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11 *Attorneys for Plaintiff*
AURORA REGINO
12 * *Pro hac vice motion forthcoming*

13
14 **IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

15 AURORA REGINO,

16 Plaintiff,

17 vs.

18 SUPERINTENDENT KELLY STALEY, in
her official capacity; CAITLIN DALBY, in her
19 official capacity; REBECCA KONKIN, in her
official capacity; TOM LANDO, in his official
20 capacity; EILEEN ROBINSON, in her official
capacity; and MATT TENNIS, in his official
21 capacity,

22 Defendants.
23

Case No.: 2:23-cv-00032-JAM-DMC

PLAINTIFF'S MOTION TO STRIKE

Date: April 4, 2023

Time: 1:30 p.m.

Courtroom: 6, 14th Floor

Judge: Hon. John A. Mendez

Complaint Filed: January 6, 2023

Trial Date: Not Yet Set

1 Plaintiff Aurora Regino hereby submits this Motion to Strike under Rule 12(f) of the
2 Federal Rules of Civil Procedure.

3 Proposed-Defendant-Intervenor Gender & Sexualities Alliances Network (“GSA”) has no
4 cognizable interest in this case. It is neither a parent of a student affected by the Defendants’
5 unlawful policies nor a student itself. It has filed a Motion to Intervene (Dkt. No. 22), a proposed
6 Opposition to Plaintiff’s Motion for a Preliminary Injunction (Dkt. No. 22-2), a proposed
7 Declaration of Jack Turban, an activist in the gender-affirmation movement (Dkt. No. 22-3), and
8 a proposed Answer (Dkt. No. 22-4). Plaintiff intends to file an Opposition to GSA’s Motion to
9 Intervene within the time provided for in the Local Rules of this Court. (E.D. Cal. Local Rule
10 230(c).) In the meantime, this Motion to Strike is directed at GSA’s proposed Opposition and
11 Declaration because it was improper for GSA to file these documents without the Court first
12 granting it leave to intervene.

13 ARGUMENT

14 Fed. R. Civ. P. 12(f) provides, in relevant part, that a court “may order stricken from any
15 pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.”
16 This includes filings by a proposed intervenor who “failed to seek leave of the court” prior to
17 filing. *Doutherd v. Montesdeoca*, No. 2:17-cv-02225-MCE-EFB, 2019 WL 1315726, at *4 (E.D.
18 Cal. Mar. 22, 2019). “[W]hether to grant a motion to strike lies within the sound discretion of the
19 district court.” *Brooks v. BevMo! Inc., et al.*, No. 20-cv-01216-MCE-DB, 2021 WL 3602152, at
20 *1 (E.D. Cal. Aug. 13, 2021); *Fantasy, Inc. v. Fogerty*, 984 F.d 1524, 1528 (9th Cir. 1993).

21 To intervene in this action, GSA must have leave of Court pursuant to Fed. R. Civ. P. 24.
22 The filing of GSA’s proposed Opposition (Dkt. No. 22-2) and Declaration (Dkt. No. 22-3) without
23 permission from the Court to intervene is procedurally improper. GSA should have sought leave

1 “prior to filing a proposed opposition.” *Drakes Bay Oyster Co. v. Salazar*, No. 12-cv-06134-YGR,
2 2013 WL 451813 at *9 n.6 (N.D. Cal. Feb. 4, 2013). Moreover, GSA lacks standing to file an
3 opposition because it has not been permitted to intervene in this case. *See, e.g., Gallucci v. Boiron,*
4 *Inc.*, No. 11-cv-2039-JAH, 2012 WL 12864924, at *3 (S.D. Cal. Apr. 25, 2012); *Block v.*
5 *Washington State Bar Ass’n*, No. C15-2018-RSM, 2016 WL 7734884, at *6 (W.D. Wash. April
6 19, 2016). When a proposed intervenor files a pleading prior to being given permission to
7 intervene, it is proper to grant a motion to strike that pleading. *See, e.g., Primerica Life Insurance*
8 *Company v. Pawlik*, MO:20-cv-63-DC, 2022 WL 1111020, at *1 (W.D. Texas April 4, 2022);
9 *Montana v. EPA*, 941 F. Supp. 945, 958 (D. Mont. March 27, 1996).

10 In filing the documents at issue here, GSA failed to adhere to the Federal Rules of Civil
11 Procedure, this Court’s Local Rules, and the well-established principle that non-parties may not
12 participate in a case without the Court’s permission. The Court should therefore strike these filings.

13 **CONCLUSION**

14 For the foregoing reasons, the Court should strike GSA’s proposed Opposition (Dkt. No.
15 22-2) and proposed Declaration (Dkt. No. 22-3).

16 Respectfully submitted,

17 Dated: February 21, 2023

DHILLON LAW GROUP INC.
CENTER FOR AMERICAN LIBERTY

18 */s/ Harmeet K. Dhillon*

19 HARMEET K. DHILLON
20 MICHAEL A. COLUMBO
21 MARK TRAMMELL*
22 JOSHUA W. DIXON
23 ERIC A. SELL

Attorneys for Plaintiff
AURORA REGINO

*Pro Hac Vice Motion forthcoming

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13 **IN THE UNITED STATES DISTRICT COURT**
14 **EASTERN DISTRICT OF CALIFORNIA**

15 AURORA REGINO,
16 Plaintiff,
17 vs.

18 SUPERINTENDENT KELLY STALEY, in
her official capacity; CAITLIN DALBY, in her
19 official capacity; REBECCA KONKIN, in her
official capacity; TOM LANDO, in his official
20 capacity; EILEEN ROBINSON, in her official
capacity; and MATT TENNIS, in his official
21 capacity,
22 Defendants.

Case No.: 2:23-cv-00032-JAM-DMC

**PLAINTIFF’S NOTICE OF MOTION TO
STRIKE**

Date: April 4, 2023
Time: 1:30 p.m.
Courtroom: 6, 14th Floor
Judge: Hon. John A. Mendez

Complaint Filed: January 6, 2023
Trial Date: Not Yet Set

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that Plaintiff Aurora Regino will, on April 4 at 1:30 p.m. at the
3 Robert T. Matsui United States Courthouse, 501 I Street Sacramento, CA 95814, in Courtroom 6
4 before The Honorable John A. Mendez, move this Court for an order striking the proposed
5 Opposition to Plaintiff’s Motion for Preliminary Injunction (Dkt. No. 22-2) and proposed
6 Declaration of Jack Turban (Dkt. No. 22-3) of proposed-defendant-intervenor Gender &
7 Sexualities Alliances Network (“GSA”) on the grounds that GSA has not been granted the right to
8 intervene or file documents in this case, did not seek leave to file an amicus brief, and is not a party
9 to this case. Ms. Regino makes the motion because GSA does not have the right of a litigant to file
10 anything, much less a proposed Opposition and Declaration for the Court to consider in making
11 its ruling on her Motion for Preliminary Injunction. This motion is based upon this notice of motion
12 and motion, the points and authorities set forth therein, and upon such other matters as may be
13 presented to the Court at the time of the hearing.

14 Respectfully submitted,

15 Dated: February 21, 2023

DHILLON LAW GROUP INC.
CENTER FOR AMERICAN LIBERTY

17 */s/ Harmeet K. Dhillon*

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**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

AURORA REGINO,

Plaintiff,

vs.

SUPERINTENDENT KELLY STALEY, in
her official capacity; CAITLIN DALBY, in her
official capacity; REBECCA KONKIN, in her
official capacity; TOM LANDO, in his official
capacity; EILEEN ROBINSON, in her official
capacity; and MATT TENNIS, in his official
capacity,

Defendants.

Case No.: 2:23-cv-00032-JAM-DMC

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION TO STRIKE**

Having reviewed and considered Plaintiff's Motion to Strike, and all of the other papers filed by the parties in connection with the Motion, it is hereby **ORDERED** that the Motion to Strike is **GRANTED** pursuant to Federal Rule of Civil Procedure 12(f). Docket Entries 22-2 and 22-3 are hereby stricken from the Record.

IT IS SO ORDERD.

Dated: _____

The Honorable John A. Mendez
United States District Judge