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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' REQUEST FOR  
JUDICIAL NOTICE IN SUPPORT  
OF MOTION TO DISMISS PLAINTIFFS' FIRST AMENDED COMPLAINT**

(Notice of Motion and Motion; Memorandum of Points and Authorities; Declaration of Daniel H. Blomberg; and (Proposed) Order Filed Concurrently)

Date: April 14, 2020

Time: 10:00 a.m.

Dept: Courtroom 8B

Judge: Honorable Consuelo B. Marshall

1 TO THE COURT AND ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that pursuant to Federal Rule of Evidence 201, De-  
3 fendants hereby request that the Court take judicial notice of the following document,  
4 attached as Exhibit 1 here and as Exhibit 1 to the Declaration of Daniel H. Blomberg,  
5 in support of Defendants’ Motion to Dismiss Plaintiffs’ First Amended Complaint:

6 1. Fuller’s Restated Articles of Incorporation, filed March 24, 1997, a true and  
7 correct copy of which is attached hereto as **Exhibit 1** and is available at the website  
8 for the office for the Secretary of State of the State of California at [https://business-](https://business-search.sos.ca.gov/)  
9 [search.sos.ca.gov/](https://business-search.sos.ca.gov/).

10 When ruling on a Rule 12(b)(6) motion, a court may look beyond the pleadings  
11 at “documents incorporated into the complaint by reference, and matters of which a  
12 court may take judicial notice.” *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551  
13 U.S. 308, 322 (2007). This includes documents that are relied upon in the complaint  
14 even if they are not attached or explicitly referred to in the complaint. *Neilson v.*  
15 *Union Bank of Cal., N.A.*, 290 F. Supp. 2d 1101, 1114 (C.D. Cal. 2003); *see also*  
16 *United Alloys v. Baker*, No. CV 93-4722 CBM, 2010 WL 11515471, at \*3 (C.D. Cal.  
17 Mar. 26, 2010) (“[A] court can take judicial notice without converting [a motion to  
18 dismiss] into a motion for summary judgment,” and “may also consider . . . docu-  
19 ments whose contents are alleged in a complaint and whose authenticity no party  
20 questions, but which are not physically attached to the [plaintiff’s] pleading.”) (in-  
21 ternal quotation marks omitted).

22 Judicial notice is proper when a fact is “not subject to reasonable dispute in that  
23 it is . . . capable of accurate and ready determination by resort to sources whose

1 accuracy cannot reasonably be questioned.” *Wible v. Aetna Life Ins. Co.*, 375 F. Supp.  
2 2d 956, 965 (C.D. Cal. 2005); *see also* Fed. R. Evid. 201(b). Courts may take judicial  
3 notice of “[p]ublic records and government documents available from reliable  
4 sources on the Internet, such as websites run by governmental agencies.” *Gerritsen*  
5 *v. Warner Bros. Entm’t Inc.*, 112 F. Supp. 3d 1011, 1033 (C.D. Cal. 2015) (internal  
6 citations omitted). This Court has accordingly taken judicial notice of documents on  
7 the California Secretary of State’s website. *Id.*

8 The authenticity of the Seminary’s Restated Articles of Incorporation cannot rea-  
9 sonably be questioned, in part because they are official public documents and are  
10 available at the official government website of the office for the Secretary of State  
11 of the State of California at <https://businesssearch.sos.ca.gov/>. Thus, under the stand-  
12 ards for proper judicial notice, the Court may properly consider the Seminary’s Re-  
13 stated Articles of Incorporation.

14  
15 Dated: February 20, 2020

THE BECKET FUND FOR  
RELIGIOUS LIBERTY

16  
17 /s/ Daniel H. Blomberg  
DANIEL H. BLOMBERG  
ERIC S. BAXTER  
DIANA M. VERM

18  
19 SOLTMAN, LEVITT, FLAHERTY &  
20 WATTLES LLP

21 /s/ Kevin S. Wattles  
KEVIN S. WATTLES

22  
23 Counsel for Defendants

**EXHIBIT 1**

256957

FILED

in the office of the Secretary of State  
of the State of California

A490110

MAR 24 1997

RESTATED

ARTICLES OF INCORPORATION

OF

FULLER THEOLOGICAL SEMINARY

*Bill Jones*  
BILL JONES, Secretary of State

Richard J. Mouw and H. Lee Merritt certify that:

1. We are the president and the secretary, respectively, of FULLER THEOLOGICAL SEMINARY, a California nonprofit religious corporation.
2. The Articles of Incorporation of this corporation are amended and restated to read as set forth in full in the document titled "RESTATED ARTICLES OF INCORPORATION OF FULLER THEOLOGICAL SEMINARY" which is attached hereto and by this reference is incorporated herein.
3. The foregoing amendment and restatement of the Articles of Incorporation has been duly approved by the Board of Trustees.
4. The foregoing amendment and restatement of the Articles of Incorporation has been duly approved by the required two-thirds (2/3rd) vote of the total number of regular members, the required two-thirds (2/3rd) vote of the total number of theology faculty, and the required two-thirds (2/3rd) vote of the total number of nontheology faculty, as required by Article XII of the Articles of Incorporation as in effect before this amendment and restatement.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

Date: March 5 1997

*Richard J. Mouw*  
\_\_\_\_\_  
Richard J. Mouw, President

*H. Lee Merritt*  
\_\_\_\_\_  
H. Lee Merritt, Secretary

RESTATED

ARTICLES OF INCORPORATION

OF

FULLER THEOLOGICAL SEMINARY

ARTICLE I

The name of this corporation is FULLER THEOLOGICAL SEMINARY.

ARTICLE II

This corporation is a religious corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Religious Corporation Law exclusively for religious purposes. This corporation elects to be governed by all of the provisions of the Nonprofit Religious Corporation Law of 1980 not otherwise applicable to it under Part 5. A further description of the corporation's purposes is as follows:

to establish, conduct, and maintain a seminary of religious learning to prepare men and women for the manifold ministries of Christ and his Church.

ARTICLE III

This corporation is organized and operated exclusively for religious purposes within the meaning of Section 501 (c) (3) of the Internal Revenue Code of 1986, as amended (or the corresponding provisions of any future United States Internal Revenue Law).

No substantial part of the activities of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and this corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of (or in opposition to) any candidate for public office.

ARTICLE IV

Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501 (c) (3) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States Internal Revenue Law), or (b) by a corporation, contributions to which are deductible under Section 170 (c) (2) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States Internal Revenue Law).

ARTICLE V

The property of this corporation is irrevocably dedicated to religious purposes, and no part of the net income or assets of this corporation shall ever inure to the benefit of any director, officer, or member thereof, or to the benefit of any private person. Upon the dissolution or winding up of this corporation, its assets remaining after payment or provision for payment of all debts and liabilities of this corporation shall be distributed to a nonprofit fund, foundation, or corporation which is organized and operated exclusively for religious purposes and which has established its tax-exempt status under Section 501 (c) (3) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States Internal Revenue Law).

ARTICLE VI

This corporation's Articles of Incorporation shall not include any statement of faith without the affirmative two-thirds (2/3) vote of trustees and faculty members of the seminary as set forth in Article III, Section 3 of this corporation's bylaws. This Article VI shall not be amended and/or repealed without the affirmative two-thirds (2/3) vote of trustees and faculty members of the seminary as set forth in Article XIII, Section 1 of this corporation's bylaws.

ARTICLE VII

The revised and restated articles set forth above eliminate the class of regular members, the class of theology members, and the class of nontheology members as set forth in the former Article VII. The corporation shall have no members within the statutory meaning of California Corporation Code 5056.