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12 UNITED STATES DISTRICT COURT
 13 SOUTHERN DISTRICT OF CALIFORNIA

15 ELIZABETH MIRABELLI, an
 16 individual, and LORI ANN WEST, an
 17 individual,

Plaintiffs,

v.

20 MARK OLSON, in his official capacity as
 21 President of the EUSD Board of
 22 Education, et al.,

Defendants.

Case No.: 3:23-cv-0768-BEN-WVG

**Plaintiffs' Ex Parte Application for
 an Order to Show Cause re: Civil
 Contempt of Court and/or
 Clarification of the Preliminary
 Injunction Order**

Judge: Hon. Roger T. Benitez
 Courtroom: 5A

1 **TO: THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF**
2 **RECORD:**

3 PLEASE TAKE NOTICE that Plaintiffs Elizabeth Mirabelli and Lori Ann
4 West, by and through counsel, will and hereby do apply to the Court for an order to
5 show cause re: civil contempt, and/or clarification of the Court’s preliminary
6 injunction order entered on the docket on September 14, 2023, as ECF No. 42.
7 Plaintiffs seek civil contempt sanctions as against the EUSD Defendants for violating
8 the Court’s preliminary injunction order by not reinstating them in their regular job
9 duties (EUSD Board President Mark Olson, Board Vice President Frank Huston,
10 Board Clerk Joan Gardner, Board Member Doug Paulson, Board Member Zesty
11 Harper, Superintendent Luis Rankins-Ibarra, Assistant Superintendent John Albert,
12 Integrated Student Services Director Trent Smith, Integrated Student Supports
13 Director Tracy Schmidt, Rincon Middle School Principal Steve White).

14 Alternatively, to the extent that the Court views its order as insufficiently clear
15 for a civil contempt finding, Plaintiffs request a clarifying order requiring EUSD to
16 bring Plaintiffs back to work. In either eventuality, Plaintiffs also request that the
17 Court order the EUSD Defendants to pay their reasonable attorneys’ incurred in
18 attempting to compel EUSD to comply with the Court’s order.

19 This Application is made on the grounds that the Court ordered EUSD “to
20 restrain any governmental employee or entity from taking any adverse employment
21 actions thereupon against Plaintiffs Mirabelli or West, until further Order of this
22 Court.” ECF No. 42 at p.36. In so doing, the Court noted that Plaintiffs were suffering
23 irreparable harm from “hav[ing] involuntarily been placed on administrative leave
24 from their teaching positions.” *Id.*, pp.29-30. Yet over two months later, neither Mrs.
25 Mirabelli nor Mrs. West have been allowed to safely return to work.

26 This Application is supported by the accompanying Memorandum of Points and
27 Authorities, by the declarations of Paul M. Jonna, Esq., Elizabeth Mirabelli, and Lori
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1 Ann West, and by such further argument and evidence that may be adduced at any
2 hearing on this matter.

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Respectfully submitted,

LiMANDRI & JONNA LLP

Dated: December 6, 2023

By:



Charles S. LiMandri
Paul M. Jonna
Mark D. Myers
Jeffrey M. Trissell
Milan L. Brandon II
Attorneys for Plaintiffs
Elizabeth Mirabelli & Lori Ann West

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INTRODUCTION

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It has been over six months since Plaintiffs Elizabeth Mirabelli and Lori Ann West have been allowed to work, and over two and a half months since this Court entered its preliminary injunction order in Plaintiffs’ favor. Immediately after that order was issued, Plaintiffs inquired about how they would be allowed to safely return to work. For Mrs. Mirabelli, she had requested to go on voluntary administrative leave in light of her serious fears for her personal safety. For Mrs. West, EUSD placed her on involuntary administrative leave when an internal grievance complaint was filed against her.

In the two and a half months since this Court issued its order, EUSD has slow-walked taking any action to ensure Plaintiffs’ safety, emboldening Rincon Middle School personnel to even hold a protest against them, and has continued to insist that Mrs. West remain on administrative leave while it investigates patently frivolous and serial complaints. Back in October, Plaintiffs drafted and were about to file this contempt application. But based on EUSD’s representations, they held back, hoping that the parties could agree on how to bring Plaintiffs back to work.

Since that time, however, EUSD has continually pushed back the timeline, promising results within a week, and then granting itself a unilateral extension. Enough is enough. With no movement on the part of EUSD to comply with this Court’s preliminary injunction order, and only after multiple explicit warnings that a contempt application would be forthcoming, Plaintiffs are now forced to file this ex parte application for civil contempt.

Plaintiffs hope that no finding of civil contempt will be needed because EUSD will comply before any such hearing. But in the event that EUSD does not comply, Plaintiffs request a civil contempt finding and a further order to comply. Alternatively, to the extent that the Court views its order as insufficiently clear for a civil contempt finding, Plaintiffs request a clarifying order requiring EUSD to bring

1 Plaintiffs back to work. In any eventuality, Plaintiffs also request an order to EUSD to
2 pay their reasonable attorneys' fees in bringing this application. *See* CivLr 83.1.

3 PROCEDURAL HISTORY

4 A. PRE-PRELIMINARY INJUNCTION HISTORY

5 Plaintiffs Elizabeth Mirabelli and Lori Ann West initiated this federal civil
6 rights action on April 27, 2023. ECF No. 1, Compl. As explained in their complaint,
7 the Escondido Union School District (“EUSD”) adopted a policy requiring school
8 personnel to participate in a student’s social transition to a new gender and to
9 withhold any information about this social transition from the student’s parents. *Id.*
10 This violated Plaintiffs’ moral and religious views, so they requested—but were
11 denied—an exemption. *Id.*

12 After Plaintiffs filed this suit, they experienced immediate retaliation and
13 harassment from EUSD personnel. *See* ECF No. 5-3, 1st Mirabelli Decl.; ECF No. 5-
14 4, 1st West Decl. In light of this hostile work environment, Plaintiff Mirabelli
15 requested to be placed on administrative leave until it could be remedied. She has
16 been absent from school since May 5, 2023. ECF No. 5-3, ¶¶12-11, 18-20; *see* Jonna
17 Decl., ¶¶2-3 & Ex. 1, Email chain between counsel (May 1-5, 2023); Ex. 2, Letter
18 from Jonna to Shinoff (May 25, 2023). She also filed administrative complaints with
19 EUSD, seeking, among other things, an investigation into how hateful posters were
20 allowed to be plastered inside her classroom (classrooms are locked without an
21 employee present). ECF No. 5-3, ¶8; Jonna Decl., Ex. 6.

22 For her part, Plaintiff West wanted to remain teaching despite bullying by her
23 fellow teachers. ECF No. 5-4, ¶¶17-18. Nevertheless, EUSD forced her to go on
24 administrative leave, beginning on May 18, 2023, allegedly in response to complaints
25 filed by students. ECF No. 8, 2d West Decl., ¶¶2-10; ECF No. 18-3, 3d West Decl.,
26 ¶¶3-7; *see* Jonna Decl., ¶¶6-7 & Ex. 3, Email chain between counsel (May 18, 2023);
27 Ex. 4, Letter from Jonna to Shinoff (May 25, 2023).

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B. POST-PRELIMINARY INJUNCTION HISTORY

On Thursday, September 14, 2023, the Court granted Plaintiffs' motion for a preliminary injunction. ECF No. 42. In most relevant part, the Court's order states that EUSD is "to restrain any governmental employee or entity from taking any adverse employment actions thereupon against Plaintiffs Mirabelli or West, until further Order of this Court." ECF No. 42 at pp.35-36.

In response to the Preliminary Injunction order, on Monday, September 18, 2023, Plaintiffs sent a letter to EUSD to negotiate their return to work. Plaintiffs' letter noted that Mrs. Mirabelli requested leave because of the severe retaliation and harassment that she felt. Thus, Plaintiffs requested an update on what specific steps EUSD would take to ensure that Mrs. Mirabelli would be safe upon her return. For Mrs. West, Plaintiffs' letter noted that she strongly desired to return to work and requested an update on why the administrative investigation had yet to conclude. On June 29, 2023, EUSD had conducted investigative interviews with both Plaintiff Mirabelli and Plaintiff West, and estimated the conclusion of its investigations within 30 days.¹ The letter concluded with a request that the parties agree to a date in October when Plaintiffs could return to work. Jonna Decl., ¶¶10-12 & Ex. 5, Letter from Jonna to Shinoff (Sep. 18, 2023).

Plaintiffs received no response for over a week. Thus, on Tuesday, September 26, 2023, Plaintiffs' counsel called to discuss the matters in the letter. That call was not particularly productive, but led Plaintiffs to re-send their letter with a few more emails, including a reiterated request for information as to the investigation into Plaintiff West. *See* Jonna Decl., ¶14 & Ex. 6, Email chain between counsel (Sep. 26,

¹ California regulations, and EUSD specific policies, require investigations to be completed within 60 days, unless the complainant agrees to an extension, and the investigee is notified that an extension has been granted. Cal. Code Regs., tit. 5, § 4631; Jonna Decl., Ex. 30, AR 1312.3. However, EUSD specific policies state that when a complaint is made against a District employee, EUSD shall "investigate and attempt to resolve the complaint to the satisfaction of the parties involved within 30 days." Jonna Decl., Ex. 28, AR 1312.1(2).

1 2023). A few days later, EUSD responded. EUSD’s letter identified no specific steps
2 it would take to ensure Mrs. Mirabelli’s safety, and instead generically stated that
3 EUSD would enforce its prohibitions on retaliation and harassment. Jonna Decl., ¶16
4 & Ex. 7, Letter from Shinoff to Jonna (Sep. 28, 2023).

5 EUSD’s letter did not address the investigation into Mrs. West, so Plaintiffs
6 followed up via email. On Friday, September 29, 2023, EUSD confirmed that there
7 was no finding of wrongdoing by Mrs. West with respect to the initial complaints. But
8 on Monday, October 2, 2023, EUSD explained that a *new* complaint had been filed
9 against Mrs. West. The complaint was filed by a former student *after* the Court’s
10 preliminary injunction order, concerning activity that occurred *years prior*,² and
11 concerned highly inflammatory and implausible assertions. Despite its suspicious
12 character, EUSD required that Mrs. West remain on administrative leave. Jonna
13 Decl., ¶¶18-19 & Ex. 8, Email chain between counsel (Sep. 28-Oct. 2, 2023).

14 In follow up to this, on October 5, 2023, Plaintiffs requested clarification
15 regarding when the investigation into Ms. West would be completed, and explained
16 that, due to her health, Mrs. Mirabelli could not return to work without adequate
17 safeguards. Jonna Decl., ¶21 & Ex. 9, Email chain between counsel (Oct. 5-6, 2023).
18 On Wednesday, October 11, 2023, counsel for EUSD—both Mr. Basel and Mr.
19 Daniel Shinoff—conducted a second investigative interview with Ms. West. Jonna
20 Decl., ¶23 & Ex. 10, Email chain between counsel (Oct. 6-12, 2023).

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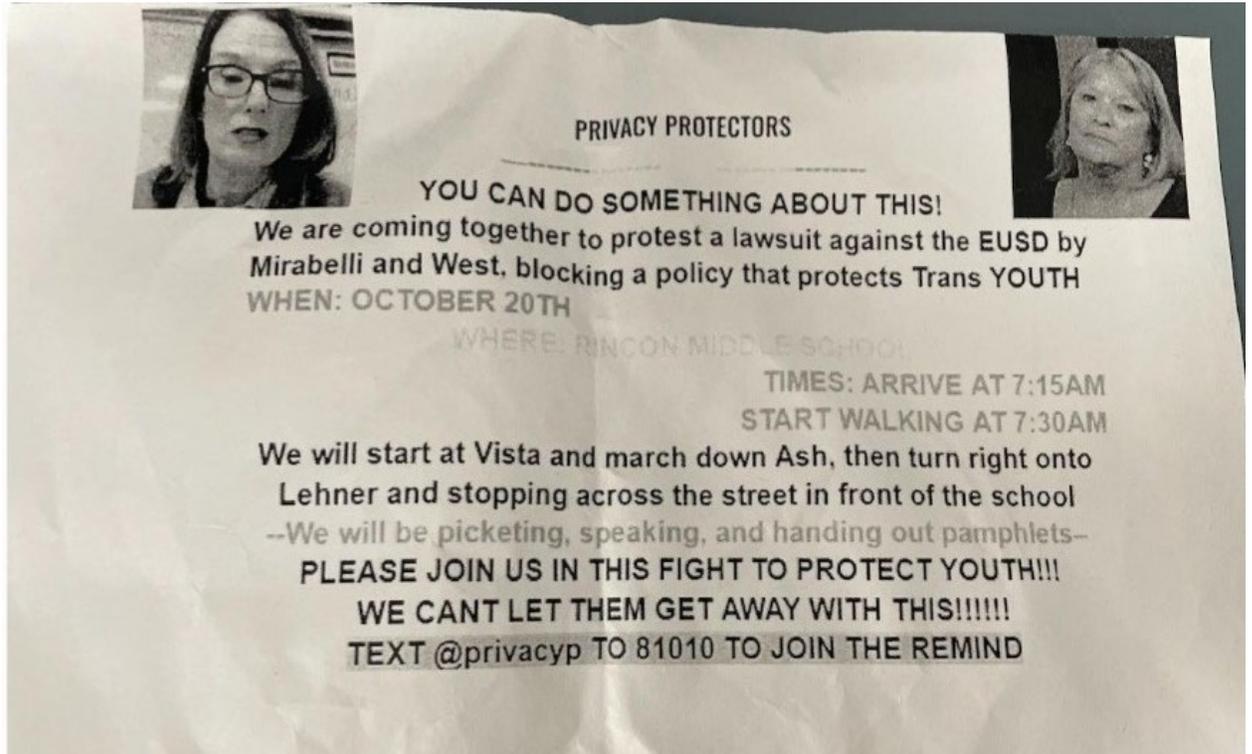
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26 ² *But see* Cal. Code Regs., tit. 5, § 4630(b) (“An investigation of alleged unlawful
27 discrimination, harassment, intimidation or bullying shall be initiated by filing a
28 complaint not later than six months from the date” the activity occurred or was
discovered); *see also* Jonna Decl., Ex. 30, AR 1312.3.

1 On Friday, October 13, 2023, Plaintiffs discovered that a protest against them
2 was being organized to occur at Rincon Middle School.



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15 Jonna Decl., Ex. 11, Protest Flyer (Oct. 13, 2023).

16 As shown in the last line above, the protest was being organized via
17 “REMIND.” That is a smartphone application used by teachers to communicate
18 with students and parents. Jonna Decl., ¶27.³ As stated in the flyer, individuals could
19 send a text message to be joined to the application. Once joined, they could see the
20 organizers of the protest and everybody involved. Jonna Decl., ¶27. Unsurprisingly,
21 Plaintiffs discovered that Rincon Middle School personnel were involved in the
22 protest. Jonna Decl., ¶28 & Exs. 12-13.

23 Plaintiffs immediately brought the flyer to EUSD’s attention, and requested
24 that EUSD investigate the protest and take affirmative action to ensure the safety of
25 Mrs. Mirabelli and Mrs. West. Jonna Decl., ¶31 & Ex. 14, Email chain between
26 counsel (Oct. 13, 2023).

27
28 ³ See Emily McDonnell, *What is Remind?*, Remind.com, <https://help.remind.com/hc/en-us/articles/201342445-What-is-Remind>.

1 **C. RAMP UP TO THIS CONTEMPT APPLICATION**

2 In the last of three emails sent on October 13, 2023, Plaintiffs stated that if
3 EUSD continued to equivocate, they would be forced to seek further relief from the
4 Court, including *specifically civil contempt sanctions*. Plaintiffs stated that they
5 would seek relief from the Court if they did not receive satisfactory answers *by*
6 *October 18, 2023*. See Jonna Decl., ¶33 & Ex. 14, Email chain between counsel (Oct.
7 13, 2023). On October 18, 2023, EUSD again responded with a vague, equivocal
8 response, no date for Mrs. West to return to work, and a request for another meeting
9 about Mrs. Mirabelli. Jonna Decl., ¶34 & Ex. 15, Email chain between counsel (Oct.
10 18, 2023).

11 On the date of the protest, October 20, 2023, a second flyer was distributed.
12 That flyer mocked Mrs. Mirabelli’s “extreme stress” and “anxiety” caused by her
13 hostile Rincon Middle School work environment and EUSD’s parental exclusion
14 policies. Jonna Decl., ¶36 & Ex. 16, Protest Flyer (Oct. 20, 2023). The next Monday,
15 October 23, 2023, counsel for Plaintiffs and EUSD held a telephone conference. On
16 that call, Plaintiffs explained that their contempt papers were ready to be filed, but
17 agreed to delay filing them for one week as a matter of professional courtesy. Jonna
18 Decl., ¶38 & Ex. 17, Email chain between counsel (Oct. 23, 2023).

19 However, the next day, Tuesday, October 24, 2023, EUSD sent Plaintiffs
20 another letter, stating that another investigative interview would occur on Monday,
21 October 30, 2023, necessarily meaning that the investigation would not be completed
22 that week. Jonna Decl., ¶40 & Ex. 18, Letter from Shinoff to Jonna (Oct. 24, 2023);
23 Ex. 19, Email chain between counsel (Oct. 24-25, 2023). The next Tuesday, EUSD
24 confirmed this, stating that numerous additional witnesses needed to be interviewed.
25 But EUSD assured Plaintiffs that they would likely be able to return to work at the
26 beginning of the next trimester, November 27, 2023. Jonna Decl., ¶¶43-44 & Ex. 20,
27 Email chain between counsel (Oct. 24-25, 2023).

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1 On Wednesday, November 9, 2023, Plaintiffs sent a list of concerns to EUSD
 2 regarding Mrs. Mirabelli's return to work. Jonna Decl., ¶¶46-49 & Ex. 21, Email
 3 chain between counsel (Nov. 8, 2023); Ex. 22, Email chain between counsel (Nov. 8-
 4 14, 2023). Then, on November 15, 2023, EUSD sent Plaintiffs a letter stating that a
 5 return to work on November 27, 2023, beginning with the next trimester was not
 6 feasible. Jonna Decl., ¶¶51 & Ex. 23, Letter from Shinoff to Jonna (Nov. 15, 2023).

7 In response to that letter, Plaintiffs have repeatedly tried to follow up with
 8 EUSD about the return to work of Mrs. Mirabelli and Mrs. West, and received no
 9 substantive response. Jonna Decl., ¶¶53-54 & Ex. 24, Email chain between counsel
 10 (Nov. 15, 2023). In Plaintiff's email, they specifically demanded (1) a response with
 11 respect to Mrs. Mirabelli's health and safety concerns; and (2) a detailed update
 12 regarding the administrative investigation into Mrs. West. Jonna Decl., ¶¶56-57 &
 13 Ex. 25, Email chain between counsel (Nov. 16, 2023).

14 EUSD responded stating that they had never received the correspondence
 15 regarding Mrs. Mirabelli's concerns, and ignored the request for information
 16 regarding the investigation into Mrs. West. With respect to Mrs. West, Plaintiffs
 17 then responded as follows:

18 I am demanding an update regarding Lori. As you know, we previously
 19 informed you that continuing to deprive Lori of her ability to return to
 20 work based on highly suspect (fabricated) allegations is a violation of the
 21 court's preliminary injunction order. We drafted contempt papers but
 22 held off on filing them to wait and see how this new "investigation"
 23 proceeded. You have provided no update whatsoever. We also were in
 24 the process of amending the complaint to add Title VII claims, but we
 25 held off in good faith. ***If we do not receive a full and complete update
 regarding Lori's status before Thanksgiving, then we will assume it is
 necessary to address these issues further with Judge Benitez first thing
 the week of 11/27.***

26 Jonna Decl., ¶¶59-57 & Ex. 26, Email chain between counsel (Nov. 16-17, 2023)
 27 (emphasis added).

28 ///

1 Plaintiffs have since received no response from EUSD regarding these matters.
2 Jonna Decl., ¶62. In light of EUSD’s refusal to take meaningful action to protect
3 Mrs. Mirabelli and Mrs. West, their refusal to bring them safely back to work, and the
4 deteriorating situation, Plaintiffs now bring this ex parte application for an order to
5 show cause re: civil contempt.

6 LEGAL STANDARD

7 “There is no question that courts have inherent power to enforce compliance
8 with their lawful orders through civil contempt.” *Cal. Dep’t of Soc. Servs. v. Leavitt*,
9 523 F.3d 1025, 1033 (9th Cir. 2008) (quoting *Shillitani v. United States*, 384 U.S. 364,
10 270 (1966)); *see also* CivLR 83.1 (noting that failure to comply with the court’s orders
11 may subject a party to sanctions). “A party to the original action may invoke the
12 Court’s power by initiating a proceeding for civil contempt.” *HISC, Inc. v. Franmar*
13 *Int’l Importers, Ltd.*, No. 3:16-CV-0480, 2022 WL 104730, at *2 (S.D. Cal. Jan. 11,
14 2022) (citing *Gompers v. Buck’s Stove & Range Co.*, 221 U.S. 418, 444–45 (1911)).

15 For prudential reasons, “[t]he Supreme Court teaches that when questions
16 arise as to the interpretation or application of an injunction order, a party should seek
17 clarification or modification from the issuing court.” *Regents of the Univ. of California*
18 *v. Aisen*, No. 15-CV-1766, 2016 WL 4681177, at *1 (S.D. Cal. Sept. 7, 2016). This is
19 particularly appropriate in the context of disobedience and civil contempt. *See, e.g.*,
20 *McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 192 (1949) (“Yet if there were
21 extenuating circumstances or if the decree was too burdensome in operation, there
22 was a method of relief.... Respondents could have petitioned the District Court for a
23 modification, clarification or construction of the order.”); *Regal Knitwear Co. v.*
24 *NLRB*, 324 U.S. 9, 15 (1945) (“If defendants enter upon transactions which raise
25 doubts as to the applicability of the injunction, they may petition the court granting it
26 for a modification or construction of the order.”).

27 To establish civil contempt, the moving party must demonstrate by clear and
28 convincing evidence that the alleged contemnor violated a specific and definite court

1 order by failing to take “take all reasonable steps within the party’s power to
 2 comply.” *In re Dual-Deck Video Cassette Recorder Antitrust Litig.*, 10 F.3d 693, 695
 3 (9th Cir. 1993). If the moving party successfully makes such a showing, “the burden
 4 shifts to the contemnor to demonstrate why they were unable to comply.” *Forever 21,*
 5 *Inc. v. Ultimate Offprice, Inc.*, No. 2:10-CV-05485, 2013 WL 4718366, at *2 (C.D. Cal.
 6 Sept. 3, 2013) (citing *FTC v. Affordable Media, LLC*, 179 F.3d 1228, 1239 (9th Cir.
 7 1999)).

8 “The contempt ‘need not be willful,’ and there is no good faith exception to
 9 the requirement of obedience to a court order.” *Dual-Deck*, 10 F.3d at 695 (quoting
 10 *In re Crystal Palace Gambling Hall, Inc.*, 817 F.2d 1361, 1365 (9th Cir. 1987)).
 11 Nonetheless, “a person should not be held in contempt if his action ‘appears to be
 12 based on a good faith and reasonable interpretation of the [court’s order].’” *Dual-*
 13 *Deck*, 10 F.3d at 695 (quoting *Vertex Distrib., Inc. v. Falcon Foam Plastics, Inc.*, 689
 14 F.2d 885, 889 (9th Cir. 1982)) (alteration in original). Moreover, “substantial
 15 compliance” is a valid defense to a finding of civil contempt. *Vertex*, 689 F.2d at 891.

16 When a court finds a party in civil contempt, it has “broad equitable power to
 17 order appropriate relief in civil contempt proceedings.” *SEC v. Hickey*, 322 F.3d
 18 1123, 1128 (9th Cir. 2003). “Appropriate sanctions may be imposed to coerce the
 19 contemnor into compliance with the court’s order, to compensate the complainant
 20 for losses sustained as a result of the contemptuous behavior, or both.” *Forever 21,*
 21 2013 WL 4718366, at *3, (citing *United States v. United Mine Workers*, 330 U.S. 258,
 22 303-04 (1947) and *United States v. Bright*, 596 F.3d 683, 696-97 (9th Cir. 2010)).

23 ARGUMENT

24 I. AN INABILITY TO TEACH IS IRREPARABLE HARM

25 On September 14, 2023, this Court entered a preliminary injunction in
 26 Plaintiffs’ favor, ordering EUSD “to restrain any governmental employee or entity
 27 from taking any adverse employment actions thereupon against Plaintiffs Mirabelli or
 28 West, until further Order of this Court.” ECF No. 42 at p.36. At the hearing,

1 Plaintiffs’ counsel argued that “[o]ur clients have a right to engage in their chosen
 2 profession... This is their profession. This is their vocation. They love their students.
 3 They want to get back to work, and they don’t want to violate their faith, and they
 4 have every right to do that under the law we cited.” ECF No. 39 at pp.116-17.

5 Thus, in line with this, the Court’s preliminary injunction order noted that
 6 “without an injunction, it is certain that plaintiffs will continue to suffer present and
 7 future irreparable constitutional harm due to the existence of the state and EUSD
 8 policies and the fact that plaintiffs have involuntarily been placed on administrative
 9 leave from their teaching positions.” ECF No. 42 at pp.29-30. Yet over two months
 10 later, neither Mrs. Mirabelli nor Mrs. West have been allowed to safely return to
 11 work.

12 The mere fact that EUSD is continuing to pay Plaintiffs is no excuse. The
 13 Court’s preliminary injunction order made clear that denying Plaintiffs the right to
 14 pursue their chosen profession is, *itself*, irreparable harm. *See id.* Indeed, “monetary
 15 loss” is only the beginning of the analysis—not the end. A teacher suffers irreparable
 16 harm when precluded from “utiliz[ing] his skills, training or experience,” and having
 17 “no student contact.” *Chalk v. U.S. Dist. Ct. Cent. Dist. of California*, 840 F.2d 701,
 18 709 (9th Cir. 1988).

19 II. ENDLESS INVESTIGATIONS CONSTITUTE ADVERSE ACTION

20 The Court’s injunction against “adverse action” also, *directly*, requires EUSD
 21 to bring Plaintiffs back to work. Again, the Ninth Circuit has made clear that, in the
 22 right “circumstances, placement on administrative leave can constitute an adverse
 23 employment action.” *Dahlia v. Rodriguez*, 735 F.3d 1060, 1078 (9th Cir. 2013). With
 24 respect to Mrs. West, when the employer engages in an endlessly “lengthy
 25 investigation,” that “place[s] a cloud over [a] career,” that is adverse employment
 26 action. *See Velikonja v. Gonzales*, 466 F.3d 122, 124 (D.C. Cir. 2006) (citing
 27 *Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53, 57 (2006)); *accord Rhodes v.*
 28 *Napolitano*, 656 F. Supp. 2d 174, 185 (D.D.C. 2009) (“The length and scope of this

1 investigation and the tone of the Letter of Counseling might have deterred a
2 reasonable employee from engaging in protected activity, and the adverse actions
3 alleged in plaintiff’s complaint therefore meet the ‘material adversity’ standard”).

4 Indeed, for just this reason, as stated above, California and EUSD regulations
5 generally require administrative investigations to conclude within 60 days, Cal. Code
6 Regs., tit. 5, § 4631; Jonna Decl., Ex. 30, AR 1312.3, and EUSD has set its own,
7 shorter, 30 day timeline. Jonna Decl., Ex. 28, AR 1312.1(2). Further, when placed on
8 involuntary paid leave, California postsecondary education teachers are entitled to
9 have the investigation concluded within 90 working days—approximately 18 weeks.
10 *See* Cal. Ed. Code § 87623(c). Although not directly applicable here, the analogy is
11 apt. Yet Mrs. West has been on involuntary leave *for 28 weeks*.

12 Here, the issue is two-fold. EUSD’s initial investigation based on a complaint
13 filed in early May took until late September to be resolved—approximately *five*
14 months. *But see* Cal. Code Regs., tit. 5, § 4631. And literally the week after it was
15 resolved, a new complaint was filed, in early October, that has yet to be resolved over
16 two months later. EUSD has a duty to investigate each and every complaint filed—no
17 matter how retaliatory or frivolous, *see id.*—but the nature of their investigation
18 should be commensurate with the frivolousness of the complaint. In other words,
19 there is no requirement that EUSD keep Mrs. West on administrative leave pending
20 its investigation.

21 The complaint at issue here was filed shortly after this Court’s preliminary
22 injunction order, by a student who was in Mrs. West’s eighth grade P.E. class back in
23 the 2018-2019 school year. (Thus, the student would be a high school Senior
24 currently). Apparently, according to that complainant, Mrs. West had a habit of
25 making racist comments in front of her class, including using specific racially
26 derogatory terms. Oddly, the complainant did not bother to note Mrs. West’s
27 supposed racism until after this Court’s preliminary injunction order, nobody else
28 has ever accused Mrs. West of racism—in her thirty years of teaching—and even

1 from the two hundred or more students she would have taught in the 2018-2019
 2 school year, no others have accused her of making racist comments. West Decl.,
 3 ¶¶ 3-6.

4 To be sure, the content of the allegations is notable for its seriousness. If a
 5 teacher has a habit of using anti-black⁴ racist terms, she should be not be teaching.
 6 But the extremeness of the allegations is equally the proof of their falsity. No teacher
 7 could use racist terms and remain teaching—with glowing reviews from nearly all of
 8 her students and peers—for thirty years. West Decl., ¶¶ 7-8. Rather, if tolerated, the
 9 complainant’s strategy would be a fairly easy end-run around this Court’s
 10 preliminary injunction order, with serial complaints filed just as the prior ones were
 11 resolved as unfounded. This cannot be.

12 III. COLLEAGUE HARASSMENT CONSTITUTES ADVERSE ACTION

13 With respect to Mrs. Mirabelli, EUSD’s refusal to do *anything* to protect her
 14 from co-worker harassment, retaliation, or bullying is also adverse action against her.
 15 Under both California and federal law, “[w]orkplace harassment ... may in and of
 16 itself constitute an adverse employment action sufficient to satisfy the second prong
 17 of the prima facie case for ... retaliation cases.” *Light v. Dep’t of Parks & Recreation*,
 18 14 Cal. App. 5th 75, 92 (4th Dist., Div. 1, 2017); see *Gunnell v. Utah Valley State Coll.*,
 19 152 F.3d 1253, 1264 (10th Cir. 1998) (“[C]o-worker hostility or retaliatory
 20 harassment, if sufficiently severe, may constitute ‘adverse employment action’ for
 21 purposes of a retaliation claim.”). Indeed, just this past summer, the Supreme Court
 22 stated unequivocally that “Title VII would be at war with itself” if co-worker “bias
 23 or hostility to a religious practice or a religious accommodation” was tolerated. *Groff*
 24 *v. DeJoy*, 600 U.S. 447, 472 (2023).

25 For over two months, Plaintiff Mirabelli has tried working with EUSD to get
 26 back to work, to no avail. While EUSD sometimes states that it will be

27
 28 ⁴ Mrs. West is herself a person of color, so the alleged racism is specifically against African-American students. West Decl., ¶ 2.

1 accommodating, it has yet to agree to any specific actions to protect her. Every step,
2 so far, has been an uphill battle, with three or more inquiries from Plaintiff’s counsel
3 on a specific topic before EUSD even acknowledges receipt of the inquiry (or states
4 that it was somehow lost). *See* Mirabelli Decl., ¶ 12.

5 The October 20, 2023 protest ended up being fairly limited in size—but not so
6 limited was the fear and emotional anguish it caused. Mirabelli Decl., ¶ 13. Moreover,
7 EUSD has never substantively responded to how (without teacher supervision) or
8 why (with teacher involvement) students were allowed into her classroom to post
9 hateful posters. Nor has EUSD ever explained why the staff against whom Plaintiffs
10 lodged complaints (for example, the band teacher who filmed the protest video
11 lodged with this Court), were not themselves put on administrative leave. Mirabelli
12 Decl., ¶¶ 2-11. Yet under California regulations, based on Mrs. Mirabelli’s
13 administrative complaints, a final report, in writing was due to be “sent to the
14 complainant within 60 days.” Cal. Code Regs., tit. 5, § 4631(e).

15 It is patently unreasonable for EUSD to insist that Mrs. Mirabelli come back
16 when it has done absolutely nothing to ensure that she is neither harassed nor
17 bullied—either by colleagues or students who lack the mental development to always
18 appreciate the consequences of their actions. *Compare* ECF No. 5-3, ¶11 (student
19 discussing “carrying a baseball bat to protect her homosexual brother”); *with L.W. v.*
20 *Skrmetti*, 83 F.4th 460, 488 (6th Cir. 2023) (reversing preliminary injunction against
21 states’ ban on gender transition for minors because states could reasonably believe
22 that minors lack the meaningful ability to consent to transition). Like above, EUSD
23 has developed a fairly easy end-run around this Court’s preliminary injunction
24 order.⁵

25
26 ⁵ In light of the severity of the harassment and bullying directed at Plaintiff Mirabelli,
27 she is currently receiving medical care. *See* Jonna Decl., Ex. 9 at pp.2-3, Email chain
28 between counsel (Oct. 5-6, 2023). More recently, Mrs. Mirabelli has also experienced
a secondary issue. *See* Mirabelli Decl., ¶ 14. But Plaintiffs have been unable to

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CONCLUSION

In light of the parties’ impasse, Plaintiffs respectfully request that the Court issue an order to show cause re: why the EUSD defendants should not be held in civil contempt of court. Alternatively, to the extent that the Court views its order as insufficiently clear for a civil contempt finding, Plaintiffs request a clarifying order requiring EUSD to bring Plaintiffs back to work. In either eventuality, Plaintiffs also request that the Court order the EUSD Defendants to pay their reasonable attorneys’ incurred in attempting to compel EUSD to comply with the Court’s order. Plaintiffs’ bills can be submitted to the Court along with a supplemental short memorandum.

Respectfully submitted,

LiMANDRI & JONNA LLP

Dated: December 6, 2023

By:



Charles S. LiMandri
Paul M. Jonna
Mark D. Myers
Jeffrey M. Trissell
Milan L. Brandon II
Attorneys for Plaintiffs
Elizabeth Mirabelli & Lori Ann West

identify this issue for EUSD, which refuses to take their calls or engage in any meaningful discussion.

CERTIFICATE OF SERVICE

Elizabeth Mirabelli v. Mark Olson, President of the EUSD Board of Education, et al.
USDC Court Case No.: 3:23-cv-00768-BEN-WVG

I, the undersigned, declare under penalty of perjury that I am over the age of eighteen years and not a party to this action; my business address is P.O. Box 9120, Rancho Santa Fe, California 92067, and that I served the following document(s):

- **Plaintiffs’ Ex Parte Application for an Order to Show Cause re: Civil Contempt of Court and/or Clarification of the Preliminary Injunction Order;**
- **Declaration of Paul M. Jonna, Esq., in Support of Plaintiffs’ Ex Parte Application for an Order to Show Cause re: Civil Contempt of Court and/or Clarification of the Preliminary Injunction Order;**
- **Declaration of Elizabeth Mirabelli in Support of Plaintiffs’ Ex Parte Application for an Order to Show Cause re: Civil Contempt of Court and/or Clarification of the Preliminary Injunction Order;**
- **Declaration of Plaintiff Lori Ann West in Support of Plaintiffs’ Ex Parte Application for an Order to Show Cause re: Civil Contempt of Court and/or Clarification of the Preliminary Injunction Order;**
- **[Proposed] Order to Show Cause Why the EUSD Defendants Should Not Be Held in Contempt of Court for Failing to Comply With the September 14, 2023 Preliminary Injunction Order.**

on the interested parties in this action by placing a true copy in a sealed envelope, addressed as follows:

Thomas Prouty, Deputy General Counsel
 Len Garfinkel
 California Department of Education
 1430 “N” Street, Suite 5319
 Sacramento, CA 95814
 Tel: 916-319-0860; Fax: 916-322-2549
 E-Mail: tprouty@cde.ca.gov
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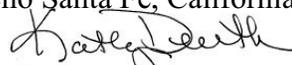
 (BY MAIL) I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Rancho Santa Fe, California in the ordinary course of business. The envelope was sealed and placed for collection and mailing on this date following our ordinary practices. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

 X **(BY ELECTRONIC MAIL)** I served a true copy, electronically on designated recipients via electronic transmission of said documents.

 X **(BY ELECTRONIC FILING/SERVICE)** I caused such document(s) to be Electronically Filed and/or Service using the ECF/CM System for filing and transmittal of the above documents to the above-referenced ECF/CM registrants.

I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct.

Executed on December 6, 2023, at Rancho Santa Fe, California.



 Kathy Denworth

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 *Application forthcoming

Attorneys for Plaintiffs

12 UNITED STATES DISTRICT COURT
 13 SOUTHERN DISTRICT OF CALIFORNIA

15 ELIZABETH MIRABELLI, an
 16 individual, and LORI ANN WEST, an
 17 individual,

18 Plaintiffs,

19 v.

20 MARK OLSON, in his official capacity as
 21 President of the EUSD Board of
 22 Education, et al.,

23 Defendants.

Case No.: 3:23-cv-0768-BEN-WVG

**Declaration of Paul M. Jonna, Esq.,
 in Support of Plaintiffs' Ex Parte
 Application for an Order to Show
 Cause re: Civil Contempt of Court
 and/or Clarification of the
 Preliminary Injunction Order**

Judge: Hon. Roger T. Benitez
 Courtroom: 5A

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1 I, Paul M. Jonna, Esq., declare and state as follows:

2 1. I am an attorney at law duly licensed to practice in the State of California
3 and in the Southern District of California. I am a Partner with LiMandri & Jonna
4 LLP, and am counsel of record for Plaintiffs Elizabeth Mirabelli and Lori Ann West.
5 The matters discussed below are based on my own personal knowledge. I could and
6 would testify to them if called upon to do so in court.

7 **PRE-PRELIMINARY INJUNCTION HISTORY**

8 2. My office initiated this action on Thursday, April 27, 2023, by filing our
9 Verified Complaint on behalf of Plaintiffs Elizabeth Mirabelli and Lori Ann West. *See*
10 ECF No. 1. Immediately thereafter, Plaintiffs experienced retaliation and harassment
11 from EUSD personnel, which we have documented in declarations. *See* ECF No. 5-3,
12 1st Mirabelli Decl.; ECF No. 5-4, 1st West Decl.; ECF No. 8, 2d West Decl.; ECF
13 No. 18-3, 3d West Decl.

14 3. In light of this hostile work environment, I requested that Mrs. Mirabelli
15 be placed on administrative leave until it could be remedied. She has been absent
16 from school since May 5, 2023.

17 4. Attached hereto as **Exhibit 1** is a true and correct copy of an email chain
18 between myself and counsel for EUSD, Attorney Daniel Shinoff, dated variously
19 May 1-5, 2023, about this request to be placed on leave.

20 5. Attached hereto as **Exhibit 2** is a true and correct copy of my letter to
21 Mr. Shinoff, dated May 25, 2023, discussing a letter received from EUSD regarding
22 Mrs. Mirabelli's administrative leave.

23 6. In contrast to Mrs. Mirabelli, Mrs. West did not want to be placed on
24 administrative leave. As we documented in her declarations, she had been harassed,
25 but she did not want to be forced out of school due to teacher-bullying.

26 7. Eventually, however, EUSD ordered Mrs. West to go on administrative
27 leave pending its investigation into complaints filed by students. This administrative
28

1 leave was extended to cover the summer school class that Mrs. West had been
2 scheduled to teach.

3 8. Attached hereto as **Exhibit 3** is a true and correct copy of the email I
4 received from Mr. Shinoff, dated May 18, 2023, informing us that Mrs. West was
5 being placed on involuntary administrative leave. This email is a continuation of the
6 email chain in Exhibit 1.

7 9. Attached hereto as **Exhibit 4** is a true and correct copy of my letter to
8 Mr. Shinoff, dated May 25, 2023, discussing a letter received from EUSD regarding
9 Mrs. West's administrative leave.

10 10. On June 29, 2023, EUSD attorney Jesse Basel, with Mr. Shinoff's office,
11 conducted internal investigative interviews with both Mrs. Mirabelli and Mrs. West.
12 For Mrs. Mirabelli, the purpose of the interview was to collect information relating to
13 the complaints she had made. For Plaintiff West, the purpose of the interview was to
14 collect information relating to complaints made against her by others. During the
15 interview, Mr. Basel said that the investigation against Ms. West would likely be
16 concluded within 30 days (by the end of July).

17 11. On August 30, 2023, the Court heard oral argument on my motion for a
18 preliminary injunction on behalf of Mrs. Mirabelli and Mrs. West. During that
19 hearing, I stressed the irreparable harm that my clients were suffering from being
20 excluded from school. *See* ECF No. 39 at pp.116-17. On Thursday, September 14,
21 2023, this Court granted my motion for a preliminary injunction. *See* ECF No. 42.

22

23 **POST-PRELIMINARY INJUNCTION HISTORY**

24 12. In response to the preliminary injunction order, on Monday, September
25 18, 2023, I sent a letter to Mr. Shinoff to discuss Mrs. Mirabelli's and Mrs. West's
26 return to work. For Mrs. Mirabelli, that letter explained her need to feel safe; for
27 Mrs. West, that letter requested an update on why the investigation had not yet
28

28

1 concluded. That letter also requested a date certain for the Plaintiffs to return to
2 work in October.

3 13. Attached hereto as **Exhibit 5** is a true and correct copy of my September
4 18, 2023 letter to Mr. Shinoff.

5 14. I received no response to my letter for over a week. Eventually, on
6 Tuesday, September 26, 2023, I called Mr. Shinoff to discuss Mrs. Mirabelli's and
7 Mrs. West's return to work. That call was not particularly productive. As a result, my
8 office re-sent the letter, and copied out the three main points into the cover email. In
9 my email, I reiterated that the investigation has been ongoing for over three months
10 and that we need to know why she has not been allowed to return to work.

11 15. Attached hereto as **Exhibit 6** is a true and correct copy of an email chain
12 between my office and Mr. Shinoff, with all three emails dated September 26, 2023.

13 16. A few days later, Mr. Shinoff responded in writing. His letter identified
14 no specific steps that EUSD had taken to ensure Mrs. Mirabelli's safety, and instead
15 generically stated that EUSD will enforce its prohibitions on retaliation and
16 harassment.

17 17. Attached hereto as **Exhibit 7** is a true and correct copy of Mr. Shinoff's
18 September 28, 2023 letter to me.

19 18. Mr. Shinoff's letter did not address the investigation into Mrs. West, so
20 I followed up via email. On Friday, September 29, 2023, Mr. Shinoff confirmed that
21 there was no finding of wrongdoing by Mrs. West with respect to the initial
22 complaints.

23 19. But on Monday, October 2, 2023, Mr. Shinoff wrote, explaining that a
24 new complaint had been filed against Mrs. West. The complaint was filed by a former
25 student after the Court's preliminary injunction order, concerning activity that
26 occurred years prior. Despite its suspicious character, Mr. Shinoff's office explained
27 that EUSD was requiring Mrs. West to remain on administrative leave.

28 ///

1 20. Attached hereto as **Exhibit 8** is a true and correct copy of an email chain
2 between my office and the office of Mr. Shinoff, with emails dated variously between
3 September 28 and October 2, 2023.

4 21. In follow up to this, on October 5, 2023, I requested clarification
5 regarding when the investigation into Ms. West would be completed, and explained
6 that, due to her health, Mrs. Mirabelli could not return to work without adequate
7 safeguards.

8 22. Attached hereto as **Exhibit 9** is a true and correct copy of an email chain
9 between me and Mr. Shinoff, with emails dated variously between October 5-6, 2023.
10 This email chain is a continuation of the email chain in Exhibit 7.

11 23. On Wednesday, October 11, 2023, both Mr. Shinoff and Mr. Basel—
12 conducted a second investigative interview with Ms. West.

13 24. Attached hereto as **Exhibit 10** is a true and correct copy of an email
14 chain between myself and the office of Mr. Shinoff, with scheduling emails dated
15 variously between October 6-8, 2023, and an email regarding following-up after the
16 investigative interview, dated October 12, 2023. This email chain is a continuation of
17 the email chain in Exhibit 8.

18 25. On Friday, October 13, 2023, I was made aware of flyers being
19 distributed at Rincon Middle School, organizing a protest to occur the next Friday, in
20 opposition to Mrs. Mirabelli and Mrs. West.

21 26. Attached hereto as **Exhibit 11** is a true and correct copy of a protest flyer
22 regarding my clients that was being distributed on Friday, October 13, 2023 at Rincon
23 Middle School.

24 27. As shown in flyer, the protest was being organized via “REMIND.”
25 That is an smartphone application used by teachers to communicate with students
26 and parents. As stated in the flyer, individuals could send a text message to be joined
27 to the application. Once joined, they could see the organizers of the protest and
28 everybody involved.

1 28. Using the instructions on the flyer, my team obtained access to the
2 REMIND application and reviewed the names of the individuals involved. There
3 were approximately 28 individuals listed. One of the individuals is also listed on the
4 Rincon Middle School website as an employee.

5 29. Attached hereto as **Exhibit 12** is a true and correct copy of a screenshot
6 of the “People” tab in the REMIND application being used for the October 20, 2023
7 protest. All names, which may include students, are redacted except the employee’s
8 name.

9 30. Attached hereto as **Exhibit 13** is a true and correct printout of page 4 of
10 the “Staff” listing on the Rincon Middle School website, showing the name of the
11 School Registrar, which matches the REMIND application.

12 *See* https://rincon.eusd.org/o/rincon/staff?page_no=4.

13 31. I immediately brought the flyer to EUSD’s attention, and requested that
14 EUSD investigate the protest and take affirmative action to ensure the safety of Mrs.
15 Mirabelli and Mrs. West.

16 32. Attached hereto as **Exhibit 14** is a true and correct copy of a series of
17 three emails that I sent to Mr. Shinoff, all dated October 13, 2023.

18

19 **RAMP UP TO THIS CONTEMPT APPLICATION**

20 33. In the last of my three emails sent on October 13, 2023, I stated that if
21 EUSD continued to equivocate, I would be forced to seek further relief from the
22 Court, including specifically civil contempt sanctions. I stated that we would seek
23 relief from the Court if we did not receive satisfactory answers by October 18, 2023.

24 *See* Exhibit 14.

25 34. On October 18, 2023, Mr. Shinoff responded, again with a vague,
26 equivocal response, no date for Mrs. West to return to work, and a request for
27 another meeting about Mrs. Mirabelli.

28 ///

1 35. Attached hereto as **Exhibit 15** is a true and correct copy of an email from
2 Mr. Shinoff to me, dated October 18, 2023. This email is a continuation of the email
3 chain in Exhibit 14.

4 36. On the date of the protest, October 20, 2023, a second flyer was
5 distributed. That flyer mocked Mrs. Mirabelli’s “extreme stress” and “anxiety”
6 caused by her hostile Rincon Middle School work environment and EUSD’s parental
7 exclusion policies.

8 37. Attached hereto as **Exhibit 16** is a true and correct copy of a protest
9 flyer regarding my clients that was being distributed on Friday, October 20, 2023 at
10 Rincon Middle School.

11 38. The next Monday, October 23, 2023, I called Mr. Shinoff to figure out
12 what was going on. Mr. Shinoff asked me to hold off on my contempt application
13 until the next week, as a matter of professional courtesy, while he figured out how to
14 proceed with EUSD’s investigation. On that call, I explained that the contempt
15 papers were ready to be filed, but that we would hold off as a matter of professional
16 courtesy.

17 39. Attached hereto as **Exhibit 17** is a true and correct copy of an email
18 chain between myself and Mr. Shinoff dated October 23, 2023.

19 40. However, the next day, Tuesday, October 24, 2023, I received a letter
20 from Mr. Shinoff stating that another investigative interview, this time of the
21 student-complainant, would be conducted on Monday, October 30, 2023. This meant
22 that the investigation could not be concluded during the week of October 23-27,
23 2023. I followed up with Mr. Shinoff about this on that day, but received no
24 substantive response.

25 41. Attached hereto as **Exhibit 18** is a true and correct copy of a letter from
26 Mr. Shinoff to me, dated October 24, 2023.

27 42. Attached hereto as **Exhibit 19** is a true and correct copy of an email
28 chain between myself and Mr. Shinoff, dated October 24-25, 2023.

1 43. On Tuesday, October 31, 2023, I tried calling Mr. Shinoff to ask about
2 the status of the investigation into Mrs. West, but did not reach him. I then emailed
3 him asking for an update, and he responded that, based on the investigative interview
4 with the complainant, numerous witnesses needed to be interviewed. I responded
5 asking why Mrs. West could not return to work pending the investigation into the
6 frivolous allegations, but received no response.

7 44. On Thursday, November 2, 2023, Mr. Shinoff called to ask me about
8 Mrs. Mirabelli's return to work. I took the opportunity to ask about Mrs. West and
9 asserted that both Plaintiffs should return to work for the start of the next trimester,
10 on November 27, 2023. Mr. Shinoff stated that he only had a few more interviews to
11 conduct, and thought that was feasible.

12 45. Attached hereto as **Exhibit 20** is a true and correct copy of an email
13 chain between myself and Mr. Shinoff, dated October 31, 2023.

14 46. On Wednesday, November 8, 2023, Mr. Shinoff emailed me to discuss
15 the return to work of Mrs. Mirabelli. As stated above, the stress of harassment had
16 caused Mrs. Mirabelli's health to deteriorate, requiring certain accommodations be
17 made for her safe return to work. I immediately told him that I would send the further
18 information he requested, and requested a time to call. We agreed on 4:15 p.m. the
19 next day.

20 47. Attached hereto as **Exhibit 21** is a true and correct copy of an email
21 chain between myself and Mr. Shinoff, dated November 8, 2023.

22 48. I could not gather the requested information on that day, but the next
23 day, Thursday, November 9, 2023, I sent Mr. Shinoff a short list of what Mrs.
24 Mirabelli needed to return to work. But then I was informed that Mr. Shinoff could
25 not make our scheduled call.

26 49. On Monday, November 13, 2023, I emailed Mr. Shinoff requesting time
27 for a call. He responded saying that he was only available after 5:30 p.m. That would
28

1 not work, so I asked if we could speak the next day. He did not respond. The next
2 day, November 14, 2023, I tried calling Mr. Shinoff, but he did not answer.

3 50. Attached hereto as **Exhibit 22** is a true and correct copy of an email
4 chain between myself and Mr. Shinoff, dated November 8-14, 2023.

5 51. On November 15, 2023, I received a letter from Mr. Shinoff. That brief
6 letter stated that returning to school at the beginning of the next trimester, on
7 Monday, November 27, 2023, was not a realistic option.

8 52. Attached hereto as **Exhibit 23** is a true and correct copy of a letter from
9 Mr. Shinoff to me, dated November 15, 2023.

10 53. In response to that letter, I have repeatedly tried to follow up with Mr.
11 Shinoff about the return to work of Mrs. Mirabelli and Mrs. West, and received no
12 substantive response.

13 54. On November 15, 2023, as soon as I received the letter, I wrote back:
14 “Dan: Did you not receive my email on these issues relating to Mrs. Mirabelli? I also
15 need to talk to you about Lori. Can we schedule[] a short call today?”

16 55. Attached hereto as **Exhibit 24** is a true and correct copy of my email to
17 Mr. Shinoff, dated November 15, 2023.

18 56. The next day, in the afternoon of November 16, 2023, Mr. Shinoff wrote
19 me asking to stipulate to continue the ENE. I responded agreeing, and wrote: “Also,
20 I have probably called and emailed 5-10 times with no response. Can you please
21 explain? We need to talk about several open matters.” That day, Mr. Shinoff
22 responded stating that he was stepping in to take over a trial and therefore largely
23 unavailable.

24 57. I immediately wrote back asking for an: (1) a response with respect to
25 Mrs. Mirabelli’s health and safety concerns; and (2) a detailed update regarding the
26 investigation into Mrs. West.

27 58. Attached hereto as **Exhibit 25** is a true and correct copy of my email
28 chain with Mr. Shinoff, dated November 16, 2023.

1 59. Mr. Shinoff responded that evening, at approximately 6:00 p.m., stating
2 that he never received my email with Mrs. Mirabelli’s concerns. He ignored my
3 request for information regarding the investigation into Mrs. West.

4 60. I wrote back the next morning stating that I had twice sent my email
5 regarding Mrs. Mirabelli’s concerns and that it made no sense that he had not
6 received it. With respect to Mrs. West, I wrote:

7 I am demanding an update regarding Lori. As you know, we previously
8 informed you that continuing to deprive Lori of her ability to return to
9 work based on highly suspect (fabricated) allegations is a violation of the
10 court’s preliminary injunction order. We drafted contempt papers but
11 held off on filing them to wait and see how this new “investigation”
12 proceeded. You have provided no update whatsoever. We also were in
13 the process of amending the complaint to add Title VII claims, but we
14 held off in good faith. If we do not receive a full and complete update
regarding Lori’s status before Thanksgiving, then we will assume it is
necessary to address these issues further with Judge Benitez first thing
the week of 11/27.

15 61. Attached hereto as **Exhibit 26** is a true and correct copy of my email
16 chain with Mr. Shinoff, dated November 16-17, 2023.

17 62. I have since received no response from Mr. Shinoff regarding these
18 matters. During the week of Thanksgiving, my office cooperated with Mr. Shinoff
19 and his request to continue the ENE, which this Court granted. *See* ECF Nos. 57, 58.
20 The last correspondence I received from Mr. Shinoff was a letter, dated November
21 30, 2023, asking about availability for the Rule 26(f) conference.

22

23 **EUSD BOARD POLICIES & ADMINISTRATIVE REGULATIONS**

24 63. Attached hereto as **Exhibit 27** is a true and correct copy of EUSD’s
25 Board Policy 1312.1, “Complaints Concerning District Employees,” as downloaded
26 from its website.

27 ///

28 ///

EXHIBIT 1

Jeffrey Trissell

From: Paul Jonna
Sent: Friday, May 5, 2023 11:43 AM
To: Daniel Shinoff
Cc: Jeffrey Trissell; Jack Sleeth; Nopealey Lay
Subject: Re: Mirabelli v. Olson, S.D. Cal. 23cv768

Daniel:

Two updates:

1. Lori West wishes to stay working, but she appreciates your offer. I will keep you posted if that changes.
2. Mrs. Mirabelli requests that her AP, Katelyn Slyvester, visit her classes and shares that she was not fired, but that she chose to take a leave of absence in order to allow teachers and students to focus on learning. She also wants the kids to do their best as the year ends, and she wants to reassure them all that she cares about them. She believes that being off campus for this brief period will take the spotlight off the lawsuit for now, so that everyone can focus on academics.

Paul Jonna

From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Friday, May 5, 2023 10:02 AM
To: Paul Jonna <pjonna@limandri.com>
Cc: Jeffrey Trissell <jtrissell@limandri.com>; Jack Sleeth <JSleeth@as7law.com>; Nopealey Lay <nlay@AS7Law.com>
Subject: Re: Mirabelli v. Olson, S.D. Cal. 23cv768

Since it's a private issue, I wasn't going to say anything or ask the superintendent to say anything, but if that is your request, we will make sure they know.

Daniel

Sent from my iPhone

On May 5, 2023, at 12:52 PM, Paul Jonna <PJonna@limandri.com> wrote:

Thanks Daniel.

Last thing for now: I assume communications at school will make clear to students and staff that Mrs. Mirabelli was not fired - that she is simply on a leave of absence. Please confirm when you can. Thank you.

Paul

From: Daniel Shinoff <DShinoff@as7law.com>

Sent: Friday, May 5, 2023 9:15 AM

To: Paul Jonna <pjonna@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>

Cc: Jack Sleeth <JSleeth@as7law.com>; Nopealey Lay <nlay@AS7Law.com>

Subject: Re: Mirabelli v. Olson, S.D. Cal. 23cv768

Good morning gentlemen, I hope you are both well. Short administrative leave that is in no way related to any discipline, will not have any impact on her years of service or retirement.

The District is doing its due diligence on the complaints and I will keep you apprised. The most complicated issue has become one involving the kids. I have been authorized to extend the same offer to Ms. West. Hopefully this will allow everyone to finish the year in peace and harmony and allow for a new beginning next school year.

Thank you again for all of your professional courtesy.

Daniel.

Sent from my iPhone

On May 5, 2023, at 9:36 AM, Paul Jonna <PJonna@limandri.com> wrote:

Dear Daniel:

Thank you again for your courtesy and cooperation with respect to the Paid Leave issue. I have two follow up items:

1. I assume, but would like to confirm, that the Paid Leave will not impact Mrs. Mirabelli's retirement benefits / accrual.

2. I wanted to follow up on your email informing me that you “received formal complaints from students” about Mrs. Mirabelli. Are you able to send me the complaints? The timing – days after filing our case – suggests that they are based on the exercise of her constitutional rights. Mrs. Mirabelli has an exemplary track record at the school. She was previously named Teacher of the Year, and the EUSD administrators can confirm that she is a wonderful teacher that loves and respects all of her students. Although she has sincere religious beliefs that differ from some at EUSD, she never imposes her views on anyone, and she certainly never looks down on anyone with a different viewpoint. As you know, she is not asking for the right to express her views in this case. She simply wants to continue her job without being forced to speak in a way that violates her faith. My email below sets forth the attacks *she received* from students – but she never responded in kind. All she did was exercise her constitutional rights – and the “complaints” were no doubt based on that protected activity. Again, on behalf of Mrs. Mirabelli, we request copies of the complaints.

Thank you, and have a nice weekend.

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
Tel: (858) 759-9930 | Direct: (858) 759-9133 | Fax: (858) 759-9938
pjonna@limandri.com | www.limandri.com

<image001.png>

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From: Paul Jonna <pjonna@limandri.com>
Sent: Thursday, May 4, 2023 3:35 PM
To: Daniel Shinoff <DShinoff@as7law.com>
Cc: Jeffrey Trissell <jtrissell@limandri.com>; Charles Limandri <climandri@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Peter Breen <pbreen@thomasmoresociety.org>; Norman Grissom <ndglaw2014@gmail.com>; Nopealey Lay <nlay@AS7Law.com>; Jack Sleeth <JSleeth@as7law.com>
Subject: Re: Mirabelli v. Olson, S.D. Cal. 23cv768

Thanks Daniel.

I look forward to working with you on this case.

Best,

Paul Jonna

From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Thursday, May 4, 2023 3:05 PM
To: Paul Jonna <pjonna@limandri.com>
Cc: Jeffrey Trissell <jtrissell@limandri.com>; Charles Limandri <climandri@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Peter Breen <pbreen@thomasmoresociety.org>; Norman Grissom <ndglaw2014@gmail.com>; Nopealey Lay <nlay@AS7Law.com>; Jack Sleeth <JSleeth@as7law.com>
Subject: Re: Mirabelli v. Olson, S.D. Cal. 23cv768

Dear Paul,

I very much appreciated the opportunity to speak to you and Jeffrey. Your professionalism and courtesy is greatly appreciated. This email is to memorize your request that Mrs. Mirabelli be placed on paid administrative leave for the balance of this school year. My client has agreed and also appreciates your efforts at problem solving in a complex situation.

Should you have any questions or concerns please do not hesitate to call me to my cell phone at 6199942535.

Sincerely,

Daniel Shinoff

Sent from my iPhone

On May 4, 2023, at 5:25 PM, Daniel Shinoff <DShinoff@as7law.com> wrote:

We have also received formal complaints from students.

Sent from my iPhone

On May 4, 2023, at 5:23 PM, Paul Jonna <PJonna@limandri.com> wrote:

858-759-9930

Thanks

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
Tel: (858) 759-9930 | Direct: (858) 759-9133 | Fax: (858) 759-9938
pjonna@limandri.com | www.limandri.com

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From: Daniel Shinoff <DShinoff@as7law.com>

Sent: Thursday, May 4, 2023 2:22:06 PM

To: Paul Jonna <pjonna@limandri.com>

Cc: Jeffrey Trissell <jtrissell@limandri.com>; Charles Limandri <climandri@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Peter Breen <pbreen@thomasmoresociety.org>; Norman Grissom <ndglaw2014@gmail.com>; Nopealey Lay <nlay@AS7Law.com>; Jack Sleeth <JSleeth@as7law.com>

Subject: Re: Mirabelli v. Olson, S.D. Cal. 23cv768

I can speak in 30 minutes. What is the best number to call you to?

Sent from my iPhone

On May 4, 2023, at 3:03 PM, Paul Jonna <PJonna@limandri.com> wrote:

Mr. Shinoff:

I just called but missed you. I have now sent three emails with no response. Is there someone else on your team that I can speak with? My client has additional safety concerns, so we need to address this situation ASAP.

Paul M. Jonna | Partner

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<image001.png>

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of this communication, or the taking of any action based in it, is strictly prohibited by law. If you receive this transmission by error, please notify us by telephone immediately. Thank you.

From: Paul Jonna <pjonna@limandri.com>
Sent: Wednesday, May 3, 2023 8:28 AM
To: Daniel Shinoff <DShinoff@as7law.com>; Jeffrey Trissell <jtrissell@limandri.com>
Cc: Charles Limandri <climandri@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Peter Breen <pbreen@thomasmoresociety.org>; Norman Grissom <ndglaw2014@gmail.com>
Subject: Re: Mirabelli v. Olson, S.D. Cal. 23cv768

Mr. Shinoff— when can we expect a response?

Paul M. Jonna | Partner
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From: Paul Jonna
Sent: Monday, May 1, 2023 7:30:13 PM
To: Daniel Shinoff <DShinoff@as7law.com>; Jeffrey Trissell <jtrissell@limandri.com>
Cc: Charles Limandri <climandri@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Peter Breen <pbreen@thomasmoresociety.org>; Norman Grissom <ndglaw2014@gmail.com>
Subject: RE: Mirabelli v. Olson, S.D. Cal. 23cv768

Dear Mr. Shinoff:

Below is a link with photos of some of the hateful and offensive images, including one showing Mrs. Mirabelli (referred to as “Mrs. Miraflaty”) and Mrs. West in a heart, holding hands, with the subtitle, “Power Couple.” Another image refers to Mrs. Mirabelli as sexist and racist, and a letter asks her to “have a despicable day.” I think the safest course of action at this time is to place Mrs. Mirabelli on **paid** Administrative Leave, effective immediately. Please let me know your thoughts immediately. We are not asking this for Mrs. West at this time.

<https://share.icloud.com/photos/051ap9drpwVz7crrgV-O4WMkA>

Paul Jonna

Paul M. Jonna | Partner
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From: Paul Jonna
Sent: Monday, May 1, 2023 6:27 PM
To: Daniel Shinoff <DShinoff@as7law.com>; Jeffrey Trissell <jtrissell@limandri.com>
Cc: Charles Limandri <climandri@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Peter Breen <pbreen@thomasmoresociety.org>; Norman Grissom <ndglaw2014@gmail.com>
Subject: RE: Mirabelli v. Olson, S.D. Cal. 23cv768
Importance: High

Dear Mr. Shinoff:

As you know, we represent Elizabeth Mirabelli and Lori West in the above case.

I am writing to address disturbing developments at Rincon since our clients' lawsuit became public. I trust that you will take these issues very seriously, and immediately take **all steps necessary** to ensure that our clients are safe at work and that those responsible are disciplined/reprimanded, as appropriate.

Here is a brief summary of the issues regarding Mrs. Mirabelli:

1. Students vocalized slurs directly to Mrs. Mirabelli, including "homophobic" and "hater" "You hate gays." "You are against trans people." "You are an old hag."
2. Students questioned Mrs. Mirabelli about her religious beliefs. "What religion are you?" "If you are a Christian, then you should accept everyone." "You should accept the way God made us."
3. Students in the period 6-7 class confronted Mrs. Mirabelli with anger, screamed at her, called her names, and threatened that kids would "commit suicide" because of her. Another student talked about having a baseball bat (to protect her gay brother.)
4. Student **811932** said that his friend was going to climb up the PE building and jump off.
5. Mrs. Mirabelli received 15 written messages posted on the walls of her classroom.
6. The following students were the most problematic **810821, 743319, 746740, 814159, 761152**

There were less issues concerning Mrs. West, but still two that should be noted and addressed:

1. A student yelled "homophobic" to Mrs. West as she was leaving school today.
2. Someone placed an LGBTQ student flyer on her desk

Needless to say, my clients – and in particular Mrs. Mirabelli -- do not feel safe at work.

Please confirm receipt of this email, and please also promptly assure us that you and/or EUSD will address these issues ASAP.

My clients reserve all of their rights.

Paul Jonna

Paul M. Jonna | Partner

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pjonna@limandri.com | www.limandri.com

<image001.png>

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EXHIBIT 2



LIMANDRI & JONNA LLP

CHARLES S. LIMANDRI**
PAUL M. JONNA*

MAILING ADDRESS:

PHYSICAL ADDRESS:

MARK D. MYERS
JEFFREY M. TRISSELL†
ROBERT E. WEISENBURGER
MILAN L. BRANDON II
JOHANNA DELEISSEGUES

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16236 SAN DIEGUITO ROAD
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RICHARD SALPIETRA
Of Counsel

*BOARD CERTIFIED CIVIL TRIAL ADVOCATE
ADMITTED TO THE DISTRICT OF COLUMBIA BAR
ADMITTED TO THE NEW YORK BAR
†ADMITTED TO THE U.S. SUPREME COURT

May 25, 2023

Via Email Only: dshinoff@as7law.com

Daniel R. Shinoff, Esq.
Artiano Shinoff APC
3636 Fourth Avenue
Suite 200
San Diego, CA 92103

**Re: Elizabeth Mirabelli Administrative Leave;
Mirabelli & West v. Olson, S.D. Cal. No. 3:23-cv-0768-BEN**

Dear Mr. Shinoff:

My client Elizabeth Mirabelli received a letter dated May 11, 2023, from John Albert, Assistant Superintendent of Human Resources at the Escondido Union School District (“EUSD”) addressing her paid administrative leave. (*See* Attch.) As the letter properly reiterates, her administrative leave is *not* disciplinary in nature. Placing Mrs. Mirabelli on an administrative leave was the result of a collaborative effort between all parties and counsel to address the hostile and harassing behavior directed toward Mrs. Mirabelli as a direct result of her exercising her constitutionally protected right to seek redress in the federal court system to protect her strongly held religious beliefs. However, the letter raises some questions that require clarification moving forward.

The letter is internally inconsistent as it states that the administrative leave is “*effective May 5, 2023 through June 2, 2023*” in the first paragraph. In contrast, the letter later concludes “[y]ou will remain in a paid administrative leave status until such time as you are notified in

Daniel R. Shinoff, Esq.

Re: Elizabeth Mirabelli Administrative Leave;

***Mirabelli & West v. Olson*, S.D. Cal. No. 3:23-cv-0768-BEN**

May 25, 2023

Page 2

written by the Assistant Superintendent of Human Resources” in the final paragraph. Please reconcile these seemingly contradictory statements.

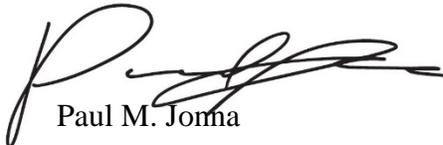
Also, the letter requests Mrs. Mirabelli to “*refrain from entering or trespassing onto any EUSD facilities or property without prior approval...*” This statement seems to imply that Mrs. Mirabelli would be “trespassing” just by entering school grounds or pulling into the parking lot. We must assume that this was just a poor choice of words and does not imply that Mrs. Mirabelli is banned from all school property for cause, as if she had been placed on disciplinary leave pending investigation or that she herself is a danger to anyone. Rather, EUSD leadership has failed to provide Mrs. Mirabelli with a safe, orderly, and non-hostile working environment. With that in mind, Mrs. Mirabelli agrees to obtain prior approval before she enters the school grounds. Additionally, she readily agrees to make herself available for telephone calls and meetings as directed by her supervisors.

By far the area of most concern in the letter is the statement that “[y]ou are further directed to avoid contact with all EUSD employees or students while in a paid administrative leave status, except for the EEEA President or designee and your substitute teacher as it pertains to lesson planning.” As stated, Mrs. Mirabelli’s work status is non-disciplinary. Disruptions to the educational environment were not initiated by our client, rather, the source of disruption were teachers and staff who misused school resources to promote private views—including involving students in the case. Mrs. Mirabelli has been a respected employee of the school district for 25 years. Because she has not participated in any wrong-doing, she should not be censored, and should be free to communicate to properly fulfill her teaching duties as an employee in good standing. These duties include responding to email. Moreover, Mrs. Mirabelli maintains personal relationships with a number of EUSD employees. Surely, you are not directing her to refrain from communicating with associates outside of work and/or in non-school related activities. This would be an alarming violation of Mrs. Mirabelli’s constitutional rights.

Please address the questions raised herein. Mrs. Mirabelli’s focus now, as always, is her students’ success and wellbeing. Your clarification on these issues will ensure that the students receive the best education possible and Mr. Mirabelli’s absence will not adversely affect the remainder of the school year.

Respectfully submitted,

LiMANDRI & JONNA LLP



Paul M. Jonna

ATTACHMENT



BOARD OF EDUCATION

Joan Gardner
Zesty Harper
Frank Huston
Mark Olson
Doug Paulson

SUPERINTENDENT

Luis A. Rankins-Ibarra, Ed.D

May 11, 2023

Elizabeth Mirabelli
3513 Somerset Way
Carlsbad, CA 92010

Dear Ms. Mirabelli:

The intent of this letter is to provide you with formal notification that you are being placed on voluntary paid administrative leave, effective May 5, 2023 through June 2, 2023.

Please be advised that the District has accepted your request to be voluntarily placed on administrative leave and is not disciplinary in nature. Rather, the District believes it is in the best interests of all parties for you to be on voluntary administrative leave. Please refrain from entering or trespassing onto any EUSD facilities or property without prior approval from the Assistant Superintendent of Human Resources or his designee. You are further directed to avoid contact with all EUSD employees or students while in a paid administrative leave status, except for the EEEA President or designee, and your substitute teacher as it pertains to lesson planning. Additionally, you are required to make yourself available by telephone for conferencing and/or scheduled meetings during normal working hours.

You will remain in a paid administrative leave status until such time as you are notified in writing by the Assistant Superintendent of Human Resources. Thank you for your attention to this matter. If after reading this letter, you have any questions or concerns, please do not hesitate to contact me.

Respectfully,

John Albert, Ed.D.
Assistant Superintendent of Human Resources
(760) 432-2116 / FAX (760) 735-2881

**CARILYN GILBERT
EDUCATION CENTER**

2310 Aldergrove Ave.
Escondido, CA 92029
Tel (760) 432-2400
www.eusd.org

EXHIBIT 3

Jeffrey Trissell

From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Thursday, May 18, 2023 3:26 PM
To: Paul Jonna
Cc: Jeffrey Trissell; Jack Sleeth; Nopealey Lay
Subject: Re: Mirabelli v. Olson, S.D. Cal. 23cv768

Dear Mr. Jonna,

The District has received complaints from students regarding your client Ms. West. The District has decided to place Ms. West on paid administrative leave immediately while the complaints are investigated. Please be assured that this decision is not disciplinary in nature and that no conclusions have been made. The District is simply following its normal protocol.

I respectfully request that you let your client know that she is not to show up to the campus tomorrow, Friday May 19th. Please ask Ms. West to refrain from entering on to any EUSD facilities or properties without prior approval from the assistant superintendent of human resources or his designee. Please also advise your client that she is to avoid contact with all EUSD employees or students while in a paid administrative leave status, except for the EEEA President or designee, and her substitute teacher as it pertains to lesson planning. Additionally, she is required to make herself available by telephone for conferencing and or scheduled meetings during normal work hours. Please be assured your office will be notified of any meetings or discussions regarding the complaints that have been made .

Sincerely,
Daniel Shinoff

Sent from my iPhone

On May 5, 2023, at 11:42 AM, Paul Jonna <PJonna@limandri.com> wrote:

Daniel:

Two updates:

1. Lori West wishes to stay working, but she appreciates your offer. I will keep you posted if that changes.
2. Mrs. Mirabelli requests that her AP, Katelyn Slyvester, visit her classes and shares that she was not fired, but that she chose to take a leave of absence in order to allow teachers and students to focus on learning. She also wants the kids to do their best as the year ends, and she wants to reassure them all that she cares about them. She believes that being off campus for this brief period will take the spotlight off the lawsuit for now, so that everyone can focus on academics.

Paul Jonna

EXHIBIT 4



LIMANDRI & JONNA LLP

CHARLES S. LIMANDRI*
PAUL M. JONNA†

MARK D. MYERS
JEFFREY M. TRISSELL‡
ROBERT E. WEISENBURGER
MILAN L. BRANDON II
JOHANNA DELEISSEGUES

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RICHARD SALPIETRA
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16236 SAN DIEGUITO ROAD
BUILDING 3, SUITE 3-15
RANCHO SANTA FE, CA 92091

KATHY DENWORTH
Office Administrator

May 25, 2023

Via Email Only: dshinoff@as7law.com

Daniel R. Shinoff, Esq.
Artiano Shinoff APC
3636 Fourth Avenue
Suite 200
San Diego, CA 92103

**Re: Lori Ann West Administrative Leave;
Mirabelli & West v. Olson, S.D. Cal. No. 3:23-cv-0768-BEN**

Dear Mr. Shinoff:

Thank you for your email dated May 18, 2023, addressing Mrs. Lori Ann West's paid administrative leave from Rincon Middle School at Escondido Union School District ("EUSD"). (See *Attach.*) This is a disturbing escalation of actions and harassing behavior directed toward Mrs. West as a direct result of exercising her constitutionally protected right to seek redress in the federal court system to protect her strongly held religious beliefs.

Mrs. West never expected her valid request for a religious exemption from a school policy (being contested statewide in numerous lawsuits) would result in the loss of her ability to teach the very children she has taught and nurtured for decades. Your communication raises some questions that Mrs. West would like addressed.

Your email states "The District has received complaints from students regarding your client Ms. West." What were the nature of these complaints? My client feels that these complaints must be coming from a small group of students, possibly encouraged by family and

Daniel R. Shinoff, Esq.

Re: Lori Ann West Administrative Leave;

***Mirabelli & West v. Olson*, S.D. Cal. No. 3:23-cv-0768-BEN**

May 25, 2023

Page 2

other school personnel, with the sole purpose of exacting revenge on Mrs. West for holding religious beliefs different from their own. Mrs. West has continued to teach her classes to the best of her ability. These same students never complained about Mrs. West all year long (August 2022 to May 2023), until *after* the lawsuit was filed. The correlation is irrefutable.

Mrs. West also has a right to practice her religion without being subject to ridicule, taunts, harassment and scorn from students and other staff members. Not everyone may agree with her religious beliefs, but the school district absolutely has a duty to protect her and promote a safe and non-hostile work environment for everybody—including Mrs. West.

Does Mrs. West's paid leave of absence have a fixed duration, such as ending on June 2, 2023, or is it currently indefinite? Mrs. West has opportunities to teach Adapted Physical Education this summer beginning on or about June 14th. We assume that she is free to accept that position.

Your email restates the same limitations for Mrs. West that are currently being imposed on Mrs. Mirabelli: (1) refrain from entering onto any EUSD facilities or property without prior approval; and (2) avoid contact with all EUSD employees or students while in a paid administrative leave status, except for the EEEA President or designee, and her substitute teacher as it pertains to lesson planning. Please clarify these terms for both educators as to what is expected from them.

Mrs. West will make herself available by telephone for conferencing and or scheduled meetings during normal work hours. Your clarification on these issues will ensure that the students receive the best education possible and Mrs. West's short absence will not adversely affect the end of the school year.

Respectfully submitted,

LiMANDRI & JONNA LLP



Paul M. Jonna

ATTACHMENT

Jeffrey Trissell

From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Thursday, May 18, 2023 3:26 PM
To: Paul Jonna
Cc: Jeffrey Trissell; Jack Sleeth; Nopealey Lay
Subject: Re: Mirabelli v. Olson, S.D. Cal. 23cv768

Dear Mr. Jonna,

The District has received complaints from students regarding your client Ms. West. The District has decided to place Ms. West on paid administrative leave immediately while the complaints are investigated. Please be assured that this decision is not disciplinary in nature and that no conclusions have been made. The District is simply following its normal protocol.

I respectfully request that you let your client know that she is not to show up to the campus tomorrow, Friday May 19th. Please ask Ms. West to refrain from entering on to any EUSD facilities or properties without prior approval from the assistant superintendent of human resources or his designee. Please also advise your client that she is to avoid contact with all EUSD employees or students while in a paid administrative leave status, except for the EEEA President or designee, and her substitute teacher as it pertains to lesson planning. Additionally, she is required to make herself available by telephone for conferencing and or scheduled meetings during normal work hours. Please be assured your office will be notified of any meetings or discussions regarding the complaints that have been made .

Sincerely,
Daniel Shinoff

Sent from my iPhone

On May 5, 2023, at 11:42 AM, Paul Jonna <PJonna@limandri.com> wrote:

Daniel:

Two updates:

1. Lori West wishes to stay working, but she appreciates your offer. I will keep you posted if that changes.
2. Mrs. Mirabelli requests that her AP, Katelyn Slyvester, visit her classes and shares that she was not fired, but that she chose to take a leave of absence in order to allow teachers and students to focus on learning. She also wants the kids to do their best as the year ends, and she wants to reassure them all that she cares about them. She believes that being off campus for this brief period will take the spotlight off the lawsuit for now, so that everyone can focus on academics.

Paul Jonna

EXHIBIT 5



LIMANDRI & JONNA LLP

CHARLES S. LIMANDRI**
PAUL M. JONNA*

MARK D. MYERS
JEFFREY M. TRISSELL†
JOSHUA A. YOUNGKIN
ROBERT E. WEISENBURGER
MILAN L. BRANDON II
JOHANNA DELEISSEGUES

BRIAN D. MILLER
RICHARD SALPIETRA
Of Counsel

*BOARD CERTIFIED CIVIL TRIAL ADVOCATE
ADMITTED TO THE DISTRICT OF COLUMBIA BAR
ADMITTED TO THE NEW YORK BAR
†ADMITTED TO THE U.S. SUPREME COURT

MAILING ADDRESS:

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16236 SAN DIEGUITO ROAD
BUILDING 3, SUITE 3-15
RANCHO SANTA FE, CA 92091

KATHY DENWORTH
Office Administrator

September 18, 2023

VIA EMAIL ONLY:

**dsinoff@as7law.com; jbasel@as7law.com;
mbumbu@as7law.com**

Daniel R. Shinoff, Esq.
Jesse Basel, Esq.
Maurice A. Bumbu, Esq.
Artiano Shinoff APC
3636 Fourth Avenue, Suite 200
San Diego, CA 92103

**Re: Employment Status of Elizabeth Mirabelli and Lori Ann West;
Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN (S.D. Cal. Apr. 27, 2023)**

Dear Daniel:

Thank you for your call last week. I appreciate your professional and cordial approach to the tough issues in this case. I am writing to address our concerns about Lori and Elizabeth's employment status. Although the issues are serious and the tone of this letter is formal, I hope we can continue to work towards an amicable, prompt, and just resolution with respect to these issues. To begin, as you know, the Court issued a 36 page ruling granting the Plaintiffs' motion for a preliminary injunction last week. *See Mirabelli v. Olson*, No. 3:23-CV-768, 2023 WL 5976992 (S.D. Cal. Sept. 14, 2023). Earlier today, I sent a separate letter concerning next steps in the litigation, which this letter does not address.

At the outset of this case, Elizabeth asked to be put on paid Administrative Leave during the preliminary injunction phase of this lawsuit. We agreed to revisit the issue after the Court ruled on our motion for a preliminary injunction. We expressly requested that Elizabeth be placed on

Daniel R. Shinoff, Esq.

**Re: Employment Status of Elizabeth Mirabelli and Lori Ann West;
Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN (S.D. Cal. Apr. 27, 2023)**

September 18, 2023

Page 2

paid leave because she was very concerned about her safety at school. Certain teachers and students acted in a very inappropriate way after this case was filed. This has been well documented in prior correspondence, so I will not repeat those facts here. The incidents were serious, and I hope EUSD began its own investigation into those issues. Please confirm if EUSD ever opened an investigation into (1) the incident involving the band teacher producing a protest video that had children in it, in direction violation of district policy or (2) the hateful and inappropriate messages sent to Elizabeth in her own classroom.

As for Lori, she very much wanted to stay teaching during the pendency of our motion for a preliminary injunction. She was willing to deal with the blowback at school and she didn't want to miss out on graduations. However, EUSD decided to place her on involuntary paid leave based on allegations of supposed improper conduct.

During the June 29, 2023 interview of Ms. West by Jesse Basel, he stated that he believed that the investigation would conclude within 30 days. But it has been over 3 months now—and we have received no update whatsoever. This is not acceptable. Lori has done nothing wrong; she is an amazing person and a great asset to EUSD. She only has a short time left before she retires, and she wants to get back to work. We need a substantive update on Lori's investigation ASAP—hopefully confirming that it is closed and that she will be warmly welcomed back at school.

As you know, both the harassment that Elizabeth suffered and Lori's being placed on administrative leave could constitute adverse action under Title VII and FEHA. So we believe that it is time to close out the investigation and discuss terms for both teachers to return. Elizabeth should not return to school before Lori. It would send the wrong message to the school—students, teachers, and staff.

Here is what we propose:

- EUSD agrees to allow Lori and Elizabeth to return to work on a date certain in October.
- EUSD agrees to inform teachers, students, and staff about the return date, and agrees to provide a letter to all concerning appropriate conduct. The letter, which we will need to pre-approve, will make clear that our clients are not to be the subject of protests, harassment, and demonstrations about the case. Students should not be sending them hateful cards and letters; staff should not be objecting to the ordered accommodation of their religious beliefs. It might make the most sense to have a policy of refraining from discussing the case on campus.

Daniel R. Shinoff, Esq.

**Re: Employment Status of Elizabeth Mirabelli and Lori Ann West;
Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN (S.D. Cal. Apr. 27, 2023)**

September 18, 2023

Page 3

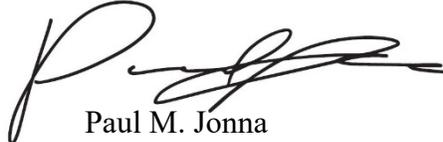
- EUSD should affirm its commitment to keep Lori and Elizabeth safe, should confirm in writing that it will investigate hateful incidents promptly, and should assure Lori and Elizabeth that they are valued employees.

Although we do not want to have to add Title VII or FEHA allegations to our complaint, Elizabeth and Lori reserve all of their rights to seek additional relief and damages if EUSD continues to force Lori to remain on leave because of baseless allegations of misconduct, or if student or staff harassment continues after Lori and Elizabeth return.

Thank you, Daniel, for your anticipated courtesy and cooperation. I look forward to receiving a substantive response as soon as possible, and no later than next week.

Respectfully submitted,

LiMANDRI & JONNA LLP

A handwritten signature in black ink, appearing to read 'Paul M. Jonna', is written over the printed name.

Paul M. Jonna

PMJ/

EXHIBIT 6

Jeffrey Trissell

From: Paul Jonna
Sent: Tuesday, September 26, 2023 2:38 PM
To: Daniel Shinoff
Cc: Jeffrey Trissell; Jesse Basel; Maurice Bumbu; Charles Limandri; Kathy Denworth
Subject: RE: Mirabelli v. Escondido Union School District - Employment Status

Right – the request was based on concerns about her safety and security, and we just need to make sure those concerns are being addressed.

Regarding Lori: we asked for a response about her return date by this week. The investigation has been open for over 3 months, so we are hoping that it is now closed. She wants to go back to work and do the job she loves. As I said, we would prefer not to add claims against EUSD, but we will be left with no choice if she is not allowed to return.

Thanks Daniel.

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
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pjonna@limandri.com | www.limandri.com



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From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Tuesday, September 26, 2023 2:30 PM
To: Paul Jonna <pjonna@limandri.com>
Cc: Jeffrey Trissell <jtrissell@limandri.com>; Jesse Basel <jbasel@as7law.com>; Maurice Bumbu <mbumbu@as7law.com>; Charles Limandri <climandri@limandri.com>; Kathy Denworth <kdenworth@limandri.com>
Subject: Re: Mirabelli v. Escondido Union School District - Employment Status

I will respond as quickly as possible. Please understand that, allowing Mrs. Mirabelli to be on leave was based on your request as an accommodation.

Sent from my iPhone

On Sep 26, 2023, at 2:17 PM, Paul Jonna <pjonna@limandri.com> wrote:

Also, Daniel: we really need these questions answered ASAP, and definitely before Elizabeth decides on a return date. Thank you.

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
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From: Jeffrey Trissell <jtrissell@limandri.com>
Sent: Tuesday, September 26, 2023 2:15 PM
To: dshinoff@as7law.com; jbasel@as7law.com; mbumbu@as7law.com
Cc: Paul Jonna <pjonna@limandri.com>; Charles Limandri <climandri@limandri.com>; Kathy Denworth <kdenworth@limandri.com>
Subject: RE: Mirabelli v. Escondido Union School District - Employment Status

Mr. Shinoff,

Attached is the letter that Mr. Jonna mentioned on his call with you today. The issues that Mrs. Mirabelli specifically wants addressed are also reproduced below:

1. "Please confirm if EUSD ever opened an investigation into (1) the incident involving the band teacher producing a protest video that had children in it, in direction violation of district policy or (2) the hateful and inappropriate messages sent to Elizabeth in her own classroom."
2. "Here is what we propose: ... EUSD agrees to inform teachers, students, and staff about the return date, and agrees to provide a letter to all concerning appropriate conduct. The letter, which we will need to pre-approve, will make clear that our clients are not to be the subject of protests, harassment, and demonstrations about the case. Students should not be sending them hateful cards and letters; staff should not be objecting to the ordered accommodation of their religious beliefs. It might make the most sense to have a policy of refraining from discussing the case on campus."
3. "EUSD should affirm its commitment to keep Lori and Elizabeth safe, should confirm in writing that it will investigate hateful incidents promptly, and should assure Lori and Elizabeth that they are valued employees."

Sincerely,

Jeff

Jeffrey M. Trissell | Senior Associate
LiMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
Tel: (858) 759-9930 | Fax: (858) 759-9938
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From: Kathy Denworth
Sent: Monday, September 18, 2023 3:42 PM
To: dshinoff@as7law.com; jbasel@as7law.com; mbumbu@as7law.com
Cc: Jeffrey Trissell <jtrissell@limandri.com>; Paul Jonna <pjonna@limandri.com>; Charles Limandri <climandri@limandri.com>
Subject: Mirabelli v. Escondido Union School District - Employment Status

Dear Counsel:

Please find attached correspondence regarding the above-referenced matter from Attorney Paul Jonna.

Best Regards,

Kathy

Kathy Denworth | Office Manager
Legal Executive Assistant to Charles S. LiMandri
LiMANDRI & JONNA LLP
P.O. Box 9120 | Rancho Santa Fe, CA 92067
Tel: (858) 759-9930 | Fax: (858) 759-9938
kdenworth@limandri.com

<image003.jpg>
www.limandri.com

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EXHIBIT 7



3636 Fourth Avenue
Suite 200
San Diego, California 92103
Main: 619-232-3122
Fax: 619-232-3264
as7law.com

Daniel Shinoff
(619) 232-3122
dshinoff@as7law.com

September 28, 2023

VIA ELECTRONIC MAIL ONLY

pjonna@limandri.com
climandri@limandri.com
jtrissell@limandri.com

Paul M. Jonna
Charles Limandri
Jeffrey Trissell
LiMANDRI & JONNA LLP

Re: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN (S.D. Cal. Apr. 27, 2023)

Dear Paul,

Thank you for your email dated September 27, 2023. We are well aware of the concerns made by Mrs. Mirabelli regarding her safety and security. The Superintendent and his cabinet have investigated Mrs. Mirabelli's concerns and can ensure a safe teaching environment is available for Mrs. Mirabelli upon her return. Results of any investigation will not be shared as it is a personnel matter.

The District will not send a letter specifically addressing Mrs. Mirabelli's return, but will continue to enforce its non-retaliation and non-harassment policies. The District will not tolerate any harassment, retaliation, or discrimination against Mrs. Mirabelli or anyone else within the District. We urge her to share any concerns she may have. We hope you will immediately send over any concerns she shares with you as well. The District will not tolerate any discriminatory behavior against her. The District will not retaliate against Mrs. Mirabelli or tolerate any retaliation.

Every employee is a valued employee of the District, and the District will act promptly to investigate any hateful incidents.

We are still in the middle of an investigation with Mrs. West but hope to have that resolved shortly.

Thank you for your continuing professional courtesy and cooperation.

Artiano Shinoff

Paul M. Jonna
Charles Limandri
Jeffrey Trissell

Page 2

With highest professional regards,

ARTIANO SHINOFF



Daniel R. Shinoff

DRS:nl

EXHIBIT 8

Jeffrey Trissell

From: Paul Jonna
Sent: Monday, October 2, 2023 12:31 PM
To: Daniel Shinoff
Cc: Jesse Basel; Nopealey Lay; Charles Limandri; Jeffrey Trissell; Kathy Denworth; Jack Sleeth
Subject: Re: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Ok, so these students waited until after the court ruled on the PI, then decided to lodge complaints about cruel behavior that occurred over 4-6 months ago? That makes sense.

It's very clear what's happening and we won't tolerate it. I expect an update on the prior investigations today. I still need to know the timeframe. These baseless complaints should be investigated today.

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
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From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Monday, October 2, 2023 12:25:07 PM
To: Paul Jonna <pjonna@limandri.com>
Cc: Jesse Basel <jbasel@as7law.com>; Nopealey Lay <nlay@AS7Law.com>; Charles Limandri <climandri@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Jack Sleeth <JSleeth@as7law.com>
Subject: Re: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Paul,
Although the timing is not specific in the complaint, my sense is that it occurred far before Mrs. West was on leave.

Daniel.

Sent from my iPhone

On Oct 2, 2023, at 12:20 PM, Paul Jonna <pjonna@limandri.com> wrote:

I need to immediately know the results of the prior investigations. I also need to know the timeline for this process. I also need to know when this alleged "cruel conduct" occurred. Was it while Mrs West was on leave? The timing is highly suspicious.

Paul M. Jonna | Partner
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From: Jesse Basel <jbasel@as7law.com>
Sent: Monday, October 2, 2023 12:16:45 PM
To: Paul Jonna <pjonna@limandri.com>; Daniel Shinoff <DShinoff@as7law.com>
Cc: Nopealey Lay <nlay@AS7Law.com>; Charles Limandri <climandri@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Jack Sleeth <JSleeth@as7law.com>
Subject: RE: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Dear Paul,

The District is obligated under Title V to investigate any complaints of discrimination. The District received a complaint of discrimination on Friday September 29, 2023, by former students of Mrs. West. The students specifically allege discriminatory, hostile, and cruel behavior by Mrs. West towards them. The school district did not generate this complaint. This complaint was generated by individuals who believe that they were victims of the alleged behavior. These allegations are obviously serious and will be thoroughly investigated. The school district has no other choice but to investigate these complaints despite your characterization. I don't think it is particularly productive to threaten the district with further litigation while it conducts a mandated investigation. There are four students that have been identified. The students will be interviewed, and Mrs. West be afforded the right to respond to these allegations. No one has reached any conclusions regarding these allegations.

Sincerely,
Jesse

From: Paul Jonna <pjonna@limandri.com>
Sent: Monday, October 2, 2023 12:08 PM
To: Jesse Basel <jbasel@as7law.com>; Daniel Shinoff <DShinoff@as7law.com>
Cc: Nopealey Lay <nlay@AS7Law.com>; Charles Limandri <climandri@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Jack Sleeth <JSleeth@as7law.com>
Subject: Re: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

We're entitled to know what these complaints are.

When were they made? What are they based on? What is the conduct complained of?

We're also entitled to know the timeframe and overall process. Up until now, you've told us almost nothing — depriving Mrs. West of doing the job she loves due to baseless complaints. A federal court

granted her request for a preliminary injunction against your clients' unlawful conduct, and now it seems EUSD has found another way to try to deprive her of her rights. We will not tolerate this.

Unless we receive satisfactory responses to these questions today, then we will proceed to seek leave to amend our complaint to add additional claims against EUSD.

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
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pjonna@limandri.com | www.limandri.com

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From: Jesse Basel <jbasel@as7law.com>
Sent: Monday, October 2, 2023 12:00:41 PM
To: Paul Jonna <pjonna@limandri.com>; Daniel Shinoff <DShinoff@as7law.com>
Cc: Nopealey Lay <nlay@AS7Law.com>; Charles Limandri <climandri@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Jack Sleeth <JSleeth@as7law.com>
Subject: RE: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Dear Paul,

We have received an additional complaint concerning Mrs. West. We must investigate these accusations as I'm sure you understand.

Thank you,
Jesse

From: Paul Jonna <pjonna@limandri.com>
Sent: Friday, September 29, 2023 11:18 AM
To: Daniel Shinoff <DShinoff@as7law.com>
Cc: Nopealey Lay <nlay@AS7Law.com>; Charles Limandri <climandri@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Jesse Basel <jbasel@as7law.com>; Jack Sleeth <JSleeth@as7law.com>
Subject: Re: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Daniel, understood. Can you please provide your best estimate as to the timeframe we are talking about? This investigation has been going on for way longer than necessary, at least from our perspective.

Thank you for your understanding and cooperation.

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
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From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Friday, September 29, 2023 11:14:34 AM
To: Paul Jonna <pjonna@limandri.com>
Cc: Nopealey Lay <nlay@AS7Law.com>; Charles Limandri <climandri@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Jesse Basel <jbasel@as7law.com>; Jack Sleeth <JSleeth@as7law.com>
Subject: Re: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Dear Paul,

I truly appreciate the complexity of the situation. There has been no decision to proceed with discipline, which is what I meant when I said that there have not been charges drafted. The decision on how to proceed at this juncture will be made in a cautious manner, respectful of the due process rights of Mrs. West. In the meantime, we are simply dealing with accusations and no decision has been made.

Your professionalism and patience is greatly appreciated.

Regards,
Daniel

Sent from my iPhone

On Sep 29, 2023, at 6:12 AM, Paul Jonna <pjonna@limandri.com> wrote:

Daniel:

Please clarify what you mean by no charges drafted? I assume you and your clients know *whether* she will be invited to return back to work this semester. I need to know the answer to that question this week. Thank you.

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
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From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Thursday, September 28, 2023 11:05 AM
To: Paul Jonna <pjonna@limandri.com>
Cc: Nopealey Lay <nlay@AS7Law.com>; Charles Limandri <climandri@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Jesse Basel <jbasel@as7law.com>; Jack Sleeth <JSleeth@as7law.com>
Subject: Re: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Dear Paul,

There have been no charges drafted. The process is being followed and a report will be made to the Superintendent and the direction will be determined at that point. I will update you as soon as I am able.

Thank you.

Daniel

Sent from my iPad

On Sep 28, 2023, at 9:35 AM, Paul Jonna <pjonna@limandri.com> wrote:

Daniel,

Need a more precise ETA re Lori please. Thanks.

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
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From: Nopealey Lay <nlay@AS7Law.com>
Sent: Thursday, September 28, 2023 9:13:53 AM
To: Paul Jonna <pjonna@limandri.com>; Charles Limandri <climandri@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Kathy Denworth <kdenworth@limandri.com>
Cc: Daniel Shinoff <DShinoff@as7law.com>; Jesse Basel <jbasel@as7law.com>; Jack Sleeth <JSleeth@as7law.com>
Subject: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Dear Counsel,

Attached please find correspondence of this date sent on behalf of Daniel Shinoff.

Sincerely,

Nopealey Lay

<image001.png>

Legal Secretary to

Daniel R. Shinoff, Esq.

Jack M. Sleeth Jr, Esq.

ARTIANO SHINOFF

3636 Fourth Avenue, Suite 200

San Diego, CA 92103

Business: (619) 232-3122 Ext. 483

Direct: (858) 201-4079

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Please consider the environment before printing this e-mail.

EXHIBIT 9

Jeffrey Trissell

From: Paul Jonna
Sent: Friday, October 6, 2023 11:25 AM
To: Daniel Shinoff
Cc: Jesse Basel; Nopealey Lay; Charles Limandri; Jeffrey Trissell; Kathy Denworth; Jack Sleeth
Subject: RE: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Daniel, thanks for taking my call earlier. I will let you know when Elizabeth is feeling better so that we can schedule an interactive process meeting.

For Mrs. West, please suggest a few days and times that work next week.

Thanks also for confirming our understanding, based on reviewing the MOU and Board policies/regulations, that the Mirabelli and West claims for discrimination and harassment do not need to be submitted to a grievance procedure or arbitration.

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
Tel: (858) 759-9930 | Direct: (858) 759-9133 | Fax: (858) 759-9938
pjonna@limandri.com | www.limandri.com



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From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Friday, October 6, 2023 9:23 AM
To: Paul Jonna <pjonna@limandri.com>
Cc: Jesse Basel <jbasel@as7law.com>; Nopealey Lay <nlay@AS7Law.com>; Charles Limandri <climandri@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Jack Sleeth <JSleeth@as7law.com>
Subject: Re: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Dear Paul,

Thank you for your email. I am very sorry to hear that Mrs Mirabelli has contracted Covid. I think it would be helpful if we could have a conversation at your convenience to discuss her status. I will also provide you under separate cover a standard notice involving a claim of an industrially related health issue.

In order to facilitate a smooth return the workplace I agree that an interactive process meeting with Mrs. Mirabelli is in order. I'm also pleased to stipulate to a 30 day extension.

In terms of the recent claim against Mrs. West, I advised you of that claim immediately upon receipt. I am happy to sit down with you and Mrs West at your earliest convenience to address those accusations. The earlier investigation appears to be complete and the findings will be shared with the superintendent shortly.

I look forward to hearing from you at your earliest convenience.

Daniel.

Sent from my iPhone

On Oct 5, 2023, at 3:09 PM, Paul Jonna <pjonna@limandri.com> wrote:

Dear Daniel:

I am writing to follow up on our discussions with respect to the employment status of Mrs. West and Mrs. Mirabelli.

For Mrs. West, I am still waiting for the following information from your office:

1. Confirmation as to the status of the prior investigations that Jesse Basel said over 3 months ago would be complete in "30 days."
2. An estimate as to the timeframe for the new investigations based on the complaints recently received.
3. Information about the nature and substance of these new allegations/complaints.
 1. We also need to know the exact date the new complaints were made.

For Mrs. Mirabelli, I have a few updates and several questions:

1. Please note that Mrs. Mirabelli tested positive for COVID-19 yesterday. I trust that you will factor this information into any return-to-work date.
2. As I have mentioned many times, we are very concerned about her safety at work, and your response to my prior letter left many questions unanswered. For example:
 1. Please confirm the results of EUSD's investigation into the complaints Mrs. Mirabelli made about the harassment leveled at her. Have any teachers or students been disciplined or reprimanded for the misconduct they engaged in? If not, how can we be sure that this conduct will not occur again?
 1. Why is EUSD unwilling to write a letter to staff about proper conduct before Mrs. Mirabelli returns? This seems prudent and necessary in light of the extremely harassing conduct leveled at her after this case was filed.
2. Mrs. Mirabelli is experiencing severe emotional and psychological harm as a result of the hostile work environment at EUSD, and EUSD's failure to adequately address these legitimate concerns

has compounded the injury to her health. I just learned that she was recently hospitalized because of these injuries and is currently seeking additional medical treatment. Given these and the additional circumstances listed above, please confirm that EUSD will allow Ms. Mirabelli to remain on paid leave status for the next four weeks as an accommodation so she can seek necessary treatment.

3. Further, when the discussion occurs about her return to work, it will need to be part of an interactive process to address her safety and health concerns, also based on any recommendations made by her healthcare providers.

It seems likely that we will need to seek leave to amend our complaint to add employment claims for both of our clients. Please confirm if you want to stipulate to another 30-day extension to file your answer while we decide whether and to what extent to amend our complaint. Once I know your position on this, we can circulate a stipulation and/or confirm next steps with the State.

Paul M. Jonna | Partner

LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067

Tel: (858) 759-9930 | Direct: (858) 759-9133 | Fax: (858) 759-9938

pjonna@limandri.com | www.limandri.com



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From: Paul Jonna <pjonna@limandri.com>

Sent: Monday, October 2, 2023 12:31 PM

To: Daniel Shinoff <DShinoff@as7law.com>

Cc: Jesse Basel <jbasel@as7law.com>; Nopealey Lay <nlay@AS7Law.com>; Charles Limandri <climandri@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Jack Sleeth <JSleeth@as7law.com>

Subject: Re: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Ok, so these students waited until after the court ruled on the PI, then decided to lodge complaints about cruel behavior that occurred over 4-6 months ago? That makes sense.

It's very clear what's happening and we won't tolerate it. I expect an update on the prior investigations today. I still need to know the timeframe. These baseless complaints should be investigated today.

EXHIBIT 10

Jeffrey Trissell

From: Paul Jonna
Sent: Thursday, October 12, 2023 12:08 PM
To: Daniel Shinoff; Jesse Basel
Cc: Nopealey Lay; Charles Limandri; Jeffrey Trissell; Kathy Denworth; Jack Sleeth
Subject: RE: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Daniel:

I wanted to send one email with a summary of our outstanding requests/questions and some new ones based on your interview of Lori West yesterday.

For Lori West:

1. Please provide us with the findings/conclusions of the prior investigations as soon as possible.
2. For the new complaint by [REDACTED], please update us on the timeframe for the investigation and overall process as soon as possible. Also, under EUSD policies and regulations, are we entitled to the following information:
 - a. The email address that sent the [REDACTED] complaint to EUSD, and who it was sent to at EUSD. And whether it belongs to [REDACTED] or someone else?
 - b. The time the complaint was sent. You indicated it was sent on 9/29 after work hours. If it was 8 p.m. or so, most 17-year-old girls would be out with friends at that time – not at home writing and sending emails on a Friday night.
 - c. A summary of the accuser's discipline records at EUSD, and whether she was in the TREC program. As you know, Lori was the TREC PE teacher for many years.
 - d. Whether her sister is [REDACTED]? Please note that Mrs. West believes that [REDACTED] went by [REDACTED] at Rincon.
 - e. What her brother's name is.

The above information would obviously be relevant to [REDACTED]'s complaint and be relevant to Mrs. West's ability to respond and defend herself. However, if under EUSD policy, you cannot share this information with us, please ensure that the District retains the IP address and metadata and uses best practices to gather and explore all appropriate information in this investigation. These fabricated allegations are outrageous and should fall under the weight of their suspicious timing, staleness, and lack of corroboration. No teacher could freely use the [REDACTED] words in crowds of students without someone saying something.

For Elizabeth Mirabelli:

She is still recovering from COVID and in the process of beginning to address her mental health concerns. She will review the form you sent as soon as she is able. We will then reach out to schedule an interactive process meeting.

In the meantime, it is very important that you please confirm the results/findings/conclusions of EUSD's investigation into the complaints Mrs. Mirabelli made about the harassment leveled at her.

Thank you, Daniel and Jesse, and I look forward to hearing from you as soon as possible.

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
Tel: (858) 759-9930 | Direct: (858) 759-9133 | Fax: (858) 759-9938
pjonna@limandri.com | www.limandri.com



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From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Sunday, October 8, 2023 3:02 PM
To: Paul Jonna <pjonna@limandri.com>
Cc: Nopealey Lay <nlay@AS7Law.com>; Jesse Basel <jbasel@as7law.com>; Charles Limandri <climandri@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Jack Sleeth <JSleeth@as7law.com>
Subject: Re: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Excellent

Sent from my iPhone

On Oct 8, 2023, at 1:14 PM, Paul Jonna <pjonna@limandri.com> wrote:

My office would be great:

16236 San Dieguito Rd
Suite 3-15
Rancho Santa Fe, CA 92067

Thanks Daniel

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
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From: Daniel Shinoff <DShinoff@as7law.com>

Sent: Sunday, October 8, 2023 1:08:26 PM

To: Paul Jonna <pjonna@limandri.com>

Cc: Nopealey Lay <nlay@AS7Law.com>; Jesse Basel <jbasel@as7law.com>; Charles Limandri <climandri@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Jack Sleeth <JSleeth@as7law.com>

Subject: Re: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Paul,

I am happy to meet you at which ever location you and your client feels most comfortable.

Have a great day.

Dan

Sent from my iPhone

On Oct 8, 2023, at 7:13 AM, Paul Jonna <pjonna@limandri.com> wrote:

How about Wednesday, October 11 at 2 PM? Where would this meeting take place?
Thank you.

Paul M. Jonna | Partner

LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067

Tel: (858) 759-9930 | Direct: (858) 759-9133 | Fax: (858) 759-9938

pjonna@limandri.com | www.limandri.com

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From: Nopealey Lay <nlay@AS7Law.com>

Sent: Friday, October 6, 2023 12:07 PM

To: Paul Jonna <pjonna@limandri.com>; Daniel Shinoff <DShinoff@as7law.com>

Cc: Jesse Basel <jbasel@as7law.com>; Charles Limandri <climandri@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Jack Sleeth <JSleeth@as7law.com>

Subject: RE: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Dear Counsel,

Here are availabilities for next week:

10/10/23 Tuesday: Anytime

10/11/23 Wednesday: Anytime after 12:00pm

10/12/23 Thursday: Anytime

Sincerely,

Nopealey Lay

<image002.png>

Legal Secretary to

Daniel R. Shinoff, Esq.

Jack M. Sleeth Jr, Esq.

ARTIANO SHINOFF

3636 Fourth Avenue, Suite 200

San Diego, CA 92103

Business: (619) 232-3122 Ext. 483

Direct: (858) 201-4079

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Please consider the environment before printing this e-mail.

From: Paul Jonna <pjonna@limandri.com>

Sent: Friday, October 6, 2023 11:25 AM

To: Daniel Shinoff <DShinoff@as7law.com>

Cc: Jesse Basel <jbasel@as7law.com>; Nopealey Lay <nlay@AS7Law.com>; Charles Limandri <climandri@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Jack Sleeth <JSleeth@as7law.com>

Subject: RE: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Daniel, thanks for taking my call earlier. I will let you know when Elizabeth is feeling better so that we can schedule an interactive process meeting.

For Mrs. West, please suggest a few days and times that work next week.

Thanks also for confirming our understanding, based on reviewing the MOU and Board policies/regulations, that the Mirabelli and West claims for discrimination and harassment do not need to be submitted to a grievance procedure or arbitration.

Paul M. Jonna | Partner

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Tel: (858) 759-9930 | Direct: (858) 759-9133 | Fax: (858) 759-9938

pjonna@limandri.com | www.limandri.com

<image001.png>

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From: Daniel Shinoff <DShinoff@as7law.com>

Sent: Friday, October 6, 2023 9:23 AM

EXHIBIT 11



PRIVACY PROTECTORS

YOU CAN DO SOMETHING ABOUT THIS!

We are coming together to protest a lawsuit against the EUSD by Mirabelli and West, blocking a policy that protects Trans YOUTH

WHEN: OCTOBER 20TH

WHERE: RINCON MIDDLE SCHOOL

TIMES: ARRIVE AT 7:15AM

START WALKING AT 7:30AM

We will start at Vista and march down Ash, then turn right onto Lehner and stopping across the street in front of the school

--We will be picketing, speaking, and handing out pamphlets--

PLEASE JOIN US IN THIS FIGHT TO PROTECT YOUTH!!!

WE CANT LET THEM GET AWAY WITH THIS!!!!!!

TEXT @privacyp TO 81010 TO JOIN THE REMIND

EXHIBIT 12

2:10



☰ Privacy Protectors



Messages Files **People** Settings



G [Redacted]

HB [Redacted]

J [Redacted]

T [Redacted]

[Profile picture of a man in a red jacket] [Redacted]

KT [Redacted]

KT Katie Terrill

KD [Redacted]

KC [Redacted]

[Profile picture of a character] [Redacted]

[Profile picture of Spider-Man] [Redacted]

EXHIBIT 13

search...



Select Departments



LINDA ROBINSON
Teacher,
Lang.Arts/Read.,
Grades: 6, 7, 8
6th Grade



VERONICA ROJAS
Teacher, SS,
Grades: 7
7th Grade



ALISON RUPPERT
Noon Time Supervisor



NICOLE SALICE
Teacher,ALC,
Grades: 678



EVA SANDOVAL
Noon Time Supervisor



RAFAEL SANTOS
Noon Time
Supervisor



VERENA SAULS
Noon Time Supervisor



DELSHAD SHAHZADI
Behavior
Intervention
Technician
School Office



KAREN SMITH
Teacher,
Lang.Arts/Read.,
Grades: 6
6th Grade



KELLY SPINOSA
Psychologist



SARAH STANK
Teacher, Lang.Arts,
Grades: 8



KATELYN SYLVESTER
Assistant Principal
School Office
760-432-2491



KATIE TERRILL
School Registrar
School Office



AMBER TERRY
Teacher, Sci.,
Grades: 8
8th Grade



TRACY TODD
Special Education
Teacher (SAI/SC/SH),
Grades: 6, 7
Special Academic
Instruction (SAI)



GLORIA TORRES
School Counselor
School Office
[Class Website](#)



VERONICA VEGA
Paraeducator



AIRA VELENA
Paraeducator



**JOHANNA VIGIL-
DELEON**
Teacher, Tech, Grades:
6, 7, 8
6th Grade



**MARIA
VILLANUEVA**
Noon Time
Supervisor

EXHIBIT 14

Jeffrey Trissell

From: Paul Jonna
Sent: Friday, October 13, 2023 4:26 PM
To: Daniel Shinoff; Jesse Basel
Cc: Nopealey Lay; Charles Limandri; Jeffrey Trissell; Kathy Denworth; Jack Sleeth
Subject: RE: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Importance: High

Daniel:

If we do not receive satisfactory responses to all of our questions next week (those listed in my 10/12 and 10/13 emails below), then we will have no choice but to seek relief from the Court – including but not limited to contempt sanctions.

The Court's order, pages 35-36, provides:

The Plaintiffs' Motion for Preliminary Injunction is GRANTED. The Escondido Union School District Defendants, the State Defendants, and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them, and those who gain knowledge of this injunction order or know of the existence of this injunction order, are enjoined from enforcing against Plaintiffs Mirabelli or West, EUSD AR 5145.3 or the associated official policy described in the California Department of Education's FAQs page on gender identity-related disclosures by teachers to parents, ***and are to restrain any governmental employee or entity from taking any adverse employment actions thereupon against Plaintiffs Mirabelli or West, until further Order of this Court.***

When our clients returned to school after the lawsuit was filed, they were targeted. One teacher told students that the lawsuit was a money grab. For her safety, Mrs. Mirabelli made a complaint about her treatment (e.g., being called sexist and racist) and has asked for assurances of safety. It is unclear what happened with her complaint, and there has been no appropriate response to her request for safety assurances. Mrs. West has been kept out of work based on fabricated charges. She is entitled to promptly know the outcome of the investigations, but you have told us nothing. While on paid leave, she has lost thousands of dollars in overtime. Now, our clients are being personally targeted in a protest demonstration organized by students, teachers and/or parents.

I also reiterate my prior demand that EUSD collaborate with us to send a letter to all teachers and parents, clarifying what the lawsuit is about, demanding that all teachers be treated with respect, and stating that EUSD will not tolerate misinformation or targeting for teachers because of their religious views. The letter should make clear that there should be no protests that targets teachers; it should contain a short summary of what Judge Benitez said in his Order, including his finding that AR 5145.3's requirement that teachers withhold information from parents infringes on our clients' religious beliefs.

I look forward to hearing from you as soon as possible, and no later than **October 18**, so that we can determine if relief from the Court is necessary.

Paul Jonna

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
Tel: (858) 759-9930 | Direct: (858) 759-9133 | Fax: (858) 759-9938
pjonna@limandri.com | www.limandri.com



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From: Paul Jonna <pjonna@limandri.com>
Sent: Friday, October 13, 2023 9:03 AM
To: Daniel Shinoff <DShinoff@as7law.com>; Jesse Basel <jbasel@as7law.com>
Cc: Nopealey Lay <nlay@AS7Law.com>; Charles Limandri <climandri@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Jack Sleeth <JSleeth@as7law.com>
Subject: Re: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Also, we're informed that three Rincon students were passing out these flyers.

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
Tel: (858) 759-9930 | Direct: (858) 759-9133 | Fax: (858) 759-9938
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From: Paul Jonna
Sent: Friday, October 13, 2023 8:40:07 AM
To: Daniel Shinoff <DShinoff@as7law.com>; Jesse Basel <jbasel@as7law.com>
Cc: Nopealey Lay <nlay@AS7Law.com>; Charles Limandri <climandri@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Jack Sleeth <JSleeth@as7law.com>
Subject: RE: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Daniel:

The below flyer is being distributed outside of Rincon this morning.

These are the kinds of things EUSD is allowing, and possibly promoting/encouraging, that make our clients feel unsafe.

This raises additional questions:

1. What is EUSD's position?
2. Is it OK to target and single out employees that engaged in protected activity and vindicated their constitutional rights?
3. Will EUSD continue to allow our clients to be harassed and targeted like this?
4. Will EUSD investigate this?

Paul Jonna

Veronica



PRIVACY PROTECTORS

YOU CAN DO SOMETHING ABOUT THIS!

We are coming together to protest a lawsuit against the
Mirabelli and West, blocking a policy that protects Tr

WHEN: OCTOBER 20TH

WHERE: RINCON MIDDLE SCHOOL

TIMES: ARRIV

START WALKIN

We will start at Vista and march down Ash, then tur

Lehner and stopping across the street in front of

--We will be picketing, speaking, and handing out

PLEASE JOIN US IN THIS FIGHT TO PROTECT

WE CANT LET THEM GET AWAY WITH THIS

TEXT @privacyp TO 81010 TO JOIN THE RE

EXHIBIT 15

Jeffrey Trissell

From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Wednesday, October 18, 2023 4:45 PM
To: Paul Jonna
Cc: Charles Limandri; Jeffrey Trissell; Kathy Denworth; Jack Sleeth; Nopealey Lay
Subject: RE: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Dear Paul:

I want to get back to your email.

Please be ensured that the District is following the Order of the Court. Furthermore, there has been no adverse employment action taken against either Mrs. Mirabelli or Mrs. West. I would like to arrange a meeting with you and Mrs. Mirabelli as soon as possible to assess the nature of an accommodation that she will need to return to school.

Mr. Andrew McGuire from the District will be with me during the course of this discussion. I trust that we can have a meaningful dialogue to make sure that Mrs. Mirabelli can have a transition back to work.

Thank you for your continued courtesy and professional cooperation.

Sincerely,
Dan

From: Paul Jonna <pjonna@limandri.com>
Sent: Friday, October 13, 2023 4:26 PM
To: Daniel Shinoff <DShinoff@as7law.com>; Jesse Basel <jbasel@as7law.com>
Cc: Nopealey Lay <nlay@AS7Law.com>; Charles Limandri <climandri@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Kathy Denworth <kdenworth@limandri.com>; Jack Sleeth <JSleeth@as7law.com>
Subject: RE: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN
Importance: High

Daniel:

If we do not receive satisfactory responses to all of our questions next week (those listed in my 10/12 and 10/13 emails below), then we will have no choice but to seek relief from the Court – including but not limited to contempt sanctions.

The Court's order, pages 35-36, provides:

The Plaintiffs' Motion for Preliminary Injunction is GRANTED. The Escondido Union School District Defendants, the State Defendants, and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them, and those who gain knowledge of this injunction order or know of the existence of this injunction order, are enjoined from enforcing against Plaintiffs Mirabelli or West, EUSD AR 5145.3 or the associated official policy described in the California Department of Education's FAQs page on gender identity-related disclosures by teachers to parents, **and are to restrain any governmental employee or entity from taking any adverse employment actions thereupon against Plaintiffs Mirabelli or West, until further Order of this Court.**

When our clients returned to school after the lawsuit was filed, they were targeted. One teacher told students that the lawsuit was a money grab. For her safety, Mrs. Mirabelli made a complaint about her treatment (e.g., being called sexist and racist) and has asked for assurances of safety. It is unclear what happened with her complaint, and there has been no appropriate response to her request for safety assurances. Mrs. West has been kept out of work based on fabricated

EXHIBIT 16

BLOCKING THIS POLICY IS SLAUGHTERING TRANS KIDS



Elizabeth Mirabelli and Lorie Anne West are suing the EUSD for policies requiring them not to reveal students transgender identities to their parents if the said child requests.

They've claimed that the policy breaks both their right to freedom of speech and religion. They said that they experienced anxiety, stomach pain, insomnia and many other 'symptoms' due to the policy in a formal complaint of 288 pages that in short completely berates trans children. One of them even took 17 "sick" days off due to her "extreme stress".

A federal judge has sided with them and blocked the policy temporarily
The diminishing of this policy will result in the death of trans children

It was put in place in order to protect what they do and do not feel comfortable sharing but also to protect them from the harshness of the world, referencing to possible violence/abuse/hate from their own household

It isn't a teachers right to disclose a child's identity

For more information on how to get involved in upcoming protests please contact: samsheabuisness@gmail.com

WE CANT DO THIS WITHOUT YOUR HELP! PLEASE REACH OUT

EXHIBIT 17

Jeffrey Trissell

From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Monday, October 23, 2023 11:14 AM
To: Paul Jonna
Cc: Jesse Basel; Nopealey Lay; Charles Limandri; Jeffrey Trissell; Kathy Denworth; Jack Sleeth
Subject: Re: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Paul,
Thank you . I will confirm a time for the meeting with you and Mrs. Mirabelli.
Daniel

Sent from my iPhone

On Oct 23, 2023, at 10:34 AM, Paul Jonna <pjonna@limandri.com> wrote:

Daniel:

As discussed today by phone, we will hold off on seeking relief from the Court on these issues until next week. We agreed to give you this week to let us know how EUSD intends to proceed with Lori West.

As for Elizabeth, I sent a separate email suggesting 11/2 at 2pm at my office for her interactive process meeting.

Thank you.

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
Tel: (858) 759-9930 | Direct: (858) 759-9133 | Fax: (858) 759-9938
pjonna@limandri.com | www.limandri.com



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EXHIBIT 18



3636 Fourth Avenue
Suite 200
San Diego, California 92103
Main: 619-232-3122
Fax: 619-232-3264
as7law.com

Daniel Shinoff
(619) 232-3122
dshinoff@as7law.com

October 24, 2023

VIA EMAIL ONLY

pjonna@limandri.com

Paul Jonna
LiMANDRI & JONNA LLP
16236 San Dieguito Rd #3
Rancho Santa Fe, CA 92067

Re: Mrs. Lori West

Dear Paul,

I have been able to coordinate a meeting with the complainant for Monday, October 30th. I wanted to make sure that I kept you updated as promised. I will attempt to determine if there are other witnesses that need to be interviewed. In the interim, should you have any questions please do not hesitate to call.

Sincerely,

ARTIANO SHINOFF

A handwritten signature in blue ink that reads "Daniel R. Shinoff".

Daniel Shinoff

EXHIBIT 19

Jeffrey Trissell

From: Paul Jonna
Sent: Wednesday, October 2 , 2023 :3 AM
To: Daniel Shinoff
Cc: Nopealey Lay; Jesse Basel; Charles Limandri; Jeffrey Trissell; Kathy Denworth; Jack Sleeth
Subject: RE: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Thanks Daniel I look forward to reviewing your letter. We have different information that EUSD employees were also involved with the protest. I can share that information with you if you would like.

Also, your response didn't address my question about the 30 day deadline to investigate the new claim made against Lori. Please let me know.

Thanks.

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
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From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Tuesday, October 24, 2023 5:25 PM
To: Paul Jonna <pjonna@limandri.com>
Cc: nopealey Lay <nlay@AS7Law.com> Jesse Basel <jbasel@as7law.com> Charles Limandri <climandri@limandri.com> Jeffrey Trissell <jtrissell@limandri.com> Kathy Denworth <kdenworth@limandri.com> Jack Sleeth <JSleeth@as7law.com>
Subject: Re: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BE

Paul,
Thanks for your follow up. I also wanted to let you know that I have followed up on the March that was provided under separate cover. I have learned that the march was initiated by high school students. I have no information that anyone from Escondido union School District was involved.

Daniel

Sent from my iPhone

On Oct 24, 2023, at 1:40 PM, Paul Jonna <pjonna@limandri.com> wrote:

Thanks. Daniel, I thought you have only 30 days to investigate Isn t this interview beyond the 30 day deadline

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
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<image001.png>

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From: opealey Lay <nlay@AS7Law.com>
Sent: Tuesday, October 24, 2023 11:17 AM
To: Paul Jonna <pjonna@limandri.com> Daniel Shinoff <DShinoff@as7law.com> Jesse Basel <jbasel@as7law.com>
Cc: Charles Limandri <climandri@limandri.com> Jeffrey Trissell <jtrissell@limandri.com> athy Denworth <kdenworth@limandri.com> Jack Sleeth <JSleeth@as7law.com>
Subject: RE: ext Steps in Mirabelli West v. Olson, o. 3:23-cv-0768-BE

Dear Mr. Jonna,

Attached please find correspondence of this date sent on behalf of Daniel Shinoff.

Sincerely,

Nopealey Lay

<image003.png>

Legal Secretary to

Daniel R. Shinoff, Esq.

Jack M. Sleeth Jr, Esq.

ARTIANO SHINOFF

3636 Fourth Avenue, Suite 200

San Diego, CA 92103

Business: (619) 232-3122 Ext. 483

Direct: (858) 201-4079

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EXHIBIT 20

Jeffrey Trissell

From: Paul Jonna
Sent: Tuesday, October 31, 2023 10:36 AM
To: Daniel Shinoff
Cc: Jeffrey Trissell; Kathy Denworth; Lauren Cambronero; Nopealey Lay; Jack Sleeth
Subject: RE: Lori West

Can Lori return to work at EUSD while you complete the investigation If not, why not What is the timeframe for this process

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
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pjonna@limandri.com | www.limandri.com



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From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Tuesday, October 31, 2023 10:31 AM
To: Paul Jonna <pjonna@limandri.com>
Cc: Jeffrey Trissell <jtrissell@limandri.com> Kathy Denworth <kdenworth@limandri.com> Lauren Cambronero <lcambronero@AS7Law.com> Nopealey Lay <nlay@AS7Law.com> Jack Sleeth <JSleeth@as7law.com>
Subject: Re: Lori West

Paul,
The interview occurred yesterday. There is no evidence that anyone assisted the complainant in writing the uniform complaint. Numerous witnesses have been identified that I will follow up with.
Daniel

Sent from my iPhone

On Oct 31, 2023, at 10:20 AM, Paul Jonna <pjonna@limandri.com> wrote:

Daniel, I just called but missed you. Can you please provide an update re the Lori West investigation and yesterday's interview

Thank you.

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
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From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Monday, October 30, 2023 3:53 PM
To: Paul Jonna <pjonna@limandri.com>
Cc: Jeffrey Trissell <jtrissell@limandri.com> athy Denworth <kdenworth@limandri.com>
Subject: Re: Mirabelli meeting

Paul,
That would be fine. If you could send a zoom link I would appreciate it.
Dan

Sent from my iPhone

On Oct 30, 2023, at 3:45 PM, Paul Jonna <pjonna@limandri.com> wrote:

Daniel, would it be O to do this meeting by oom Elizabeth is also planning to have an employment lawyer present.

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
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pjonna@limandri.com | www.limandri.com

EXHIBIT 21

Jeffrey Trissell

From: Paul Jonna
Sent: Wednesday, November 8, 2023 1:37 PM
To: Daniel Shinoff
Cc: Jeffrey Trissell
Subject: RE: Mirabelli v EUSD

Ok, I will call tomorrow at 4:15pm. I am free the rest of the afternoon today if your schedule clears.

Paul M. Jonna | Partner
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Tel: (858) 759-9930 | Direct: (858) 759-9133 | Fax: (858) 759-9938
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From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Wednesday, November 8, 2023 1:26 PM
To: Paul Jonna <pjonna@limandri.com>
Cc: Jeffrey Trissell <jtrissell@limandri.com>
Subject: Re: Mirabelli v EUSD

Tomorrow after 4

Sent from my iPhone

On Nov 8, 2023, at 12:26 PM, Paul Jonna <pjonna@limandri.com> wrote:

Yes, I will be sending you info today. When is a good time to talk briefly?

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067

Tel: (858) 759-9930 | Direct: (858) 759-9133 | Fax: (858) 759-9938
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From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Wednesday, November 8, 2023 12:18 PM
To: Paul Jonna <pjonna@limandri.com>
Subject: Mirabelli v EUSD

Dear Paul Pop,

I just wanted to follow up on our discussion last week regarding the return of Mrs Mirabelli. I was anticipating that we would receive additional information from her employment lawyer, so that we could make sure everything is in place.
Any help you could provide would be greatly appreciated.

Sincerely,

Daniel.

Sent from my iPhone

EXHIBIT 22

Jeffrey Trissell

From: Paul Jonna
Sent: Tuesday, November 14, 2023 11:17 AM
To: Daniel Shinoff
Cc: Jeffrey Trissell; Kathy Denworth
Subject: RE: Mirabelli v E SD

Dan, just called but missed you. When can you touch base briefly

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
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pjonna@limandri.com | www.limandri.com



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From: Paul Jonna
Sent: Monday, November 13, 2023 11:56 AM
To: Daniel Shinoff <DShinoff@as7law.com>
Cc: Jeffrey Trissell <jtrissell@limandri.com> Kathy Denworth <kdenworth@limandri.com>
Subject: RE: Mirabelli v EUSD

That s tough for me. What about tomorrow

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
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From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Monday, November 13, 2023 11:47 AM
To: Paul Jonna <pjonna@limandri.com>
Cc: Jeffrey Trissell <jtrissell@limandri.com> Cathy Denworth <kdenworth@limandri.com>
Subject: Re: Mirabelli v EUSD

After 5:30.

Sent from my iPhone

On November 13, 2023, at 11:27 AM, Paul Jonna <pjonna@limandri.com> wrote:

Daniel, do you have time to talk today

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
Tel: (858) 759-9930 | Direct: (858) 759-9133 | Fax: (858) 759-9938
pjonna@limandri.com | www.limandri.com

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From: Paul Jonna
Sent: Thursday, November 9, 2023 2:58 PM
To: Daniel Shinoff <DShinoff@as7law.com>
Cc: Jeffrey Trissell (jtrissell@limandri.com) <jtrissell@limandri.com> Cathy Denworth (kdenworth@limandri.com) <kdenworth@limandri.com>
Subject: RE: Mirabelli v EUSD

Daniel, I was informed that you can't make our call today. Let me know when you would like to reschedule. Thanks.

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
 Tel: (858) 759-9930 | Direct: (858) 759-9133 | Fax: (858) 759-9938
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From: Paul Jonna
Sent: Thursday, November 9, 2023 6:05 AM
To: Daniel Shinoff <DShinoff@as7law.com>
Cc: Jeffrey Trissell (jtrissell@limandri.com) <jtrissell@limandri.com>
Subject: RE: Mirabelli v EUSD

Dear Daniel:

Thank you for your time last week with Elizabeth's accommodation meeting. We are pleased with how the meeting went and look forward to moving in a positive direction.

Elizabeth has had time to give these issues additional thought and would like to convey the points below. We are happy to schedule another call if you think that would be productive.

As far as return dates, we think it is much more important to ensure a smooth transition rather than focus on arbitrary dates. We therefore look forward to hearing your thoughts on these issues as well as timing for implementation so that we can determine how best to proceed.

I look forward to speaking with you today at 4:15pm.

Paul Jonna

<i>What Does Mrs. Mirabelli Need for Her Safety?</i>	<i>What Does Mrs. Mirabelli Need To See?</i>
<ol style="list-style-type: none"> 1. Admin to ensure that Mrs. Mirabelli is not confronted or harassed, targeted, or a victim of hate speech for her religious beliefs 2. Assurance from EUSD that it has taken steps to ensure her privacy 	<ol style="list-style-type: none"> 1. Unbiased general appearance of Rincon school campus free from biased displays by employees (not including students or clubs) 2. Enforcement of EUSD <i>approved</i> Board Policy 1325

<p>and discipline employees who have violated professional standards of conduct</p> <p>3. Admin to provide a contact person (not named in lawsuit) for Mrs. Mirabelli in the event that issues or concerns arise</p> <p>4. EUSD to monitor area protests and provide oversight and protection (Escondido Police School Resource Office notified)</p>	<p>3. EUSD management showing impartial, unbiased leadership</p> <p>4. Clear communication from administration to Rincon Middle School staff and students conveying stipulations of Accommodation</p>
--	---

Paul M. Jonna | Partner

LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067

Tel: (858) 759-9930 | Direct: (858) 759-9133 | Fax: (858) 759-9938

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From: Paul Jonna

Sent: Wednesday, November 8, 2023 2:17 PM

To: Daniel Shinoff <DShinoff@as7law.com>

Cc: Jeffrey Trissell (jtrissell@limandri.com) <jtrissell@limandri.com>

Subject: RE: Mirabelli v EUSD

Daniel, I will likely not get you the info re Elizabeth today, but we will try to finalize it soon (definitely this week). Thanks for your patience.

And I will call you tomorrow at 4:15.

Paul M. Jonna | Partner

LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067

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From: Paul Jonna
Sent: Wednesday, November 8, 2023 12:26 PM
To: Daniel Shinoff <DShinoff@as7law.com>
Cc: Jeffrey Trissell (jtrissell@limandri.com) <jtrissell@limandri.com>
Subject: RE: Mirabelli v EUSD

es, I will be sending you info today. When is a good time to talk briefly

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
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From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Wednesday, November 8, 2023 12:18 PM
To: Paul Jonna <pjonna@limandri.com>
Subject: Mirabelli v EUSD

Dear Paul Pop,

I just wanted to follow up on our discussion last week regarding the return of Mrs Mirabelli. I was anticipating that we would receive additional information from her employment lawyer, so that we could make sure everything is in place.

Any help you could provide would be greatly appreciated.

Sincerely,

Daniel.

Sent from my iPhone

EXHIBIT 23



3636 Fourth Avenue
Suite 200
San Diego, California 92103
Main: 619-232-3122
Fax: 619-232-3264
as7law.com

Daniel Shinoff
(619) 232-3122
dshinoff@as7law.com

November 15, 2023

VIA ELECTRONIC MAIL ONLY

pjonna@limandri.com

Paul M. Jonna
LiMandri & Jonna LLP

Re: Mirabelli & West v. Olson Case No. 23cv768-BEN-KSC

Dear Paul,

I hope you are well. We were anticipating receiving further inquiries from Mrs. Mirabelli's employment lawyer this week. The District is closed next week for Thanksgiving. I believe another two meetings are important to make sure that we can ensure a smooth transition for Mrs. Mirabelli to return to school. In light of the holiday, I don't believe the 27th is a realistic return date.

Please let me know when we can reschedule a meeting with you and Mrs. Mirabelli and her employment lawyer.

Best wishes for a wonderful Thanksgiving celebration.

Sincerely,

ARTIANO SHINOFF

A handwritten signature in blue ink that reads "Daniel R. Shinoff".

Daniel R. Shinoff

DRS:nl

EXHIBIT 24

Jeffrey Trissell

From: Paul Jonna
Sent: Wednesday, November 1, 2023 2:24 PM
To: Nopealey Lay
Cc: Charles Limandri; Jeffrey Trissell; Kathy Denworth; Jack Sleeth; Daniel Shinoff
Subject: RE: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN

Dan:

Did you not receive my email on these issues relating to Mrs. Mirabelli

I also need to talk to you about Lori.

Can we scheduled a short call today

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
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From: opealey Lay <nlay@AS7Law.com>
Sent: Wednesday, November 15, 2023 2:22 PM
To: Paul Jonna <pjonna@limandri.com>
Cc: Charles Limandri <climandri@limandri.com> Jeffrey Trissell <jtrissell@limandri.com> Kathy Denworth <kdenworth@limandri.com> Jack Sleeth <JSleeth@as7law.com> Daniel Shinoff <DShinoff@as7law.com>
Subject: RE: Next Steps in Mirabelli West v. Olson, No. 3:23-cv-0768-BE

Dear Mr. Jonna,

Attached please find correspondence of this date sent on behalf of Daniel Shinoff.

EXHIBIT 25

Jeffrey Trissell

From: Paul Jonna
Sent: Thursday, November 16, 2023 3:0 PM
To: Daniel Shinoff
Cc: Nopealey Lay; Charles Limandri; Jeffrey Trissell; Kathy Denworth
Subject: RE: Mirabelli & West v. Olson: ENE Conference

Thanks. A few questions:

1. Did you get my email about Elizabeth's follow up points. I think a return date after Christmas makes sense at this point. Let me know your thoughts about that and next steps with her.
2. Please provide as detailed of an update as possible about Lori's investigation. This is very important.

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
Tel: (858) 759-9930 | Direct: (858) 759-9133 | Fax: (858) 759-9938
pjonna@limandri.com | www.limandri.com



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ro Daniel Shinoff <DShinoff@as7law.com>
n Thursday, November 16, 2023 2:44 PM
o Paul Jonna <pjonna@limandri.com>
Nopealey Lay <nlay@AS7Law.com> Charles Limandri <climandri@limandri.com> Jeffrey Trissell
<jtrissell@limandri.com> Kathy Denworth <kdenworth@limandri.com>
u Re: Mirabelli West v. Olson: ENE Conference

Paul,
I am scheduled for trial next week. I apologize that I haven't been available. I literally stepped into this case a week ago and I am playing catch-up for trial next week. We will draft the joint motion.
Have a wonderful Thanksgiving break. All the best to you and your family.

Daniel.

Sent from my iPhone

On Nov 16, 2023, at 2:34 PM, Paul Jonna <pjonna@limandri.com> wrote:

Daniel:

That's fine. I have another E E on January 8, so that day does not work. Please send the joint motion for our review.

Also, I have probably called and emailed 5-10 times with no response. Can you please explain We need to talk about several open matters.

Thanks.

Paul M. Jonna | Partner
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pjonna@limandri.com | www.limandri.com

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ro opealey Lay <nlay@AS7Law.com>
n Thursday, November 16, 2023 2:23 PM
o Paul Jonna <pjonna@limandri.com>
Charles Limandri <climandri@limandri.com> Jeffrey Trissell <jtrissell@limandri.com> athy
Denworth <kdenworth@limandri.com>
u Mirabelli West v. Olson: E E Conference

Dear Mr. Jonna,

Attached please find correspondence of this date sent on behalf of Daniel Shinoff.

Sincerely,

Nopealey Lay

<image003.png>

Legal Secretary to

Daniel R. Shinoff, Esq.

Jack M. Sleeth Jr, Esq.

ARTIANO SHINOFF

3636 Fourth Avenue, Suite 200

San Diego, CA 92103

Business: (619) 232-3122 Ext. 483

Direct: (858) 201-4079

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P *Please consider the environment before printing this e-mail.*

EXHIBIT 26

Jeffrey Trissell

From: Paul Jonna
Sent: Friday, November 17, 2023 10:02 AM
To: Daniel Shinoff
Cc: Nopealey Lay; Charles Limandri; Jeffrey Trissell; Kathy Denworth; Jack Sleeth
Subject: RE: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BEN
Attachments: RE: Mirabelli v E. SD

Sorry Dan, but this makes absolutely no sense. I have called or emailed you about this case probably a dozen times in the last few weeks. I provided a very detailed response regarding Elizabeth on 11/19, which I recently re-sent. I have attached it again.

I am demanding an update regarding Lori. As you know, we previously informed you that continuing to deprive Lori of her ability to return to work based on highly suspect (fabricated) allegations is a violation of the court's preliminary injunction order. We drafted contempt papers but held off on filing them to wait and see how this new investigation proceeded. You have provided no update whatsoever. We also were in the process of amending the complaint to add Title II claims, but we held off in good faith. If we do not receive a full and complete update regarding Lori's status before Thanksgiving, then we will assume it is necessary to address these issues further with Judge Benitez first thing the week of 11/27.

Paul M. Jonna | Partner
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From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Thursday, November 16, 2023 5:58 PM
To: Paul Jonna <pjonna@limandri.com>
Cc: Nopealey Lay <nlay@AS7Law.com> Charles Limandri <climandri@limandri.com> Jeffrey Trissell <jtrissell@limandri.com> Kathy Denworth <kdenworth@limandri.com> Jack Sleeth <JSleeth@as7law.com>
Subject: Re: Next Steps in Mirabelli & West v. Olson, No. 3:23-cv-0768-BE

Paul,

Unfortunately, I did not receive an email on these issues relating to Mrs Mirabelli. I just received a request for her employment records .

All the best.

Dan

Sent from my iPhone

On Nov 15, 2023, at 2:23 PM, Paul Jonna <pjonna@limandri.com> wrote:

Dan:

Did you not receive my email on these issues relating to Mrs. Mirabelli

I also need to talk to you about Lori.

Can we scheduled a short call today

Paul M. Jonna | Partner

LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067

Tel: (858) 759-9930 | Direct: (858) 759-9133 | Fax: (858) 759-9938

pjonna@limandri.com | www.limandri.com

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From: Nopealey Lay <nlay@AS7Law.com>

Sent: Wednesday, November 15, 2023 2:22 PM

To: Paul Jonna <pjonna@limandri.com>

Cc: Charles Limandri <climandri@limandri.com> Jeffrey Trissell <jtrissell@limandri.com> Cathy Denworth <kdenworth@limandri.com> Jack Sleeth <JSleeth@as7law.com> Daniel Shinoff <DShinoff@as7law.com>

Subject: RE: Next Steps in Mirabelli West v. Olson, No. 3:23-cv-0768-BE

Dear Mr. Jonna,

Attached please find correspondence of this date sent on behalf of Daniel Shinoff.

Sincerely,

Nopealey Lay

<image002.png>

EXHIBIT 27

Policy 1312.1: Complaints Concerning District Employees

Status: ADOPTED

Original Adopted Date: 10/23/2003 | Last Revised Date: 06/13/2019 | Last Reviewed Date: 06/13/2019

The Board of Education recognizes its accountability to the public for the quality of the district's educational program and the performance of district employees. The district shall provide a process by which a complaint submitted by any person regarding an employee can be resolved impartially, expeditiously, and with minimal disruption to district operations and the educational program.

When a concern regarding an employee is presented during a board meeting or to an individual board member or employee outside of a board meeting, the complainant shall be informed of the appropriate complaint procedure.

Any complaint regarding the superintendent shall be initially filed in writing with the board. The board shall consult with legal counsel or appoint an appropriate agent to conduct the investigation.

The superintendent or designee shall determine whether a complaint against any other employee should be considered a complaint against the district and/or an individual employee, and whether it should be resolved by the district's process for complaints concerning personnel and/or other district procedures. Any complaint of child abuse or neglect alleged against a district employee shall be reported to the appropriate local agencies in accordance with law and BP 5141.4 - Child Abuse Prevention and Reporting. Any complaint alleging that an employee engaged in unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) in district programs and activities shall be filed in accordance with BP/AR 1312.3 - Uniform Complaint Procedures. Any complaint by an employee, job applicant, volunteer, intern, or independent contractor alleging unlawful discrimination or harassment by an employee shall be filed in accordance with AR 4030 - Nondiscrimination in Employment.

Any complaint subject to this policy and the accompanying administrative regulation shall be investigated by the principal, the employee's immediate supervisor, the superintendent or designee, legal counsel, agent of the board, and/or other appropriate person who is not the subject of the complaint or subordinate to the employee charged in the complaint. The complainant and the employee shall have an opportunity to present information relevant to the complaint.

A complaint that is filed anonymously may be investigated by the superintendent or designee depending on the specificity and reliability of the information.

If a complainant requests confidentiality, the superintendent or designee shall inform the complainant that the request may limit the district's ability to investigate the employee's conduct or take other necessary action. However, the superintendent or designee shall take all reasonable steps to investigate and resolve the complaint without divulging the complainant's identity.

The board prohibits retaliation against complainants.

Appeals

If either the complainant or the employee submits an appeal of the superintendent's decision to the board, the board shall determine whether to uphold the superintendent's decision without hearing the complaint, appoint an appeals committee to advise the board, or hear the appeal itself.

If the board decides to hear the complaint, the matter shall be addressed in closed session in accordance with Government Code 54957 unless the employee requests that it be heard in open session. The board shall review the original complaint and additional information provided by the superintendent or designee regarding the steps taken to resolve the issue.

The Board's decision shall be final.

EXHIBIT 28

Regulation 1312.1: Complaints Concerning District Employees

Status: ADOPTED

Original Adopted Date: 03/16/2021 | Last Reviewed Date: 03/16/2021

Every effort should be made to resolve complaints regarding district employees at the earliest possible stage. Any person who complains about a district employee shall be encouraged to resolve the matter informally through direct communication with the employee whenever possible.

If a complainant is unable or unwilling to resolve the complaint directly with the employee, the complainant may submit a written complaint to the principal or other immediate supervisor of the employee. Complaints related to a principal or district administrator shall be initially filed in writing with the superintendent or designee. If the complainant is unable to prepare the complaint in writing, administrative staff shall provide assistance in the preparation of the complaint.

A written complaint shall include the full name of the employee involved, a brief but specific summary of the complaint and the facts surrounding it, and a description of any prior attempt to discuss the complaint with the employee and the failure to resolve the matter.

To promote prompt and fair resolution of the complaint, the following procedures shall govern the resolution of complaints against district employees:

1. When a written complaint is received, the employee who is the subject of the complaint shall be notified within five days or in accordance with the collective bargaining agreement.
 2. The principal or other immediate supervisor of the employee shall investigate and attempt to resolve the complaint to the satisfaction of the parties involved within 30 days. A complaint against a school or district administrator shall be investigated by the superintendent or designee. The investigation may include interviews of the employee, complainant, or witnesses as necessary and/or a review any documentation relevant to the complaint.
 3. Both the complainant and employee shall be notified in writing of the final decision regarding the resolution of the complaint.
 4. Either the complainant or the employee against whom the complaint was made may appeal the decision. A decision by the principal or immediate supervisor may be appealed to the superintendent or designee, who shall attempt to resolve the complaint to the satisfaction of the parties involved within 30 days. Either the complainant or the employee may appeal the superintendent's decision to the Board of Education.
 5. If the decision is appealed to the board, the superintendent or designee shall submit to the board the following information:
 - a. The full name of each employee involved
 - b. A brief but specific summary of the complaint and the facts surrounding it, sufficient to inform the board and the parties as to the precise nature of the complaint and to allow the parties to prepare a response
 - c. A copy of the signed original complaint
 - d. A summary of the action taken by the superintendent or designee and the reasons that the problem has not been resolved
-

EXHIBIT 29

Policy 1312.3: Uniform Complaint Procedures

Status: ADOPTED

Original Adopted Date: 10/23/2003 | Last Revised Date: 08/19/2021 | Last Reviewed Date: 08/19/2021

The Board of Education recognizes that the district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The board encourages early resolution of complaints whenever possible. To resolve complaints which may require a more formal process, the Board adopts the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

Complaints Subject to UCP

The district's uniform complaint procedures (UCP) shall be used to investigate and resolve complaints regarding the following programs and activities:

1. Accommodations for pregnant and parenting students (Education Code 46015)
2. Adult education programs (Education Code 8500-8538, 52334.7, 52500-52617)
3. After School Education and Safety programs (Education Code 8482-8484.65)
4. Agricultural career technical education (Education Code 52460-52462)
5. Career technical and technical education and career technical and technical training programs (Education Code 52300-52462)
6. Child care and development programs (Education Code 8200-8498)
7. Compensatory education (Education Code 54400)
8. Consolidated categorical aid programs (Education Code 33315; 34 CFR 299.10-299.12)
9. Course periods without educational content, when students in grades 9-12 are assigned to such courses more than one week in any semester or in a course the student has previously satisfactorily completed, unless specified conditions are met (Education Code 51228.1-51228.3)
10. **Discrimination, harassment, intimidation, or bullying in district programs and activities**, including in those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on the person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, immigration status, ethnic group identification, age, religion, marital status, pregnancy, parental status, physical or mental disability, medical condition, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55, or based on the person's association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610)
11. Educational and graduation requirements for students in foster care, homeless students, students from military families, students formerly in a juvenile court school, migrant students, and immigrant students participating in a newcomer program (Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, 51225.2)
12. Every Student Succeeds Act (Education Code 52059; 20 USC 6301 et seq.)
13. Local control and accountability plan (Education Code 52075)
14. Migrant education (Education Code 54440-54445)
15. Physical education instructional minutes (Education Code 51210, 51222, 51223)
16. Student fees (Education Code 49010-49013)
17. Reasonable accommodations to a lactating student (Education Code 222)
18. Regional occupational centers and programs (Education Code 52300-52334.7)
19. School plans for student achievement as required for the consolidated application for specified federal and/or state categorical funding (Education Code 6400)
20. School safety plans (Education Code 32280-32289)
21. School site councils as required for the consolidated application for specified federal and/or state categorical funding (Education Code 65000)
22. State preschool programs (Education Code 8235-8239.1)
23. State preschool health and safety issues in license-exempt programs (Education Code 8235.5)
24. Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy
25. Any other state or federal educational program the Superintendent of Public Instruction or designee deems appropriate

The board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process for resolving a complaint in a manner that is acceptable to all parties. An ADR process such as mediation may be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. The superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.

The district shall protect all complainants from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by law. For any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Superintendent or designee shall keep the identity of the complainant, and/or the subject of the complaint if different from the complainant, confidential when appropriate and as long as the integrity of the complaint process is maintained.

When an allegation that is not subject to UCP is included in a UCP complaint, the district shall refer the non-UCP allegation to the appropriate staff or agency and shall investigate and, if appropriate, resolve the UCP-related allegation(s) through the district's UCP.

The superintendent or designee shall provide training to district staff to ensure awareness and knowledge of current law and requirements related to UCP, including the steps and timelines specified in this policy and the accompanying administrative regulation.

The superintendent or designee shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and all information required for compliance with 5 CCR 4631 and 4633.

Non-UCP Complaints

The following complaints shall not be subject to the district's UCP but shall be investigated and resolved by the specified agency or through an alternative process:

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services Protective Services Division or the appropriate law enforcement agency. (5 CCR 4611)
 2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services. (5 CCR 4611)
 3. Any complaint alleging employment discrimination or harassment shall be investigated and resolved by the district in accordance with the procedures specified AR 4030 - Nondiscrimination in Employment, including the right to file the complaint with the California Department of Fair Employment and Housing.
 4. Any complaint alleging a violation of a state or federal law or regulation related to special education, a settlement agreement related to the provision of a free appropriate public education, or a due process hearing order shall be submitted to the California Department of Education (CDE) in accordance with AR 6159.1 Procedural Safeguards and Complaints for Special Education. (5 CCR 3200-3205)
 5. Any complaint alleging noncompliance of the district's food service program with laws regarding meal counting and claiming, reimbursable meals, eligibility of children or adults, or use of cafeteria funds and allowable expenses shall be filed with or referred to CDE in accordance with BP 3555 - Nutrition Program Compliance. (5 CCR 15580-15584)
 6. Any allegation of discrimination based on race, color, national origin, sex, age, or disability in the district's food service program shall be filed with or referred to the U.S. Department of Agriculture in accordance with BP 3555 - Nutrition Program Compliance. (5 CCR 15582)
 7. Any complaint related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, or teacher vacancies and misassignments shall be investigated and resolved in accordance with AR 1312.4 - Williams Uniform Complaint Procedures. (Education Code 35186)
-

EXHIBIT 30

Regulation 1312.3: Uniform Complaint Procedures

Status: ADOPTED

Original Adopted Date: 03/16/2021 | Last Revised Date: 08/19/2021 | Last Reviewed Date: 08/19/2021

Except as the Board of Education may otherwise specifically provide in other district policies, these uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in the accompanying Board policy.

Compliance Officers

The district designates the individual(s), position(s), or unit(s) identified below as responsible for coordinating the district's response to complaints and for complying with state and federal civil rights laws. The individual(s), position(s), or unit(s) also serve as the compliance officer(s) specified in AR 5145.3 - Nondiscrimination/Harassment responsible for handling complaints regarding unlawful discrimination, harassment, intimidation, or bullying and in AR 5145.7 - Sexual Harassment for handling complaints regarding sexual harassment. The compliance officer(s) shall receive and coordinate the investigation of complaints and shall ensure district compliance with law.

Deputy Superintendent, Educational Services
Escondido Union School District
2310 Aldergrove Avenue
Escondido, CA 92029
(760) 432-2400

Assistant Superintendent, Human Resources
Escondido Union School District
2310 Aldergrove Avenue
Escondido, CA 92029
(760) 432-2400

The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent if another compliance officer is assigned to the complaint.

In no instance shall a compliance officer be assigned to a complaint in which the compliance officer has a bias or conflict of interest that would prohibit the fair investigation or resolution of the complaint. Any complaint against a compliance officer or that raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias shall be filed with the superintendent or designee who shall determine how the complaint will be investigated.

The superintendent or designee shall ensure that employees assigned to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaints to which they are assigned. Training provided to such employees shall cover current state and federal laws and regulations governing the program; applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination, harassment, intimidation, or bullying; applicable standards for reaching decisions on complaints; and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the Superintendent or designee.

The compliance officer or, if necessary, an appropriate administrator shall determine whether interim measures are necessary during an investigation and while the result is pending. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the superintendent, the superintendent's designee, or, if appropriate, the site principal to implement one or more interim measures. The interim measures shall remain in place until the compliance officer determines that they are no longer necessary or until the district issues its final written decision, whichever occurs first.

Notifications

The district's UCP policy and administrative regulation shall be posted in all district schools and offices, including staff lounges and student government meeting rooms. (Education Code 234.1)

In addition, the superintendent or designee shall annually provide written notification of the district's UCP to students, employees, parents/guardians of district students, district advisory committee members, school advisory

committee members, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

The notice shall include:

1. A statement that the district is primarily responsible for compliance with federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group, and a list of all programs and activities that are subject to UCP as identified in the section "Complaints Subject to UCP" in the accompanying Board policy
2. The title of the position responsible for processing complaints, the identity of the person(s) currently occupying that position if known, and a statement that such persons will be knowledgeable about the laws and programs that they are assigned to investigate
3. A statement that a UCP complaint, except a complaint alleging unlawful discrimination, harassment, intimidation, or bullying, must be filed no later than one year from the date the alleged violation occurred
4. A statement that a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying must be filed no later than six months from the date of the alleged conduct or the date the complainant first obtained knowledge of the facts of the alleged conduct
5. A statement that a student enrolled in a public school shall not be required to pay a fee for participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities
6. A statement that a complaint regarding student fees or the local control and accountability plan (LCAP) may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint
7. A statement that the district will post a standardized notice of the educational rights of foster youth, homeless students, former juvenile court school students now enrolled in the district, children of military families, migrant students, and immigrant students enrolled in a newcomer program, as specified in Education Code 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process
8. A statement that complaints will be investigated in accordance with the district's UCP and a written decision will be sent to the complainant within 60 days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant
9. A statement that, for programs within the scope of the UCP as specified in the accompanying Board policy, the complainant has a right to appeal the district's investigation report to the California Department of Education (CDE) by filing a written appeal, including a copy of the original complaint and the district's decision, within 30 calendar days of receiving the district's decision
10. A statement advising the complainant of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal laws prohibiting discrimination, harassment, intimidation, or bullying, if applicable
11. A statement that copies of the district's UCP are available free of charge

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.61 shall be posted on the district web site and may be provided through district-supported social media, if available.

The superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in the district's policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's UCP policy, regulation, forms, and notices shall be translated into that language, in accordance with Education Code 234.1 and 48985. In all other instances, the district shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

Filing of Complaints

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist in the filing of the complaint. (5 CCR 4600)

Complaints shall also be filed in accordance with the following rules, as applicable:

1. A complaint alleging district violation of applicable state or federal law or regulations governing the programs specified in the accompanying Board policy may be filed by any individual, public agency, or organization. (5 CCR 4630)
2. Any complaint alleging noncompliance with law regarding the prohibition against student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or with the Superintendent or designee.
3. A UCP complaint, except for a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying, shall be filed no later than one year from the date the alleged violation occurred. For complaints related to the LCAP, the date of the alleged violation is the date when the County Superintendent of Schools approves the LCAP that was adopted by the Board. (5 CCR 4630)
4. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying may be filed only by a person who alleges having personally suffered unlawful discrimination, a person who believes that any specific class of individuals has been subjected to unlawful discrimination, or a duly authorized representative who alleges that an individual student has been subjected to discrimination, harassment, intimidation, or bullying. (5 CCR 4630)
5. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying shall be initiated no later than six months from the date that the alleged unlawful discrimination occurred, or six months from the date that the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)
6. When a complaint alleging unlawful discrimination, harassment, intimidation, or bullying is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.
7. When a complainant of unlawful discrimination, harassment, intimidation, or bullying or the alleged victim, when not the complainant, requests confidentiality, the compliance officer shall inform the complainant or victim that the request may limit the district's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, the district shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

Mediation

Within three business days after receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation to resolve the complaint. Mediation shall be offered to resolve complaints

that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination, harassment, intimidation, or bullying, the compliance officer shall ensure that all parties agree to permit the mediator access to all relevant confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with an investigation of the complaint.

The use of mediation shall not extend the district's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. If mediation is successful and the complaint is withdrawn, then the district shall take only the actions agreed upon through the mediation. If mediation is unsuccessful, the district shall then continue with subsequent steps specified in this administrative regulation.

Investigation of Complaint

Within 10 business days after the compliance officer receives the complaint, the compliance officer shall begin an investigation into the complaint.

Within one business day of initiating the investigation, the compliance officer shall provide the complainant and/or the complainant's representative with the opportunity to present the information contained in the complaint to the compliance officer and shall notify the complainant and/or representative of the opportunity to present the compliance officer with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. The compliance officer shall individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals, the compliance officer shall inform the parties of the status of the investigation.

To investigate a complaint alleging retaliation or unlawful discrimination, harassment, intimidation, or bullying, the compliance officer shall interview the alleged victim(s), any alleged offender(s), and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation.

Refusal by the district to provide the investigator with access to records and/or information related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or any other obstruction of the investigation may result in a finding based on evidence collected that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

Timeline for Investigation Report

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written investigation report, as described in the section "Investigation Report" below, within 60 calendar days of the district's receipt of the complaint. (5 CCR 4631)

For any complaint alleging unlawful discrimination, harassment, intimidation, and bullying, the respondent shall be informed of any extension of the timeline agreed to by the complainant. The respondent also shall be sent the investigation report at the same time it is provided to the complainant.

Investigation Report

For all complaints, the district's investigation report shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered
2. A conclusion providing a clear determination for each allegation as to whether the district is in compliance with the relevant law
3. Corrective action(s) whenever the district finds merit in the complaint, including, when required by law, a remedy to all affected students and parents/guardians and, for a student fees complaint, a remedy that complies with Education Code 49013 and 5 CCR 4600
4. Notice of the complainant's right to appeal the district's investigation report to CDE, except when the district has used the UCP to address a complaint not specified in 5 CCR 4610
5. Procedures to be followed for initiating an appeal to CDE

The investigation report may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

In consultation with district legal counsel, information about the relevant part of an investigation report may be communicated to a victim who is not the complainant and to other parties who may be involved in implementing the investigation report or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination, harassment, intimidation, and bullying, notice of the investigation report to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

If the complaint involves a limited-English-proficient student or parent/guardian, then the district's response, if requested by the complainant, and the investigation report shall be written in English and the primary language in which the complaint was filed.

For complaints alleging unlawful discrimination, harassment, intimidation, and bullying based on state law, the investigation report shall also include a notice to the complainant that:

1. The complainant may pursue available civil law remedies outside of the district's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with CDE. (Education Code 262.3)
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination.

Corrective Actions

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or district environment may include, but are not limited to, actions to reinforce district policies; training for faculty, staff, and students; updates to school policies; or school climate surveys.

For complaints involving retaliation or unlawful discrimination, harassment, intimidation, or bullying, appropriate remedies that may be offered to the victim but not communicated to the respondent may include, but are not limited to, the following:

1. Counseling
2. Academic support

3. Health services
4. Assignment of an escort to allow the victim to move safely about campus
5. Information regarding available resources and how to report similar incidents or retaliation
6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim
7. Restorative justice
8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation

For complaints of retaliation or unlawful discrimination, harassment, intimidation, or bullying involving a student as the respondent, appropriate corrective actions that may be provided to the student include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education regarding the impact of the conduct on others
4. Positive behavior support
5. Referral to a student success team
6. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law
7. Disciplinary action, such as suspension or expulsion, as permitted by law

When an employee is found to have committed retaliation or unlawful discrimination, harassment, intimidation, or bullying, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

The district may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination, harassment, intimidation, or bullying, that the district does not tolerate it, and how to report and respond to it.

When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

However, if a complaint alleging noncompliance with the law regarding student fees, deposits, and other charges, physical education instructional minutes, courses without educational content, or any requirement related to the LCAP is found to have merit, the district shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education. (Education Code 49013, 51222, 51223, 51228.3, 52075)

For complaints alleging noncompliance with the law regarding student fees, the district, by engaging in reasonable efforts, shall attempt in good faith to identify and fully reimburse all affected students and parents/guardians who paid the unlawful student fees within one year prior to the filing of the complaint. (Education Code 49013; 5 CCR 4600)

Appeals to the California Department of Education

Any complainant who is dissatisfied with the district's investigation report on a complaint regarding any specified federal or state educational program subject to UCP may file an appeal in writing with CDE within 30 calendar days of receiving the district's investigation report. (5 CCR 4632)

The appeal shall be sent to CDE with a copy of the original locally filed complaint and a copy of the district's investigation report for that complaint. The complainant shall specify and explain the basis for the appeal, including at least one of the following: (5 CCR 4632)

1. The district failed to follow its complaint procedures.
2. Relative to the allegations of the complaint, the district's investigation report lacks material findings of fact necessary to reach a conclusion of law.
3. The material findings of fact in the district's investigation report are not supported by substantial evidence.
4. The legal conclusion in the district's investigation report is inconsistent with the law.
5. In a case in which the district found noncompliance, the corrective actions fail to provide a proper remedy.

Upon notification by CDE that the district's investigation report has been appealed, the Superintendent or designee shall forward the following documents to CDE within 10 days of the date of notification: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the district's investigation report
3. A copy of the investigation file including, but not limited to, all notes, interviews, and documents submitted by the parties and gathered by the investigator
4. A report of any action taken to resolve the complaint
5. A copy of the district's UCP
6. Other relevant information requested by CDE

If notified by CDE that the district's investigation report failed to address allegation(s) raised by the complaint, the district shall, within 20 days of the notification, provide CDE and the appellant with an amended investigation report that addresses the allegation(s) that were not addressed in the original investigation report. The amended report shall also inform the appellant of the right to separately appeal the amended report with respect to the allegation(s) that were not addressed in the original report. (5 CCR 4632)

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Attorneys for Plaintiffs

12 UNITED STATES DISTRICT COURT
 13 SOUTHERN DISTRICT OF CALIFORNIA

15 ELIZABETH MIRABELLI, an
 16 individual, and LORI ANN WEST, an
 17 individual,
 18 Plaintiffs,
 19 v.
 20 MARK OLSON, in his official capacity as
 21 President of the EUSD Board of
 22 Education, et al.,
 23 Defendants.

Case No.: 3:23-cv-0768-BEN-WVG

**Declaration of Elizabeth Mirabelli
 in Support of Plaintiffs' Ex Parte
 Application for an Order to Show
 Cause re: Civil Contempt of Court
 and/or Clarification of the
 Preliminary Injunction Order**

Judge: Hon. Roger T. Benitez
 Courtroom: 5A

1 I, Elizabeth Mirabelli, declare and state as follows:

2 1. I am a plaintiff in this action. I am a primary school teacher employed by
3 the Escondido Union School District. I have been teaching middle-school English
4 with EUSD for 26 years, with the most recent 18 at Rincon Middle School. I am
5 double-board certified by the National Board for Professional Teaching Standards; I
6 am a Master Teacher; and I have been named the Rincon Middle School Teacher of
7 the Year. I currently teach seventh grade English. The matters discussed below are
8 based on my own personal knowledge. I could and would testify to them if called
9 upon to do so in court.

10 2. As stated in prior declarations, when the Escondido Union School
11 District first advised me of its new gender identity policies, I became extremely
12 distraught. My initial reaction was that the policies were harmful to the children
13 under my care—and in that sense—I was concerned with how I could comply with
14 the policies without violating my faith, including my duty to protect children from
15 harm and seek their best interests. I was told by Defendant John Albert, head of
16 Human Resources, at my initial accommodation meeting that I would be fired if I did
17 not comply with the gender identity policies. Secondly, I was worried about any
18 liability I might have for deceiving parents. It was immediately clear to me that the
19 Escondido Union School District was asking me to do something immoral and illegal.

20 3. Additionally, I was very afraid of bullying and retaliation at Rincon
21 Middle School if I spoke up. Various teachers and staff at Rincon Middle School have
22 been very outspoken about their views on gender identity. I have personally
23 witnessed ongoing bias as well as vindictive retaliation towards colleagues and
24 favoritism by administration. I was afraid that—even if district administrators did not
25 take any adverse action against me—various Rincon personnel would take it into
26 their own hands to retaliate.

27 4. Immediately after I filed this lawsuit on Thursday, April 27, 2023, my
28 fears were proven justified. On Monday, May 1, I arrived in my classroom to find 15

1 small posters set up around my classroom. It is unclear when these posters were put
2 up. Either they were put up on Friday, April 28, when a substitute teacher was
3 handling my classroom, or the students obtained access to the classroom at other
4 times, when it should have been locked. However it happened, it necessarily required
5 various school personnel to have coordinated with the children because classroom
6 doors are kept locked and children are not allowed to be in a classroom without
7 supervision.

8 5. Also during this week, I discovered that teachers at Rincon Middle
9 School had been circulating a video apparently filmed by the band teacher on Friday,
10 April 28, and emailed to all staff on Monday, May 1. In that video, approximately
11 twenty students are shown singing the song “This is Me.” That song was featured in
12 the film “The Greatest Showman” and is about various circus performers proudly
13 announcing that they will not hide their presence.

14 6. During the video, at least eight students are waving various small Pride
15 Flags and one student repeatedly runs back and forth wearing a large Pride Flag as a
16 cape. When I saw the video, I was deeply concerned. It appeared that the students
17 were employed as pawns to express a political statement on behalf of the band
18 teacher, Ms. Barlow. However, the duty of an educator is to teach their subject
19 matter, not to forward personal beliefs and controversial issues. Children should
20 never be used in this way—which is part of the reason that I filed this lawsuit.

21 7. EUSD has failed to take the incident seriously. Rather than providing
22 clarification on professional conduct, EUSD leadership ignored the event and has
23 failed to provide safeguards against further harassment. Instead of protecting me and
24 attempting to calm things down, Rincon Middle School allowed various teachers to
25 either directly harass me for this lawsuit or use students as intermediaries to harass
26 me. This lack of intervention set the stage for further retaliation, when teachers held
27 a protest at the staff meeting on Thursday of the same week.

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1 8. At the end of the day on Monday, May 1, my attorney had written the
2 attorney for the Escondido Union School District to ask that I be placed on paid
3 administrative leave. When things deteriorated, as the week continued, this became
4 more urgent and the school district agreed on Thursday, May 4, effective
5 immediately. I did not return to work on Friday, May 5 and have been on
6 administrative leave ever since.

7 9. Prior to going on administrative leave, I filed two complaints with
8 EUSD. The first concerned the posters. EUSD needed to investigate and discover
9 which employee had allowed students to put up the posters, or investigate and
10 discover why and how students had been allowed to be unsupervised in a classroom.
11 To date, little to no information has been shared with me, I was merely given
12 assurances that the problems were resolved. The stonewalling by EUSD has left me
13 with a great deal of uncertainty. Their lack of transparency shows that either they
14 have no practical plan to protect my well-being or no intention to do so. They assert
15 that they intend to protect me, however, they have not given me any evidence that
16 they are equipped to carry this out.

17 10. The second complaint concerned the band teacher and the protest
18 video. EUSD needed to investigate the circumstances under which that protest video
19 came to be. It is reasonable to conclude that the video was made for the purpose of
20 retaliation in response to the filing of a civil lawsuit, exercising my constitutional
21 rights and religious beliefs, in a school-wide effort to turn colleagues against me.

22 11. To date, despite my attorney repeatedly requesting updates, I have
23 never received a substantive report regarding these investigations. At the outset of
24 the investigations, Mr. Shinoff stated that I was entitled to know the outcome of
25 them. However, later, Mr. Shinoff told us that we were not entitled to know
26 methods, details, or conclusions of the investigations, due to privacy concerns.
27 Although the California Education Code stipulates timelines for such investigations, I
28 have never agreed to an extension of time for EUSD to complete its investigations.

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Attorneys for Plaintiffs

12 UNITED STATES DISTRICT COURT
 13 SOUTHERN DISTRICT OF CALIFORNIA

15 ELIZABETH MIRABELLI, an
 16 individual, and LORI ANN WEST, an
 17 individual,

Plaintiffs,

v.

20 MARK OLSON, in his official capacity as
 21 President of the EUSD Board of
 22 Education, et al.,

Defendants.

Case No.: 3:23-cv-0768-BEN-WVG

**Declaration of Plaintiff Lori Ann
 West in Support of Plaintiffs' Ex
 Parte Application for an Order to
 Show Cause re: Civil Contempt of
 Court and/or Clarification of the
 Preliminary Injunction Order**

Judge: Hon. Roger T. Benitez
 Courtroom: 5A

1 I, Lori Ann West, declare and state as follows:

2 1. I am a plaintiff in this action. I am a primary school teacher employed by
3 the Escondido Union School District. I have been teaching middle-school Physical
4 Education at Rincon Middle School in Escondido since 1999. The matters discussed
5 below are based on my own personal knowledge. I could and would testify to them if
6 called upon to do so in court.

7 2. As stated in the complaint and prior declarations, I have been teaching
8 physical education for 33 years—since 1991—and have been teaching with EUSD for
9 30 years. I have a juris doctorate that I obtained from Thomas Jefferson School of
10 Law and was twice named the Escondido Elementary Educators Association Teacher
11 of the Year. I am an enrolled member of the Choctaw Nation of Oklahoma. I
12 currently teach eighth grade Physical Education.

13 3. On Monday, October 2, 2023, I was informed that a new administrative
14 complaint had been filed against me by a student. But I was not informed of the
15 nature of that complaint for over a week.

16 4. On Wednesday, October 11, 2023, I had a meeting with Attorneys
17 Daniel Shinoff and Jesse Basel, who represent the Escondido Union School District.
18 With me was my attorney, Paul Jonna. At that meeting, Mr. Shinoff read me a letter
19 sent to EUSD by a student. It took me a minute to recall who the student was, but I
20 remember her now.

21 5. In that letter, the student explained that she was Rincon Middle School
22 student in the 2017-2018 and 2018-2019 school years. She stated that she only had me
23 as a teacher in the latter year, which is correct, as I only teach Eighth Grade P.E.
24 Thus, the student would be a high school Senior currently.

25 6. Apparently, according to that complainant, I had a habit of making racist
26 comments in front of the class, including using specific racially derogatory terms.
27 Oddly, the complainant did not bother to note my supposed racism until after this
28 Court's preliminary injunction order—five years later. In my thirty years of teaching,

1 nobody has ever accused me of being racist. And even from the two hundred or more
2 students I taught in the 2018-2019 school year, no others have accused me of making
3 racist comments.

4 7. I categorically deny ever making racist comments, in front of students or
5 otherwise, using racially derogatory terms, or ever favoring or disfavoring a student
6 on the basis of race—or for that matter, religion, national original, creed, or any other
7 important or innate characteristic.

8 8. To be sure, the content of the allegations is notable for its seriousness. If
9 a teacher has a habit of using anti-black racist terms, or any racist terms, she should
10 be not be teaching. But the extremeness of the allegations is equally the proof of their
11 falsity. No teacher could use racist terms and remain teaching—with glowing reviews
12 from nearly all of her students and peers—for thirty years.

13 I declare under penalty of perjury under the laws of the United States and the
14 State of California that the foregoing is true and correct.

15 Executed on December 6, 2023, in Escondido, California.

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17 _____
18 Lori Ann West

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