

RELEASE AND SETTLEMENT AGREEMENT

WHEREAS, student Plaintiff T.V., by and through her next friend Heather Victor, brought an action against Dan Beukelman and Greg Leland, who are school administrators at Sierra High School in the Manteca Unified School District (collectively, “Defendants”) on or about October 15, 2015, alleging claims of unlawful censorship of Plaintiff’s freedom of expression in wearing a shirt stating “Nobody knows I’m a lesbian” under the First Amendment of the United States Constitution, the California Constitution, and the California Education Code, and Plaintiff’s allegations are more fully described in the Complaint filed in Case No. 2:15-cv-02163-JAM-CKD;

WHEREAS, the Defendants deny any violation of the United States Constitution, the California Constitution, and the California Education Code;

WHEREAS, Plaintiff, Defendants and the Manteca Unified School District (“District”) have conferred in good faith and have negotiated the terms of this Settlement Agreement;

WHEREAS, the District is not a named defendant in Case No. 2:15-cv-02163-JAM-CKD but agrees waive its immunity under the Eleventh Amendment in order to be bound by the Stipulated Judgment, and this Release and Settlement Agreement, and specifically agrees to be subject to the jurisdiction of this court to address any issues of compliance of this Release and Settlement Agreement; and

WHEREAS, the District denies liability in this action;

WHEREAS, Plaintiff, Defendants, and the District agree that entry of this Stipulated Judgment and Release and Settlement Agreement in Case No. 2:15-cv-02163-JAM-CKD, without further litigation, is in the public interest;

THEREFORE IT IS STIPULATED by Plaintiff, by and through her attorney the American Civil Liberties Union of Northern California, Defendants, and the District, by and through the Law Offices of Spinelli Donald & Nott, subject to approval of the Court, that all claims presented by Plaintiff’s Complaint shall be dismissed with prejudice as to all parties, except that the Court shall retain jurisdiction to address any issues of compliance with the terms of this Release and Settlement Agreement.

This settlement is of a disputed claim and is not an admission of liability by Defendants or the District.

Plaintiff T.V. waives all rights under § 1542 of the California Civil Code which reads as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.”

No promise or inducement has been made other than those set out by this Release. This Release is executed by Plaintiff T.V. without any reliance or any representation by Defendants, Defendants' representatives, or the District concerning the nature or extent of any injuries or legal liability.

The Terms of Release and Settlement Agreement are as follows:

1. By no later than April 30, 2016, the District will modify its administrative regulations and school board policies to include the following language: "A student will not be prohibited from wearing clothing, jewelry or personal items that express self-identification with, or support for, individuals or groups on the basis of the characteristics set forth in California Education Code Section 200, including but not limited to: disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, or sexual orientation."
2. By no later than Tuesday, February 9 and continuing thereafter, the District shall permit Plaintiff to wear her t-shirt stating "Nobody Knows I'm a Lesbian" to school and during school hours. The District agrees to take reasonable measures to protect Plaintiff from any known harassment or bullying by other students or any District employee in reaction to the t-shirt and from taking retaliatory action against Plaintiff or her mother for bringing this lawsuit or for advocating for her free speech rights. Plaintiff agrees to notify the District through a high school or District administrator of her choosing, or through the District's Uniform Complaint Procedure, if she experiences harassment, bullying or retaliation described in this paragraph so that they may promptly take reasonable measures to protect Plaintiff from said harassment, bullying or retaliation.
3. No later than 30 days after approval by the District School Board of the terms of this Release and Settlement Agreement, the District shall retain a qualified third-party consultant to provide professional development training for all high school administrators employed by the District on the issue of student free speech and free expression. In selecting the consultant and developing the training, the District agrees to meaningfully consult with and consider input from Plaintiff's counsel. The District will be responsible for any costs associated with the retention of the consultant. All high school principals employed by the District shall receive professional development training, in which Plaintiff's counsel will attend and serve as a resource, on the issue of student free speech and free expression by March 17, 2016. Thereafter, professional development training on the issue of student free speech and free expression for all high school and alternative high school administrators employed by the District shall occur every other year, beginning with the 2016-2017 school year. The third-party consultant will conduct this professional development training for all high school administrators during the 2016-2017 school year. Beginning in the 2018-2019 school year, a District employee—rather than the third-party consultant—may conduct said professional development training on the issue of student free speech and free expression, using materials and curricula developed by the third-party consultant as a resource.

4. No later than 7 days after the adoption of the revised policy by the Board, the District shall distribute a notice to all administrators employed by the District and to all students in District schools that the District dress code policy has been revised pursuant to Paragraph 1, above. Additionally, the revised District dress code policy shall be included in all District and school student handbooks beginning in the 2016-2017 school year.
5. The District will pay Plaintiff \$1 for nominal damages within 30 days of the Court's entry of judgment.
6. The District shall deliver to Plaintiff's counsel payment in the amount of \$63,000 for Plaintiff's reasonable attorneys' fees and costs. Payment shall be made to the American Civil Liberties Union of Northern California within 30 days of the Court's entry of judgment. Plaintiff shall make no further demands or claims for attorneys' fees or costs in connection with this matter.
7. No bond is necessary in this case because Defendants' compliance with this judgment would not create a risk of monetary loss.
8. Nothing in this Release and Settlement Agreement shall be construed as an admission of wrongdoing or liability.
9. This Release and Settlement Agreement is made and entered into in the State of California, and shall in all respects be interpreted, enforced and governed under the laws of said state, regardless of the conflicts of laws rules of said state. The language of all parts of this Release and Settlement Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the parties, regardless of any party's involvement in its preparation.
10. Should any provision of this Release and Settlement Agreement be declared or be determined by any Court to be illegal or invalid, the validity of the remaining parts, terms, or provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be part of this Release and Settlement Agreement.
11. This Release and Settlement Agreement may be executed in counterparts and, as executed, shall constitute one agreement binding on all the parties hereto, even if all the parties are not signatories to the original or same counterparts. Moreover, facsimile copies of signatures shall be accepted as valid and binding.
12. This Release and Settlement Agreement sets forth the entire Agreement between the parties hereto, and fully supersedes any and all prior agreements or understandings between the parties hereto pertaining to the subject matter thereof. Plaintiff understands that this Agreement constitutes a full and final settlement of the federal and state law claims raised by Plaintiff in her Complaint filed in Case No. 2:15-cv-02163-JAM-CKD.

13. This Release and Settlement Agreement is subject to approval by the governing School Board of the Manteca Unified School District.

Executed at _____, California, this ____ day of February, 2016.

By _____
T.V.
Plaintiff

Executed at _____, California, this ____ day of February, 2016.

By _____
Heather Victor
Next Friend and Mother of Plaintiff

Executed at _____ California, this ____ day of February, 2016.

By: _____
Jason Messer
Superintendent, Manteca Unified School
District

Executed at _____ California, this ____ day of February, 2016.

By: _____
Dan Beukelman
Assistant Principal, Sierra High School

Executed at _____ California, this ____ day of February, 2016.

By: _____
Greg Leland
Vice Principal, Sierra High School