

1 Charles S. LiMandri, SBN 110841
 2 cslimandri@limandri.com
 3 Paul M. Jonna, SBN 265389
 4 pjonna@limandri.com
 5 Mark D. Myers, SBN 235719
 6 mmyers@limandri.com
 7 Jeffrey M. Trissell, SBN 292480
 8 jtrissell@limandri.com
 9 Milan L. Brandon II, SBN 326953
 10 mbrandon@limandri.com
 11 LiMANDRI & JONNA LLP
 12 P.O. Box 9120
 13 Rancho Santa Fe, CA 92067
 14 Telephone: (858) 759-9930
 15 Facsimile: (858) 759-9938

Thomas Brejcha, *pro hac vice**
 tbrejcha@thomasmoresociety.org
 Peter Breen, *pro hac vice**
 pbreen@thomasmorsociety.org
 THOMAS MORE SOCIETY
 309 W. Washington St., Ste. 1250
 Chicago, IL 60606
 Tel: (312) 782-1680
 *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
**Notice of Motion and Plaintiffs’
 Motion for a Preliminary Injunction**
 Judge: Hon. Roger T. Benitez
 Courtroom: 5A
 Hearing Date: June 26, 2023
 Hearing Time: 10:30 a.m.

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

3 PLEASE TAKE NOTICE that on June 26, 2023 at 10:30 a.m., in
4 Courtroom 5A of this Court, located at 221 West Broadway, San Diego, CA 92101,
5 Plaintiffs Elizabeth Mirabelli and Lori Ann West, by and through counsel, will and
6 hereby do move this Court pursuant to Fed. R. Civ. P. 65(b) and S.D. Cal. CivLR 7.1
7 for a preliminary injunction prohibiting the EUSD Defendants (EUSD Board
8 President Mark Olson, Board Vice President Frank Huston, Board Clerk Joan
9 Gardner, Board Member Doug Paulson, Board Member Zesty Harper,
10 Superintendent Luis Rankins-Ibarra, Assistant Superintendent John Albert,
11 Integrated Student Services Director Trent Smith, Integrated Student Supports
12 Director Tracy Schmidt, Rincon Middle School Principal Steve White) and the CDE
13 Defendants (State Superintendent Tony Thurmond, California State Board
14 President Darling-Hammond, State Board Vice President Cynthia Glover Woods,
15 State Board Member Francisco Escobedo, State Board Member Brenda Lewis, State
16 Board Member James J. McQuillen, State Board Member Sharon Olken, State Board
17 Member Gabriela Orozco-Gonzalez, State Board Member Kim Pattillo Brownson,
18 State Board Member Haydee Rodriguez, State Board Member Alison Yoshimoto-
19 Towery, State Board Member Naomi Porter) from taking adverse action against them
20 because of their speech or refusal to speak as a result of their religious beliefs which
21 preclude them from misleading parents about the terms that they and other teachers
22 use to address their children.

23 Specifically, Plaintiffs Mirabelli and West request:

24 1. A preliminary injunction prohibiting the EUSD Defendants from taking
25 adverse action against Mrs. Mirabelli or Mrs. West under EUSD Board Policies 0410
26 and 5145.3, EUSD Administrative Regulation 5145.3, the Rights of Gender Diverse
27 Students presentation, or any other policy or regulation for communicating in the
28 following manner:

- 1 a. Communicating with parents using the legal name of a transgender or
2 gender diverse student, while also mentioning that the student is
3 referred to at school using a preferred name; and
- 4 b. Notifying parents of a student’s request to be referred to using a
5 name that is different than the student’s legal name or a pronoun
6 inconsistent with the student’s biological/natal sex.

7 2. A preliminary injunction prohibiting the CDE Defendants from
8 interfering in any way, including by taking action against the EUSD Defendants, with
9 Mrs. Mirabelli’s and Mrs. West’s ability to communicate with the parents of
10 transgender or gender diverse students in accordance with this Court’s order.

11 This motion is made on the grounds that the EUSD Defendants and the CDE
12 Defendants seek to compel Mrs. Mirabelli’s and Mrs. West’s speech in violation of
13 their rights to freedom of speech and free exercise of religion. Defendants’
14 deprivation of Mrs. Mirabelli’s and Mrs. West’s constitutional liberty is causing
15 them irreparable injury. The relief Mrs. Mirabelli and Mrs. West request would not
16 harm any lawful interest of the Defendants and granting them the requested relief
17 would serve the public interest.

18 Further, Mrs. Mirabelli and Mrs. West request that the Court waive any bond
19 requirement in issuing the injunction because enjoining Defendants from
20 unconstitutionally violating Mrs. Mirabelli’s and Mrs. West’s constitutional rights
21 will not financially affect Defendants.

22 This motion is supported by the accompanying Memorandum of Points and
23 Authorities, by the Verified Complaint, by the declarations of Plaintiffs Elizabeth
24 Mirabelli and Lori Ann West, by the expert declaration of Dr. Erica A. Anderson,
25 Ph.D., by the accompanying Request for Judicial Notice, by the Notice of Manual
26 Filing of Flash Drive Tentatively Under Seal, and by such further argument and
27 evidence that may be adduced at any hearing on this matter or of which the Court
28 may take judicial notice.

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Respectfully submitted,

LiMANDRI & JONNA LLP

Dated: May 15, 2023

By:



Charles S. LiMandri
Paul M. Jonna
Mark D. Myers
Jeffrey M. Trissell
Milan L. Brandon II
Attorneys for Plaintiffs

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):

- **Notice of Motion and Plaintiffs’ Motion for a Preliminary Injunction;**
- **Memorandum of Points & Authorities in Support of Plaintiffs’ Motion for a Preliminary Injunction;**
- **Declaration of Dr. Erica E. Anderson, PhD, in Support of Plaintiffs’ Motion for a Preliminary Injunction;**
- **Declaration of Plaintiff Elizabeth Mirabelli in Support of Motion for a Preliminary Injunction;**
- **Declaration of Plaintiff Lori Ann West in Support of Motion for a Preliminary Injunction;**
- **Notice of Manual Filing of Flash Drive, Tentatively Under Seal, in Support of Plaintiffs’ Motion for a Preliminary Injunction;**
- **Request for Judicial Notice in Support of Plaintiffs’ Motion for a Preliminary Injunction; and**
- **[Proposed] ORDER GRANTING PLAINTIFFS’ MOTION FOR A PRELIMINARY INJUNCTION.**

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

Thomas Prouty, Deputy General Counsel
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
Attorneys for CDE Defendants

Daniel R. Shinoff, Esq.
Artiano Shinoff
3636 Fourth Avenue, Suite 200
San Diego, CA 92103
Tel: 619-232-3122
E-Mail: Dshinoff@as7law.com
E-Mail: nlay@as7law.com
Attorneys for EUSD Defendants

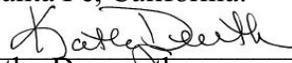
 X **(BY MAIL)** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Rancho Santa Fe, California in the ordinary course of 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.

 (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 May 15, 2023, at Rancho Santa Fe, California.



Kathy Denworth