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19 UNITED STATES DISTRICT COURT  
20 FOR THE CENTRAL DISTRICT OF CALIFORNIA

21 JOANNA MAXON, *et al.*,  
22 Plaintiffs,  
23 v.  
24 FULLER THEOLOGICAL  
25 SEMINARY, *et al.*,  
26 Defendants.

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

**NOTICE OF MOTION AND  
MOTION FOR LEAVE TO FILE  
NOTICE OF SUPPLEMENTAL  
AUTHORITY**

(Proposed Notice of Supplemental  
Authority Filed Concurrently)

Date: August 4, 2020

Time: 10:00 a.m.

Dept: Courtroom 8B

Judge: Honorable Consuelo B. Marshall

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1 Defendants Fuller Theological Seminary, Mari Clements, Marianne Thompson, and  
2 Nicole Boymook (together, the “Seminary”) seek leave to file a notice of supplemental  
3 authority to their fully briefed motion to dismiss. *See* Judge Marshall Standing Order  
4 7(a); *see also* Dkt. 62 (setting oral argument for August 4). Plaintiffs do not oppose this  
5 motion.

6 Plaintiffs claim that the Seminary violated Title IX. They argue that the Seminary is  
7 not eligible for Title IX’s exemption for religious educational institutions because,  
8 among other things, they believe federal regulations limit the exemption to institutions  
9 that first specifically request that the Department of Education recognize their eligibility  
10 to assert the exemption. Dkt. 53 at 10-11.

11 After the close of briefing on the motion to dismiss, the Department issued a final  
12 rule amending the regulations on which Plaintiffs rely. The amendment clarifies that a  
13 religious educational institution is not now, and has never been, “required to seek assur-  
14 ance . . . in order to assert [the religious] exemption.” 85 Fed. Reg. 30026, 30475 (May  
15 19, 2020). The Department explained that “no part” of Title IX’s text even “suggests”  
16 that exempt religious schools must apply for an exemption in order to be able to exercise  
17 it, that interpretations to the contrary are “incorrect[,]” and that the amended regulation  
18 merely “codif[ied]” “longstanding [Department] practice” that an application is permis-  
19 sible but unnecessary. *Id.* The final rule is further meant to “align with the Title IX statute,  
20 the First Amendment, and the Religious Freedom Restoration Act.” *Id.*

21 Because the new final rule squarely rebuts Plaintiffs’ argument on this point, it is  
22 relevant to this Court’s consideration of the Seminary’s pending motion to dismiss. *See*  
23 *Resnick v. Hyundai Motor Am., Inc.*, No. 16-cv-00593, 2017 WL 6549931, at \*14 n.7  
24 (C.D. Cal. Aug. 21, 2017) (suggesting supplemental authority filings should “summarize”  
25 the new authority and “describe how it applies”). Accordingly, the Seminary asks this  
26 Court to grant leave to file the attached notice of supplemental authority.  
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Dated: July 9, 2020  
/s/ Kevin S. Wattles  
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Respectfully submitted,  
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24 FULLER THEOLOGICAL  
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26 Defendants.

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

**PROPOSED NOTICE OF  
SUPPLEMENTAL AUTHORITY**

Date: August 4, 2020

Time: 10:00 a.m.

Dept: Courtroom 8B

Judge: Honorable Consuelo B. Marshall

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1 Defendants Fuller Theological Seminary, Mari Clements, Marianne Thompson, and  
2 Nicole Boymook (together, the “Seminary”) respectfully notify this Court of new au-  
3 thority bearing on the Seminary’s pending motion to dismiss, Dkt. 46.

4 Title IX provides an exemption for religious educational institutions. 20 U.S.C.  
5 § 1681(a). The United States Department of Education recently issued a new final rule  
6 that amends the Title IX regulation at 34 C.F.R. § 106.12(b) to make clear that such  
7 institutions are not, and never have been, required “to first seek assurance of such an  
8 exemption from the Department” before they can raise it as a defense to a Title IX claim.  
9 85 Fed. Reg. 30026, 30475 (May 19, 2020). *Cf.* Plaintiffs’ Opp., Dkt. 53 at 10-11 (claim-  
10 ing that the Seminary was required to seek assurance in order to claim the Title IX reli-  
11 gious exemption).

12  
13 Dated: July 9, 2020

Respectfully submitted,

14 /s/ Kevin S. Wattles

/s/ Daniel H. Blomberg

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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  
UNOPPOSED MOTION TO FILE  
NOTICE OF SUPPLEMENTAL AU-  
THORITY**

Honorable Consuelo B. Marshall

Pursuant to Defendants’ Unopposed Motion for Leave to File a Notice of Supplemental Authority dated July 9, 2020, the Court hereby **GRANTS** the motion and accepts Defendants’ Notice of Supplemental Authority dated July 9, 2020.

IT IS SO ORDERED.

DATED: \_\_\_\_\_

\_\_\_\_\_  
CONSUELO B. MARSHALL  
UNITED STATES DISTRICT JUDGE

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