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11 *Attorneys for Defendants*

12 UNITED STATES DISTRICT COURT
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 JOANNA MAXON, *et al.*,

15 Plaintiffs,

16 v.

17 FULLER THEOLOGICAL
18 SEMINARY, *et al.*,

19 Defendants.
20

No. 2:19-cv-09969-CBM-MRW

**DEFENDANTS’ NOTICE OF MO-
TION AND MOTION TO DISMISS
PLAINTIFFS’ FIRST AMENDED
COMPLAINT**

(Memorandum of Points and Authori-
ties; Request for Judicial Notice; Decla-
ration of Daniel H. Blomberg; and (Pro-
posed) Order Filed Concurrently)

Date: April 14, 2020

Time: 10:00 a.m.

Dept: Courtroom 8B

Judge: Honorable Consuelo B. Marshall
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1 TO ALL PLAINTIFFS AND TO THEIR ATTORNEY OF RECORD:

2 PLEASE TAKE NOTICE that on April 14, 2020 at 10:00 a.m., or as soon
3 thereafter as the matter may be heard in Courtroom 8B of the United States Court-
4 house for the Central District of California, 350 W. 1st Street, Los Angeles, Califor-
5 nia, Honorable Consuelo B. Marshall presiding, Defendants will and hereby do
6 move the Court for an order dismissing, with prejudice, Plaintiffs' First Amended
7 Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a
8 claim upon which relief can be granted.

9 The primary basis for Defendants' Motion is that Fuller Theological Seminary
10 dismissed both Plaintiffs for clear violations of its community standards, standards
11 which reflect its sincere religious beliefs and which both Plaintiffs expressly agreed
12 to abide by as a continuing condition of their enrollment. Neither Title IX nor the
13 Unruh Civil Rights Act impose liability for those dismissals, and imposition of lia-
14 bility under those laws or any of the asserted state-law claims would interfere in the
15 Seminary's internal religious affairs and violate the Defendants' First Amendment
16 rights. Plaintiffs' claims are also time-barred, insufficiently pled, and/or otherwise
17 barred as a matter of law.

18 This Motion is made following a conference of counsel pursuant to Local Rule
19 7-3 which took place by telephone on February 13, 2020, and Plaintiffs' counsel
20 indicated their opposition to this Motion.

21 This Motion is based on this Notice of Motion and Motion, the accompanying
22 Memorandum of Points and Authorities, the Request for Judicial Notice, the Decla-
23

1 ration of Daniel H. Blomberg in support of the Motion, all pleadings, exhibits, doc-
2 uments, and other records and files in this action properly considered under a Rule
3 12(b)(6) motion, and upon such other arguments as may be presented at the hearing
4 in this matter.

5
6 Dated: February 20, 2020

THE BECKET FUND FOR
RELIGIOUS LIBERTY

7 /s Daniel H. Blomberg
8 DANIEL H. BLOMBERG
9 ERIC S. BAXTER
DIANA M. VERM

10 SOLTMAN, LEVITT, FLAHERTY &
11 WATTLES LLP

12 /s Kevin S. Wattles
13 KEVIN S. WATTLES

14 Counsel for Defendants Fuller
15 Theological Seminary, Marianne
16 Meye Thompson, Mari L.
17 Clements, and Nicole Boymook

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

JOANNA MAXON, et al.,

Plaintiffs,

v.

FULLER THEOLOGICAL
SEMINARY, et al.,

Defendants.

No. 2:19-cv-09969-CBM-MRW

**(PROPOSED) ORDER GRANTING
DEFENDANTS' MOTION TO
DISMISS PLAINTIFFS' FIRST
AMENDED COMPLAINT**

(Pursuant to Fed. R. Civ. P. 12(b)(6))

Date: April 14, 2020

Time: 10:00 a.m.

Dept: Courtroom 8B

Judge: Honorable Consuelo B. Marshall

1 Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint was
2 heard by this Court on April 14, 2020, at 10:00 a.m. Having considered all papers
3 filed in support of and in opposition to the Motion, oral arguments of counsel, and
4 all other pleadings and papers on file herein, the Court finds as follows:

5 1. Plaintiffs have failed to state claims for violations of Title IX, the Unruh Civil
6 Rights Act, and the Equity in Higher Education Act.

7 2. Plaintiffs' Title IX and state-law claims are barred by the Religion Clauses.

8 3. Plaintiffs' Title IX and state-law claims are barred by the First Amendment's
9 protections for freedom of association and assembly.

10 4. Plaintiffs' Title IX claims are barred by the Religious Freedom Restoration Act.

11 5. Plaintiff Brittsan's claims under Title IX, the Unruh Civil Rights Act, and the
12 Equity in Higher Education Act are all barred by the statute of limitations.

13 6. Plaintiffs have failed to state legally sufficient claims for breach of contract,
14 covenant of good faith and fair dealing, and fraudulent misrepresentation.

15 7. Plaintiffs' claims under Sections 66290.1 and 66290.2 of the Equity in Higher
16 Education Act, as applied, violate the First Amendment.

17 IT IS HEREBY ORDERED that Defendants' Motion to Dismiss Plaintiffs'
18 First Amended Complaint is GRANTED. All claims for relief against the
19 Defendants are hereby DISMISSED with prejudice.

20
21 DATED: _____
22 _____
23 CONSUELO B. MARSHALL
UNITED STATES DISTRICT JUDGE