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12 *Attorneys for Plaintiffs-Petitioners*

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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **COUNTY OF CONTRA COSTA**

16 Mark S., by and through his guardian ad litem,
17 Anna S., Rosa T., by and through her guardian
ad litem Sofia L., and Jessica Black, Michell
18 Redfoot, and Dr. Nefertari Royston, as
taxpayers,

19 Plaintiffs and Petitioners,

20 v.

21 STATE OF CALIFORNIA; TONY
THURMOND, in his official capacity as STATE
22 SUPERINTENDENT OF PUBLIC
INSTRUCTION; STATE BOARD OF
23 EDUCATION; CALIFORNIA DEPARTMENT
OF EDUCATION; and PITTSBURG UNIFIED
24 SCHOOL DISTRICT, DOES 1-100,
INCLUSIVE,

25 Defendants and Respondents.

Case No.: MSN21-1755

UNLIMITED JURISDICTION

**PLAINTIFFS' AMENDED NOTICE
OF MOTION TO COMPEL
FURTHER PRODUCTION OF
DOCUMENTS FROM DEFENDANT
PITTSBURG UNIFIED SCHOOL
DISTRICT, AND FOR MONETARY
SANCTIONS IN THE AMOUNT OF
\$11,959.70**

Date: September 15, 2022

Dept.: 39

Time: 9:00 a.m.

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27 *Attorneys for Plaintiffs-Petitioner*

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that in Department 39 of the above-captioned Court, located
3 at 725 Court Street Martinez, Martinez, CA 94553, on September 15, 2022 at 9:00 a.m., Plaintiffs
4 Mark S., by and through his guardian ad litem Anna S., Rosa T., by and through her guardian ad
5 litem Sofia L., and Jessica Black, Michell Redfoot, and Dr. Nefertari Royston as taxpayer plaintiffs
6 (collectively “Plaintiffs”) will and hereby does move for an order compelling the further
7 production of documents from Pittsburg Unified School District (“District” or “PUSD” or “the
8 Defendant”) in response to Plaintiffs’ First Set of Requests for Production (“RFP”).

9 In particular, Plaintiffs move for an order compelling production of documents with respect
10 to 14 requests—RFP Nos. 1, 3, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 18A, and 21, as follows:

11 • **RFP Nos. 1, 3, & 9-10:** Defendant produced multiple data sheets in either locked excel or
12 pdf format that omit multiple data points. Plaintiffs seek production of these data sheets in an
13 unlocked, excel format and additional data sheets containing the omitted data points.

14 • **RFP No. 11:** Defendant has failed to produce any documents. Plaintiffs seek an order
15 compelling a production in response to this request.

16 • **RFP No. 12-16:** Defendant has failed to produce any documents. Plaintiffs seek an order
17 requiring Defendant to negotiate with Plaintiff to identify search terms and custodians for
18 responsive emails; Plaintiffs also seek all non-e-mail documents reflecting the Defendant’s
19 complaint investigations, and policies and procedures considered and adopted by Defendant
20 related to these requests.

21 • **RFP No. 17:** Defendant’s production shows it has withheld multiple documents relating to
22 the District’s assessment or implementation of the audit of its special education program.
23 Defendants seek an order compelling production of these documents.

24 • **RFP No. 18:** Defendant produced responsive documents containing CAASPP test scores
25 for the 2015-19 academic years but omitted scores from the 2021-22 academic year. Defendants
26 seek an order compelling the production of the CAASPP test scores for the 2021-22 academic
27 year.

1 • **RFP No. 18A:** Defendant has failed to produce any documents. Plaintiffs seek an order
2 compelling a production in response to this request.


3 • **RFP No. 21:** Defendant has failed to produce any documents. Plaintiffs seek an order
4 requiring Defendant to negotiate with Plaintiff to identify a sample of Individualized Education
5 Programs (“IEP”) across grade levels, school sites, and placements to facilitate a production in
6 response to this request. Once such a sample is identified, Defendant shall produce the sample
7 Individualized Education Program documents pursuant to the Protective Order Governing
8 Discovery entered by the Court on March 14, 2022.

9 This motion is made pursuant to sections 2031.310 of the California Code of Civil
10 Procedure (“CCP”) on the grounds that Defendant’s objections to the RFPs, and its refusal to
11 produce complaint documents are without legal or factual basis, are without substantial
12 justification, and have not been advanced in good faith. Additionally, to the extent Defendant
13 withholds any such documents responsive to Plaintiffs’ RFPs that this Court compels Defendant
14 to produce, Plaintiffs request that Defendant produce a privilege log in accordance with CCP
15 2031.240.

16 Notice is further given that Plaintiffs seek an order awarding them monetary sanctions
17 against Defendant and Defendant’s counsel in the amount of \$11,959.70 sanctions pursuant to
18 CCP sections 2023.010, 2023.030 and 2031.310(h), based on the reasonable fees and costs
19 incurred by Plaintiffs in bringing this motion.

20 This motion is based on this Notice, the previously-filed Memorandum of Points and
21 Authorities, Declaration of Amanda Schwartz pursuant to CCP section 2016.010, Declaration of
22 Malhar Shah, Separate Statement, and other pleadings on file herein and upon such additional
23 argument or evidence as may be presented prior to or at the hearing of this matter.

24
25 DATED: August 9, 2022

By: 

26 Malhar Shah
27 Claudia Center
28 DISABILITY RIGHTS EDUCATION AND
DEFENSE FUND

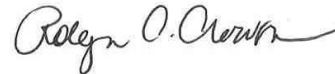
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Linnea Nelson
Grayce Zelphin
Brandon Greene
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF NORTHERN
CALIFORNIA



Ana G. Najera Mendoza
Victor Leung
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF SOUTHERN
CALIFORNIA



Robyn C. Crowther
Amanda C. Schwartz
Geoffrey Warner
STEPTOE & JOHNSON LLP

PROOF OF SERVICE

I am a resident of, or employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to this action. My business address is: Steptoe & Johnson LLP, 633 West Fifth Street, Suite 1900, Los Angeles, California 90071.

On **August 9, 2022**, I served the following listed document(s): **PLAINTIFFS' AMENDED NOTICE OF MOTION TO COMPEL FURTHER PRODUCTION OF DOCUMENTS FROM DEFENDANT PITTSBURG UNIFIED SCHOOL DISTRICT, AND FOR MONETARY SANCTIONS IN THE AMOUNT OF \$11,959.70** by the methods indicated below, on the parties in this action:

State of California Deputy Attorney General California Department of Justice 455 Golden Gate Avenue # 11000 San Francisco, CA 94102	Andrew.Edelstein@doj.ca.gov Jacquelyn.Young@doj.ca.gov
Tony Thurmond, in his official capacity as State Superintendent of Public School Instruction 1430 N Street, Suite 5111 Sacramento, CA 95814	
State Board of Education 1430 N Street, Suite 5111 Sacramento, CA 95814	VCale@cde.ca.gov LGarfinkel@cde.ca.gov
California Department of Education 1430 N Street, Suite 5111 Sacramento, CA 95814	
Pittsburg Unified School District c/o Katherine Alberts 1390 Willow Pass Rd #700 Concord, CA 94520	kalberts@leonealberts.com jjohnson@leonealberts.com service@leonealberts.com

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused the document(s) to be sent from e-mail address mhernandez@steptoe.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

BY ELECTRONIC SERVICE: I served the document(s) on the persons listed in the Service List by submitting an electronic version of the document(s) to One Legal, LLC, through the user interface at www.onlegal.com.

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

Executed on August 2, 2022, at Los Angeles, California.

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/s/ Melissa Hernandez

MELISSA HERNANDEZ