, or any portions of it, should continue to be prosecuted. In the meantime, under the
6 Governor's direction, the California Department of Corrections and Rehabilitation will also begin
7 the process of considering alternative regulatory protocols, including a one-drug protocol, for
8 carrying out the death penalty.

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10 Dated: April 26, 2012

Respectfully Submitted,

11 KAMALA D. HARRIS
12 Attorney General of California

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15 THOMAS S. PATTERSON
16 Supervising Deputy Attorney General
17 *Attorneys for Defendants*
California Department of Corrections and
Rehabilitation and Matthew Cate

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **M. Sims v. CDCR, et al.**

No.: **CIV1004019**

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 26, 2012, I served the attached

NOTICE OF APPEAL

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 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

Sara J. Eisenberg, Esq.
Howard Rice Nemerovski Canady
Falk & Rabkin
Three Embarcadero Center, 7th Floor
San Francisco, CA 94111-4024
Attorney for Plaintiff
Mitchell Sims

Norman C. Hile
Orrick, Herrington & Sutcliffe LLP
400 Capitol Mall, Suite 3000
Sacramento, CA 94814-4497

Jan B. Norman
Attorney at Law
1000 Wilshire Boulevard, Suite 600
Los Angeles, CA 90017

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 26, 2012, at San Francisco, California.

T. Oakes
Declarant


Signature