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5

6 Attorneys for Defendants GLENDALE UNIFIED
SCHOOL DISTRICT (on behalf of itself and its BOARD
OF EDUCATION), VIVIAN EKCHIAN, Ed.D, and
7 KRISTINE TONOLI, and Defendants DARNEIKA
WATSON, Ph.D., KATHLEEN CROSS, INGRID
8 GUNNELL, SHANT SAHAKIAN, JENNIFER
FREEMON, and NAYIRI NAHABEDIAN, in their
9 individual and official capacities as pleaded

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

12 RAY SHELTON,
13
14 Plaintiff,

15 vs.

16 GLENDALE UNIFIED SCHOOL
DISTRICT, et al.,
17 Defendants.

Case No. 2:23-cv-10427-CBM-SSC

[Hon. Consuelo B. Marshall]

**ANSWER OF DEFENDANT
KRISTINE TONOLI TO SECOND
AMENDED COMPLAINT**

18
19 Defendant Kristine Tonoli (Defendant), for herself and no other defendants,
20 hereby responds to the Second Amended Complaint (SAC) (Dkt. No. 26) filed by
21 Plaintiff Ray Shelton (Plaintiff), and admits, denies, and alleges as follows:

22 1. Answering Paragraph 1 of the SAC, Defendant admits that this Court
23 has subject matter jurisdiction over the within matter pursuant to 28 U.S.C. §§ 1331
24 and 1343 and 42 U.S.C. § 1983. Defendant denies, generally and specifically, each
25 and every remaining allegation in said Paragraph 1.

26 2. Answering Paragraph 2 of the SAC, Defendant admits that venue is
27 proper in the United States District Court for the Central District of California under
28 28 U.S.C. § 1391(b). Defendant denies, generally and specifically, each and every

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1 remaining allegation in said Paragraph 2.

2 3. Paragraph 3 of the SAC states only legal conclusions; accordingly, no
3 response is required from Defendant. To the extent any such response is deemed
4 required, Defendant lacks knowledge or information sufficient to form a belief as to
5 the truth of the allegations contained in said Paragraph 3 and, on that basis, denies
6 each and every allegation contained in said Paragraph 3.

7 4. Paragraph 4 of the SAC states only legal conclusions; accordingly, no
8 response is required from Defendant. To the extent any such response is deemed
9 required, Defendant lacks knowledge or information sufficient to form a belief as to
10 the truth of the allegations contained in said Paragraph 4 and, on that basis, denies
11 each and every allegation contained in said Paragraph 4.

12 5. Paragraph 5 of the SAC states only legal conclusions; accordingly, no
13 response is required from Defendant. To the extent any such response is deemed
14 required, Defendant lacks knowledge or information sufficient to form a belief as to
15 the truth of the allegations contained in said Paragraph 5 and, on that basis, denies
16 each and every allegation contained in said Paragraph 5.

17 6. Defendant denies, generally and specifically, each and every allegation
18 in Paragraph 6 of the SAC.

19 7. Answering Paragraph 7 of the SAC, Defendant admits that Plaintiff
20 was a fifth-grade teacher employed by the Glendale Unified School District
21 (GUSD). Defendant lacks knowledge or information sufficient to form a belief as to
22 the truth of the remaining allegations contained in said Paragraph 7 and, on that
23 basis, denies each and every remaining allegation contained in said Paragraph 7.

24 8. Answering Paragraph 8 of the SAC, Defendant admits, on information
25 and belief, that Plaintiff attended a GUSD Board of Education (School Board)
26 meeting on April 18, 2023. Defendant lacks knowledge or information sufficient to
27 form a belief as to the truth of the remaining allegations contained in said Paragraph
28 8 and, on that basis, denies each and every remaining allegation contained in said

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1 Paragraph 8.

2 9. Answering Paragraph 9 of the SAC, Defendant admits that on April 19,
3 2023, GUSD directed Plaintiff to leave his classroom and placed Plaintiff on paid
4 administrative leave, and Defendant disseminated an email to families of the
5 school's students. Defendant denies, generally and specifically, each and every
6 remaining allegation contained in said Paragraph 9.

7 10. Answering Paragraph 10 of the SAC, Defendant lacks knowledge or
8 information sufficient to form a belief as to the truth of the allegation contained in
9 said Paragraph 10 that Plaintiff looked forward to watching his students graduate
10 every year, and, on that basis, denies said allegation. Defendant denies, generally
11 and specifically, each and every remaining allegation contained in said Paragraph
12 10.

13 11. Defendant denies, generally and specifically, each and every allegation
14 in Paragraph 11 of the SAC.

15 12. Defendant lacks knowledge or information sufficient to form a belief as
16 to the truth of the allegations contained in Paragraph 12 of the SAC and, on that
17 basis, denies each and every allegation contained in said Paragraph 12.

18 13. Defendant admits, on information and belief, the allegations in
19 Paragraph 13 of the SAC.

20 14. Defendant admits, on information and belief, the allegations in
21 Paragraph 14 of the SAC.

22 15. Paragraph 15 of the SAC states only legal conclusions; accordingly, no
23 response is required from Defendant. To the extent any such response is deemed
24 required, Defendant lacks knowledge or information sufficient to form a belief as to
25 the truth of the allegations contained in said Paragraph 15 and, on that basis, denies
26 each and every allegation contained in said Paragraph 15.

27 16. Defendant admits, on information and belief, the allegations in
28 Paragraph 16 of the SAC.

1 17. Defendant admits, on information and belief, the allegations in
2 Paragraph 17 of the SAC.

3 18. Defendant admits, on information and belief, the allegations in
4 Paragraph 18 of the SAC.

5 19. Defendant admits, on information and belief, the allegations in
6 Paragraph 19 of the SAC.

7 20. Defendant admits, on information and belief, the allegations in
8 Paragraph 20 of the SAC.

9 21. Defendant admits, on information and belief, the allegations in
10 Paragraph 21 of the SAC.

11 22. Defendant admits, on information and belief, the allegations in
12 Paragraph 22 of the SAC.

13 23. Answering Paragraph 23 of the SAC, Defendant admits, on information
14 and belief, that the School Board has final authority to formulate and adopt GUSD
15 policies, including regulations that govern GUSD personnel, that the Board has the
16 authority to approve personnel decisions such as selection, release, termination,
17 unpaid certificated suspensions, assignment, and transfer of employees, that the
18 Board may authorize the Superintendent to employ personnel without Board
19 approval, that the Board refers all complaints, criticisms, and suggestions called to
20 its attention to the Superintendent for study and recommendations, and that the
21 Board does not participate in making decisions to investigate teachers or place them
22 on paid administrative leave pending such investigations. Defendant denies,
23 generally and specifically, each and every remaining allegation contained in said
24 Paragraph 23.

25 24. Answering Paragraph 24 of the SAC, Defendant admits, on information
26 and belief, that the School Board has final authority to formulate and adopt GUSD
27 policies, including regulations that govern GUSD personnel, that the Board has the
28 authority to approve personnel decisions such as selection, release, termination,

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1 unpaid certificated suspensions, assignment, and transfer of employees, that the
2 Board may authorize the Superintendent to employ personnel without Board
3 approval, that the Board refers all complaints, criticisms, and suggestions called to
4 its attention to the Superintendent for study and recommendations, and that the
5 Board does not participate in making decisions to investigate teachers or place them
6 on paid administrative leave pending such investigations. Defendant denies,
7 generally and specifically, each and every remaining allegation contained in said
8 Paragraph 24.

9 25. Answering Paragraph 25 of the SAC, Defendant admits, on information
10 and belief, that the School Board did not instruct GUSD personnel to rescind the
11 decision placing Plaintiff on paid administrative leave, and that Plaintiff's retirement
12 effective June 9, 2023, eliminated the need to determine whether Plaintiff should be
13 dismissed or otherwise disciplined. Defendant denies, generally and specifically,
14 each and every remaining allegation contained in said Paragraph 25.

15 26. Answering Paragraph 26 of the SAC, Defendant admits, on information
16 and belief, that Vivian Ekchian, Ed.D. (Dr. Ekchian) was Superintendent of GUSD
17 from July 1, 2019, until she retired effective June 30, 2023. Defendant denies,
18 generally and specifically, each and every remaining allegation contained in said
19 Paragraph 26.

20 27. Answering Paragraph 27 of the SAC, Defendant admits, on information
21 and belief, that as Superintendent, Dr. Ekchian was GUSD's Chief Executive
22 Officer, and as such, she had the primary responsibility for execution of policies that
23 the School Board formulates and adopts. Defendant admits, on information and
24 belief, that as Superintendent, Dr. Ekchian had delegated powers and duties
25 necessary for efficient management and administration of GUSD to the full extent
26 permitted by law. Defendant denies, generally and specifically, each and every
27 remaining allegation contained in said Paragraph 27.

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1 28. Answering Paragraph 28 of the SAC, Defendant admits, on information
2 and belief, that as Superintendent, Dr. Ekchian was notified of at least one complaint
3 that at a School Board meeting on April 18, 2023, Plaintiff displayed a swastika to a
4 teacher who happened to be Jewish, that Dr. Ekchian determined such action
5 violated GUSD’s nondiscrimination policy (BP/AR 4030) and the Code of Ethics
6 (BP/AR 4119.21), and that based solely on said complaint and determination, she
7 decided to ask GUSD’s Human Resources Department to investigate the complaint
8 and to place Plaintiff on paid administrative leave pending the investigation.
9 Defendant admits, on information and belief, that Dr. Ekchian did not instruct any
10 GUSD personnel to cease the investigation or to rescind Plaintiff’s paid
11 administrative leave before the investigation was completed. Defendant denies,
12 generally and specifically, each and every remaining allegation contained in said
13 Paragraph 28.

14 29. Answering Paragraph 29 of the SAC, Defendant admits, on information
15 and belief, that as Superintendent, Dr. Ekchian had the primary responsibility of
16 organizing, reorganizing, and arranging the administrative and supervisory staff,
17 including but not limited to, instruction, human resources, and business affairs
18 which, in her judgment, would best serve GUSD, that she had such responsibility in
19 all personnel matters, and that major disciplinary actions (such as release from
20 service or certificated suspensions) require School Board approval. Defendant
21 admits, on information and belief, that as Superintendent, Dr. Ekchian was
22 responsible for the investigation process and discipline, that she delegated such
23 responsibility to the Chief Human Resources Officer and others in the department,
24 and that she had a duty to ensure that all GUSD policies and practices were applied
25 consistently and lawfully, including those pertaining to discipline. Defendant denies,
26 generally and specifically, each and every remaining allegation contained in said
27 Paragraph 29.

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1 30. Answering Paragraph 30 of the SAC, Defendant admits, on information
2 and belief, that Darneika Watson, Ph.D. (Dr. Watson) was the Chief Human
3 Resources and Operations Officer of GUSD from April 21, 2020 until June 30,
4 2023, that she was Interim Superintendent of GUSD from July 1, 2023 until October
5 9, 2023, and that she has been Superintendent of GUSD since October 10, 2023.
6 Defendant denies, generally and specifically, each and every remaining allegation
7 contained in said Paragraph 30.

8 31. Answering Paragraph 31 of the SAC, Defendant admits, on information
9 and belief, that as Chief Human Resources and Operations Officer, Dr. Watson had
10 authorities and responsibilities delegated to her by the Superintendent, including
11 those pertaining to personnel matters, such as the investigation process and
12 discipline, and that Dr. Watson has the same authority and responsibilities as
13 Superintendent as those previously held by Dr. Ekchian. Defendant denies,
14 generally and specifically, each and every remaining allegation contained in said
15 Paragraph 31.

16 32. Answering Paragraph 32 of the SAC, Defendant admits, on information
17 and belief, that as Chief Human Resources and Operations Officer, Dr. Watson was
18 notified of at least one complaint that at a School Board meeting on April 18, 2023,
19 Plaintiff displayed a swastika to a teacher who happened to be Jewish, that Dr.
20 Ekchian determined such action violated GUSD’s nondiscrimination policy (BP/AR
21 4030) and the Code of Ethics (BP/AR 4119.21), and that based solely on said
22 complaint and Dr. Ekchian’s determination, Dr. Watson agreed with Dr. Ekchian’s
23 request to investigate the complaint and to place Plaintiff on paid administrative
24 leave pending the investigation. Defendant denies, generally and specifically, each
25 and every remaining allegation contained in said Paragraph 32.

26 33. Defendant admits the allegations in Paragraph 33 of the SAC.

27 34. Answering Paragraph 34 of the SAC, Defendant admits that as
28 Principal of Mark Keppel Visual and Performing Arts Magnet School (Mark Keppel

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1 or Keppel), she possessed the authority to assign, train, supervise, and evaluate all
2 certificated and classified staff at Mark Keppel. Defendant denies, generally and
3 specifically, each and every remaining allegation contained in said Paragraph 34.

4 35. Defendant denies, generally and specifically, each and every allegation
5 in Paragraph 35 of the SAC.

6 36. Paragraph 36 of the SAC states only legal conclusions; accordingly, no
7 response is required from Defendant. To the extent any such response is deemed
8 required, Defendant denies, generally and specifically, each and every allegation
9 contained in said Paragraph 36.

10 37. Answering Paragraph 37 of the SAC, Defendant admits, on information
11 and belief, that Plaintiff was a fifth-grade teacher at Mark Keppel, which is part of
12 GUSD, for about 25 years. Defendant lacks knowledge or information sufficient to
13 form a belief as to the truth of the remaining allegations contained in said Paragraph
14 37 and, on that basis, denies each and every remaining allegation contained in said
15 Paragraph 37.

16 38. Defendant lacks knowledge or information sufficient to form a belief as
17 to the truth of the allegations contained in Paragraph 38 of the SAC and, on that
18 basis, denies each and every allegation contained in said Paragraph 38.

19 39. Defendant lacks knowledge or information sufficient to form a belief as
20 to the truth of the allegations contained in Paragraph 39 of the SAC and, on that
21 basis, denies each and every allegation contained in said Paragraph 39.

22 40. Defendant lacks knowledge or information sufficient to form a belief as
23 to the truth of the allegations contained in Paragraph 40 of the SAC and, on that
24 basis, denies each and every allegation contained in said Paragraph 40.

25 41. Defendant lacks knowledge or information sufficient to form a belief as
26 to the truth of the allegations contained in Paragraph 41 of the SAC and, on that
27 basis, denies each and every allegation contained in said Paragraph 41.

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1 42. Defendant lacks knowledge or information sufficient to form a belief as
2 to the truth of the allegations contained in Paragraph 42 of the SAC and, on that
3 basis, denies each and every allegation contained in said Paragraph 42.

4 43. Answering Paragraph 43 of the SAC, Defendant admits, on information
5 and belief as to persons other than herself, that GUSD and its personnel follow
6 California state laws which require that all students be permitted to participate in
7 school programs, activities, and facilities in accordance with their gender identity,
8 affirm every individual on campus the right to be addressed by their chosen names
9 and pronouns, and are intended to ensure that transgender students are protected and
10 have the same opportunities to participate and succeed as all other students. The
11 remaining allegations in said Paragraph 43 consist of arguments to which no
12 response is required from Defendant. To the extent any such response is deemed
13 required, Defendant lacks knowledge or information sufficient to form a belief as to
14 the truth of the remaining allegations contained in said Paragraph 43 and, on that
15 basis, denies each and every remaining allegation contained in said Paragraph 43.

16 44. Answering Paragraph 44 of the SAC, Defendant admits, on information
17 and belief, that GUSD's official policies are consistent with California state laws
18 which require that all students be permitted to participate in school programs,
19 activities, and facilities in accordance with their gender identity, affirm every
20 individual on campus the right to be addressed by their chosen names and pronouns,
21 and are intended to ensure that transgender students are protected and have the same
22 opportunities to participate and succeed as all other students. The remaining
23 allegations in said Paragraph 44 consist of arguments to which no response is
24 required from Defendant. To the extent any such response is deemed required,
25 Defendant lacks knowledge or information sufficient to form a belief as to the truth
26 of the remaining allegations contained in said Paragraph 44 and, on that basis,
27 denies each and every remaining allegation contained in said Paragraph 44.

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1 45. Answering Paragraph 45 of the SAC, Defendant admits, on information
2 and belief, that GUSD’s official policies are consistent with California state laws
3 which require that all students be permitted to participate in school programs,
4 activities, and facilities (including bathrooms and locker rooms) in accordance with
5 their gender identity, affirm every individual on campus the right to be addressed by
6 their chosen names and pronouns and to keep their transgender status private if
7 desired, ensure that any disclosures of a student’s transgender status are made in a
8 way that reduces or eliminates the risk of re-disclosure, protect the transgender
9 student’s safety, protect against harassment or discrimination, and are intended to
10 ensure that transgender students are protected and have the same opportunities to
11 participate and succeed as all other students. Defendant admits, on information and
12 belief, that GUSD, consistent with federal and California state law, keeps all student
13 files and records private, subject to disclosure only under specified circumstances,
14 and that additional privacy measures are taken when a family requests a change to
15 the gender listed on a student’s original cumulative file, including but not limited to
16 creating an updated cumulative file and securely storing the original file with
17 restricted access. Defendant denies, generally and specifically, each and every
18 remaining allegation contained in said Paragraph 45.

19 46. Defendant lacks knowledge or information sufficient to form a belief as
20 to the truth of the allegations contained in Paragraph 46 of the SAC and, on that
21 basis, denies each and every allegation contained in said Paragraph 46.

22 47. Defendant lacks knowledge or information sufficient to form a belief as
23 to the truth of the allegations contained in Paragraph 47 of the SAC and, on that
24 basis, denies each and every allegation contained in said Paragraph 47.

25 48. Defendant lacks knowledge or information sufficient to form a belief as
26 to the truth of the allegations contained in Paragraph 48 of the SAC and, on that
27 basis, denies each and every allegation contained in said Paragraph 48.

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1 49. Defendant lacks knowledge or information sufficient to form a belief as
2 to the truth of the allegations contained in Paragraph 49 of the SAC and, on that
3 basis, denies each and every allegation contained in said Paragraph 49.

4 50. Defendant lacks knowledge or information sufficient to form a belief as
5 to the truth of the allegations contained in Paragraph 50 of the SAC and, on that
6 basis, denies each and every allegation contained in said Paragraph 50.

7 51. Defendant lacks knowledge or information sufficient to form a belief as
8 to the truth of the allegations contained in Paragraph 51 of the SAC and, on that
9 basis, denies each and every allegation contained in said Paragraph 51.

10 52. Defendant lacks knowledge or information sufficient to form a belief as
11 to the truth of the allegations contained in Paragraph 52 of the SAC and, on that
12 basis, denies each and every allegation contained in said Paragraph 52.

13 53. Answering Paragraph 53 of the SAC, Defendant admits, on information
14 and belief, that Plaintiff attended a GUSD School Board meeting on April 18, 2023.
15 Defendant lacks knowledge or information sufficient to form a belief as to the truth
16 of the remaining allegations contained in said Paragraph 53 and, on that basis,
17 denies each and every remaining allegation contained in said Paragraph 53.

18 54. Answering Paragraph 54 of the SAC, Defendant admits, on information
19 and belief, that Plaintiff gave a short speech in front of the GUSD School Board at
20 its meeting on April 18, 2023, in which he stated as follows: “Two plus two equals
21 four. The world is not flat. Boys have penises. Girls have vaginas. Gender is binary
22 and cannot be changed. Biology is not bigotry. Heterosexuality is not hate. Gender
23 confusion and gender delusion are deep psychological disorders. No caring
24 profession or loving parent would ever support the chemical poisoning or surgical
25 mutilation of a child’s genitalia. Transgender ideology is anti-gay. It is anti-woman
26 and is anti-human. It wants to take away women’s sports, women’s rights, women’s
27 achievements. It is misogyny writ large. And I can say this also as a gay man, the
28 gay people d-- ... [*speech ends*].” Defendant denies, generally and specifically, each

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1 and every remaining allegation contained in said Paragraph 54.

2 55. Answering Paragraph 55 of the SAC, Defendant admits, on information
3 and belief, that Plaintiff gave a short speech in front of the GUSD School Board at
4 its meeting on April 18, 2023, in which he stated as follows: “Two plus two equals
5 four. The world is not flat. Boys have penises. Girls have vaginas. Gender is binary
6 and cannot be changed. Biology is not bigotry. Heterosexuality is not hate. Gender
7 confusion and gender delusion are deep psychological disorders. No caring
8 profession or loving parent would ever support the chemical poisoning or surgical
9 mutilation of a child’s genitalia. Transgender ideology is anti-gay. It is anti-woman
10 and is anti-human. It wants to take away women’s sports, women’s rights, women’s
11 achievements. It is misogyny writ large. And I can say this also as a gay man, the
12 gay people d-- ... [*speech ends*].” Defendant denies, generally and specifically, each
13 and every remaining allegation contained in said Paragraph Paragraph 55.

14 56. Paragraph 56 of the SAC states only legal conclusions; accordingly, no
15 response is required from Defendant. To the extent any such response is deemed
16 required, Defendant lacks knowledge or information sufficient to form a belief as to
17 the truth of the allegations contained in said Paragraph 56 and, on that basis, denies
18 each and every allegation contained in said Paragraph 56.

19 57. Defendant lacks knowledge or information sufficient to form a belief as
20 to the truth of the allegations contained in Paragraph 57 of the SAC and, on that
21 basis, denies each and every allegation contained in said Paragraph 57.

22 58. Defendant denies, generally and specifically, each and every allegation
23 in Paragraph 58 of the SAC.

24 59. Defendant denies, generally and specifically, each and every allegation
25 in Paragraph 59 of the SAC.

26 60. Answering Paragraph 60 of the SAC, Defendant admits that on April
27 19, 2023, she directed Plaintiff to leave his classroom and to meet in her office with
28 her and with a GUSD administrator. Defendant lacks knowledge or information

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1 sufficient to form a belief as to the truth of the remaining allegations contained in
2 said Paragraph 60 and, on that basis, denies each and every remaining allegation
3 contained in said Paragraph 60.

4 61. Answering Paragraph 61 of the SAC, Defendant admits that on April
5 19, 2023, Plaintiff was given a letter signed and authorized by Dr. Watson while in
6 Defendant’s office. Defendant lacks knowledge or information sufficient to form a
7 belief as to the truth of the remaining allegations contained in said Paragraph 61
8 and, on that basis, denies each and every remaining allegation contained in said
9 Paragraph 61.

10 62. Answering Paragraph 62 of the SAC, Defendant admits the letter
11 signed and authorized by Dr. Watson stated, in part: “This letter serves to confirm
12 the District’s decision to place you on Administrative Leave with Pay effective
13 April 19, 2023. The purpose of this leave is to allow the District time to conduct its
14 investigation into allegations of misconduct made by another teacher in the Glendale
15 Unified School District. [¶] This Administrative Leave will remain in effect pending
16 the completion of the District’s investigation and the District’s notice to you. You
17 are not to report to school or any other District site during the Administrative Leave
18 except to Payroll or Human Resources until further notice.” Defendant denies,
19 generally and specifically, each and every remaining allegation contained in said
20 Paragraph 62.

21 63. Answering Paragraph 63 of the SAC, Defendant admits the letter
22 signed and authorized by Dr. Watson stated, in part: “You are tentatively scheduled
23 to meet with Human Resources Representatives on Tuesday, April 25, 2023, from
24 10:30 AM to 11:00 AM, when you will be provided with more information on the
25 allegations. You have the right to have a union representative at this meeting, held in
26 the Human Resources Office.” Defendant denies, generally and specifically, each
27 and every remaining allegation contained in said Paragraph 63.

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1 64. Answering Paragraph 64 of the SAC, Defendant admits the letter
2 signed and authorized by Dr. Watson stated, in part: “Because this is a confidential
3 personnel matter, we would recommend that you not discuss this investigation or
4 any of the information related to it with your co-workers or others, other than your
5 representative. Further, all information from this investigation should be kept
6 confidential.” Defendant denies, generally and specifically, each and every
7 remaining allegation contained in said Paragraph 64.

8 65. Answering Paragraph 65 of the SAC, Defendant admits that on April
9 19, 2023, she disseminated an email to families of the school’s students that never
10 identified Plaintiff by name and stated, in part: “We have received official
11 complaints about the actions of one of our Keppel teachers at the Glendale Unified
12 Board of Education meeting last night. Our district has processes in place to
13 investigate and address these complaints and is following up immediately. As this is
14 a personnel matter, I am unable to share additional information, but I can confirm
15 that the teacher is not currently on campus.” Defendant denies, generally and
16 specifically, each and every remaining allegation contained in said Paragraph 65.

17 66. Answering Paragraph 66 of the SAC, Defendant admits that on April
18 19, 2023, she disseminated an email to families of the school’s students that never
19 identified Plaintiff by name and stated, in part: “We have received official
20 complaints about the actions of one of our Keppel teachers at the Glendale Unified
21 Board of Education meeting last night. Our district has processes in place to
22 investigate and address these complaints and is following up immediately. As this is
23 a personnel matter, I am unable to share additional information, but I can confirm
24 that the teacher is not currently on campus. [¶] I am deeply saddened by our
25 employee’s actions and assure you they do not represent the values of our Keppel
26 and our Glendale Unified community. ... [¶] Hate speech and hate symbols have no
27 place in our community.” Defendant denies, generally and specifically, each and
28 every remaining allegation contained in said Paragraph 66.

1 67. Answering Paragraph 67 of the SAC, Defendant admits that on April
2 19, 2023, she disseminated an email to families of the school’s students that never
3 identified Plaintiff by name and stated, in part: “Together, we have created a
4 wonderful school environment that supports our students and it is my commitment
5 that we continue to do so. Student and employee safety is and always will be our top
6 priority. We will continue to foster a positive culture that emphasizes the safety and
7 wellbeing of all of our students and staff.” Defendant denies, generally and
8 specifically, each and every remaining allegation contained in said Paragraph 67.

9 68. Defendant denies, generally and specifically, each and every allegation
10 in Paragraph 68 of the SAC.

11 69. Defendant denies, generally and specifically, each and every allegation
12 in Paragraph 69 of the SAC.

13 70. Answering Paragraph 70 of the SAC, Defendant admits, on information
14 and belief, that GUSD staff routinely assist school sites with functions such as
15 public statements and other messaging to the school community. Defendant denies,
16 generally and specifically, each and every remaining allegation contained in said
17 Paragraph 70.

18 71. Defendant denies, generally and specifically, each and every allegation
19 in Paragraph 71 of the SAC.

20 72. Answering Paragraph 72 of the SAC, Defendant admits, on information
21 and belief, that GUSD’s then-general counsel informed Plaintiff’s counsel on or
22 about June 6, 2023, that Plaintiff was not dismissed from service, that any such
23 dismissal would require School Board approval, that Human Resources normally
24 handled placements on administrative leave, that given the public nature of the
25 matter, the Board would have had to make any decision to rescind Plaintiff’s
26 administrative leave, that the Board meeting scheduled to occur on the day of this
27 discussion was derailed because of a riot in the parking lot, and that Plaintiff’s
28 previously-scheduled retirement date of June 9, 2023, eliminated any need to issue

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1 discipline of any kind, including dismissal. Defendant denies, generally and
2 specifically, each and every remaining allegation contained in said Paragraph 72.

3 73. Defendant denies, generally and specifically, each and every allegation
4 in Paragraph 73 of the SAC.

5 74. Answering Paragraph 74 of the SAC, Defendant admits, on information
6 and belief, that as Superintendent, Dr. Ekchian was notified of at least one complaint
7 that at a School Board meeting on April 18, 2023, Plaintiff displayed a swastika to a
8 teacher who happened to be Jewish, that Dr. Ekchian determined such action
9 violated GUSD's nondiscrimination policy (BP/AR 4030) and the Code of Ethics
10 (BP/AR 4119.21), that based solely on said complaint and determination, she
11 decided to ask GUSD's Human Resources Department to investigate the complaint
12 and to place Plaintiff on paid administrative leave pending the investigation, and
13 that Dr. Watson agreed with Dr. Ekchian's request. Defendant denies, generally and
14 specifically, each and every remaining allegation contained in said Paragraph 74.

15 75. Answering Paragraph 75 of the SAC, Defendant admits the letter
16 signed and authorized by Dr. Watson stated, in part: "This letter serves to confirm
17 the District's decision to place you on Administrative Leave with Pay effective
18 April 19, 2023.... [¶] This Administrative Leave will remain in effect pending the
19 completion of the District's investigation and the District's notice to you. You are
20 not to report to school or any other District site during the Administrative Leave
21 except to Payroll or Human Resources until further notice." Defendant lacks
22 knowledge or information sufficient to form a belief as to the truth of the allegation
23 contained in said Paragraph 75 that Plaintiff deeply cherished attending his students'
24 fifth-grade graduation ceremony every year to commemorate the achievement of his
25 students and to be able to celebrate with them and their families before they moved
26 on to middle school, and, on that basis, denies said allegation. Defendant denies,
27 generally and specifically, each and every remaining allegation contained in said
28 Paragraph 75.

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1 76. Defendant lacks knowledge or information sufficient to form a belief as
2 to the truth of the allegations contained in Paragraph 76 of the SAC and, on that
3 basis, denies each and every allegation contained in said Paragraph 76.

4 77. Defendant denies, generally and specifically, each and every allegation
5 in Paragraph 77 of the SAC.

6 78. Defendant denies, generally and specifically, each and every allegation
7 in Paragraph 78 of the SAC.

8 79. Defendant lacks knowledge or information sufficient to form a belief as
9 to the truth of the allegations contained in Paragraph 79 of the SAC and, on that
10 basis, denies each and every allegation contained in said Paragraph 79.

11 80. Answering Paragraph 80 of the SAC, Defendant specifically denies the
12 allegation in said Paragraph 80 that Defendants engaged in retaliatory conduct.
13 Defendant lacks knowledge or information sufficient to form a belief as to the truth
14 of the remaining allegations contained in said Paragraph 80 and, on that basis,
15 denies each and every remaining allegation contained in said Paragraph 80.

16 81. Answering Paragraph 81 of the SAC, Defendant specifically denies the
17 allegation in said Paragraph 81 that Defendants punished Plaintiff for
18 communicating his views on “GUSD’s Sex-Change Policies.” The remainder of said
19 Paragraph 81 states only legal conclusions; accordingly, no response is required
20 from Defendant. To the extent any such response is deemed required, Defendant
21 lacks knowledge or information sufficient to form a belief as to the truth of the
22 remaining allegations contained in said Paragraph 81 and, on that basis, denies each
23 and every remaining allegation contained in said Paragraph 81.

24 82. Defendant denies, generally and specifically, each and every allegation
25 in Paragraph 82 of the SAC.

26 83. Defendant denies, generally and specifically, each and every allegation
27 in Paragraph 83 of the SAC.

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1 84. Defendant lacks knowledge or information sufficient to form a belief as
2 to the truth of the allegations contained in Paragraph 84 of the SAC and, on that
3 basis, denies each and every allegation contained in said Paragraph 84.

4 85. Answering Paragraph 85 of the SAC, Defendant admits, on information
5 and belief, that a teacher at a different GUSD school than the one where Plaintiff
6 taught showed her third grade students a video to teach them about Pride month, that
7 this video was not sexually inappropriate, that some parents objected to the video on
8 grounds that included the video being inappropriate based on the age of the children,
9 that the teacher was subjected to death threats and other backlash and became
10 concerned for their safety, and that the School Board condemned these threats and
11 other backlash. Defendant denies, generally and specifically, each and every
12 remaining allegation in said Paragraph 85.

13 86. Defendant lacks knowledge or information sufficient to form a belief as
14 to the truth of the allegations contained in Paragraph 86 of the SAC and, on that
15 basis, denies each and every allegation contained in said Paragraph 86.

16 87. Defendant lacks knowledge or information sufficient to form a belief as
17 to the truth of the allegations contained in Paragraph 87 of the SAC and, on that
18 basis, denies each and every allegation contained in said Paragraph 87.

19 88. Answering Paragraph 88 of the SAC, Defendant admits, on information
20 and belief, that Plaintiff made complaints to GUSD of alleged harassment against
21 him, that the School Board and Dr. Watson were aware of these complaints, and that
22 two incidents of harassment alleged by Plaintiff were complaints against him for
23 displaying a swastika at the School Board meeting of April 18, 2023, which the
24 complaining parties had the right to make and which GUSD had the responsibility to
25 investigate and determine whether or not the complaints could be substantiated.
26 Defendant admits, on information and belief, that two incidents of alleged
27 harassment of Plaintiff were posts on social media, that GUSD could not confirm
28 any other alleged harassment of Plaintiff, that there was no evidence that any alleged

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1 harassment occurred within the employment context, during employment hours, or
2 by use of GUSD-issued accounts, and that GUSD believed such matters were
3 outside of its jurisdiction and should not be considered by GUSD as they were not
4 employment-related. Defendant denies, generally and specifically, each and every
5 remaining allegation contained in said Paragraph 88.

6 89. Answering Paragraph 89 of the SAC, Defendant admits, on information
7 and belief, that Plaintiff made complaints to GUSD of alleged harassment against
8 him, that the School Board and Dr. Watson were aware of these complaints, and that
9 two incidents of harassment alleged by Plaintiff were complaints against him for
10 displaying a swastika at the School Board meeting of April 18, 2023, which the
11 complaining parties had the right to make and which GUSD had the responsibility to
12 investigate and determine whether or not the complaints could be substantiated.
13 Defendant admits, on information and belief, that two incidents of alleged
14 harassment of Plaintiff were posts on social media, that GUSD could not confirm
15 any other alleged harassment of Plaintiff, that there was no evidence that any alleged
16 harassment occurred within the employment context, during employment hours, or
17 by use of GUSD-issued accounts, and that GUSD believed such matters were
18 outside of its jurisdiction and should not be considered by GUSD as they were not
19 employment-related. Defendant denies, generally and specifically, each and every
20 remaining allegation contained in said Paragraph 89.

21 90. Answering Paragraph 90 of the SAC, Defendant admits that School
22 Board meetings are professional meetings that are directly connected to GUSD's
23 business, and that Plaintiff's action in displaying a swastika at a School Board
24 meeting on April 18, 2023, which was attended by GUSD teachers, was directly
25 connected to teachers in a professional capacity. Defendant denies, generally and
26 specifically, each and every remaining allegation contained in said Paragraph 90.

27 91. Defendant denies, generally and specifically, each and every allegation
28 in Paragraph 91 of the SAC.

1 92. Defendant denies, generally and specifically, each and every allegation
2 in Paragraph 92 of the SAC.

3 93. Answering Paragraph 93 of the SAC, Defendant admits, on information
4 and belief, that the School Board made various changes to the rules of its meetings,
5 that one change was to limit the total time for public comments to 60 minutes to
6 promote efficiency, including limits of 21 minutes per topic and three minutes per
7 speaker, the latter being a reduction from five minutes per speaker, and that another
8 change was to prohibit signs at meetings because they were seen as dangerous and
9 disruptive, in response to incidents where meeting attendees blocked speakers with
10 signs and posters and caused other disruptions by waving signs, and concerns that
11 signs could be used as weapons. Defendant denies, generally and specifically, each
12 and every remaining allegation contained in said Paragraph 93.

13 94. Defendant lacks knowledge or information sufficient to form a belief as
14 to the truth of the allegations contained in Paragraph 94 of the SAC and, on that
15 basis, denies each and every allegation contained in said Paragraph 94.

16 95. Defendant denies, generally and specifically, each and every allegation
17 in Paragraph 95 of the SAC.

18 96. Answering Paragraph 96 of the SAC, Defendant admits that on or
19 about March 3, 2023, Plaintiff submitted a Certificated Retirement Form to GUSD,
20 dated March 3, 2023, requesting that he retire effective June 9, 2023, and that
21 Plaintiff retired effective June 9, 2023, which was at the end of the school year.
22 Defendant denies, generally and specifically, each and every remaining allegation
23 contained in said Paragraph 96.

24 97. Answering Paragraph 97 of the SAC, Defendant realleges and
25 incorporates herein by reference the answers and responses contained in all
26 preceding Paragraphs of this Answer as though fully set forth.

27 98. Paragraph 98 of the SAC states only legal conclusions; accordingly, no
28 response is required from Defendant. To the extent any such response is deemed

1 required, Defendant lacks knowledge or information sufficient to form a belief as to
2 the truth of the allegations contained in said Paragraph 98 and, on that basis, denies
3 each and every allegation contained in said Paragraph 98.

4 99. Paragraph 99 of the SAC states only legal conclusions; accordingly, no
5 response is required from Defendant. To the extent any such response is deemed
6 required, Defendant lacks knowledge or information sufficient to form a belief as to
7 the truth of the allegations contained in said Paragraph 99 and, on that basis, denies
8 each and every allegation contained in said Paragraph 99.

9 100. Defendant denies, generally and specifically, each and every allegation
10 in Paragraph 100 of the SAC.

11 101. Defendant denies, generally and specifically, each and every allegation
12 in Paragraph 101 of the SAC.

13 102. Defendant denies, generally and specifically, each and every allegation
14 in Paragraph 102 of the SAC.

15 103. Defendant denies, generally and specifically, each and every allegation
16 in Paragraph 103 of the SAC.

17 104. Defendant denies, generally and specifically, each and every allegation
18 in Paragraph 104 of the SAC.

19 105. Answering Paragraph 105 of the SAC, Defendant realleges and
20 incorporates herein by reference the answers and responses contained in all
21 preceding Paragraphs of this Answer as though fully set forth.

22 106. Defendant denies, generally and specifically, each and every allegation
23 in Paragraph 106 of the SAC.

24 107. Paragraph 107 of the SAC states only legal conclusions; accordingly,
25 no response is required from Defendant. To the extent any such response is deemed
26 required, Defendant lacks knowledge or information sufficient to form a belief as to
27 the truth of the allegations contained in said Paragraph 107 and, on that basis, denies
28 each and every allegation contained in said Paragraph 107.

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1 108. Defendant denies, generally and specifically, each and every allegation
2 in Paragraph 108 of the SAC.

3 109. Defendant denies, generally and specifically, each and every allegation
4 in Paragraph 109 of the SAC.

5 110. Defendant denies, generally and specifically, each and every allegation
6 in Paragraph 110 of the SAC.

7 111. Defendant denies, generally and specifically, each and every allegation
8 in Paragraph 111 of the SAC.

9 112. Defendant denies, generally and specifically, each and every allegation
10 in Paragraph 112 of the SAC.

11 113. Defendant denies, generally and specifically, each and every allegation
12 in Paragraph 113 of the SAC.

13 114. Defendant denies, generally and specifically, each and every allegation
14 in Paragraph 114 of the SAC.

15 115. Answering Paragraph 115 of the SAC, Defendant realleges and
16 incorporates herein by reference the answers and responses contained in all
17 preceding Paragraphs of this Answer as though fully set forth.

18 116. Defendant denies, generally and specifically, each and every allegation
19 in Paragraph 116 of the SAC.

20 117. Defendant denies, generally and specifically, each and every allegation
21 in Paragraph 117 of the SAC.

22 118. Defendant denies, generally and specifically, each and every allegation
23 in Paragraph 118 of the SAC.

24 119. Defendant denies, generally and specifically, each and every allegation
25 in Paragraph 119 of the SAC.

26 120. Defendant denies, generally and specifically, each and every allegation
27 in Paragraph 120 of the SAC.

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1 121. Defendant denies, generally and specifically, each and every allegation
2 in Paragraph 121 of the SAC.

3 122. Defendant denies, generally and specifically, each and every allegation
4 in Paragraph 122 of the SAC.

5 123. Answering Paragraph 123 of the SAC, Defendant realleges and
6 incorporates herein by reference the answers and responses contained in all
7 preceding Paragraphs of this Answer as though fully set forth.

8 124. Paragraph 124 of the SAC states only legal conclusions and pertains
9 only to a claim that has already been dismissed with prejudice; accordingly, no
10 response is required from Defendant. To the extent any such response is deemed
11 required, Defendant denies, generally and specifically, each and every allegation in
12 said Paragraph 124.

13 125. Paragraph 125 of the SAC states only legal conclusions and pertains
14 only to a claim that has already been dismissed with prejudice; accordingly, no
15 response is required from Defendant. To the extent any such response is deemed
16 required, Defendant denies, generally and specifically, each and every allegation in
17 said Paragraph 125.

18 126. Paragraph 126 of the SAC states only legal conclusions and pertains
19 only to a claim that has already been dismissed with prejudice; accordingly, no
20 response is required from Defendant. To the extent any such response is deemed
21 required, Defendant denies, generally and specifically, each and every allegation in
22 said Paragraph 126.

23 127. Paragraph 127 of the SAC states only legal conclusions and pertains
24 only to a claim that has already been dismissed with prejudice; accordingly, no
25 response is required from Defendant. To the extent any such response is deemed
26 required, Defendant denies, generally and specifically, each and every allegation in
27 said Paragraph 127.

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1 128. Paragraph 128 of the SAC states only legal conclusions and pertains
2 only to a claim that has already been dismissed with prejudice; accordingly, no
3 response is required from Defendant. To the extent any such response is deemed
4 required, Defendant denies, generally and specifically, each and every allegation in
5 said Paragraph 128.

6 129. Paragraph 129 of the SAC states only legal conclusions and pertains
7 only to a claim that has already been dismissed with prejudice; accordingly, no
8 response is required from Defendant. To the extent any such response is deemed
9 required, Defendant denies, generally and specifically, each and every allegation in
10 said Paragraph 129.

11 130. Paragraph 130 of the SAC states only legal conclusions and pertains
12 only to a claim that has already been dismissed with prejudice; accordingly, no
13 response is required from Defendant. To the extent any such response is deemed
14 required, Defendant denies, generally and specifically, each and every allegation in
15 said Paragraph 130.

16 131. The SAC's Prayer for Relief, and Paragraphs A through G, inclusive,
17 therein, only states relief sought by Plaintiff; accordingly, no response is required
18 from Defendant. To the extent any such response is deemed required, Defendant
19 denies, generally and specifically, each and every allegation in said Prayer for
20 Relief.

21 **FIRST AFFIRMATIVE DEFENSE**

22 **(Failure to State a Claim)**

23 132. Plaintiff's SAC fails to state facts sufficient to constitute a claim upon
24 which relief can be granted.

25 **SECOND AFFIRMATIVE DEFENSE**

26 **(Waiver)**

27 133. Any recovery on Plaintiff's SAC is barred by waiver.

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THIRD AFFIRMATIVE DEFENSE

(Estoppel)

134. Plaintiff is estopped by his conduct from any recovery under the SAC.

FOURTH AFFIRMATIVE DEFENSE

(Laches)

135. Any recovery on Plaintiff’s SAC is barred by laches.

FIFTH AFFIRMATIVE DEFENSE

(Unclean Hands)

136. Any recovery on Plaintiff’s SAC is barred by unclean hands.

SIXTH AFFIRMATIVE DEFENSE

(Consent)

137. Any recovery on the SAC is barred, in whole or in part, on the grounds that Plaintiff consented to the conduct challenged therein.

SEVENTH AFFIRMATIVE DEFENSE

(Qualified Immunity)

138. At all times relevant hereto, Defendant acted with a reasonable belief that her actions were in accordance with applicable law, and had no contrary knowledge. At no time relevant hereto did Defendant act in contravention of clearly-established statutory or constitutional rights of Plaintiff of which a reasonable person should have known. Therefore, any recovery on Plaintiff’s SAC is barred, in whole or in part, by the doctrine of qualified immunity.

EIGHTH AFFIRMATIVE DEFENSE

(Defendant’s Free Speech Rights)

139. Any recovery on Plaintiff’s SAC is barred, in whole or in part, because the conduct alleged therein was a lawful and protected exercise of Defendant’s free speech rights under the First Amendment to the United States Constitution.

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NINTH AFFIRMATIVE DEFENSE

(Failure to Exhaust)

140. Plaintiff is barred from proceeding by reason of Plaintiff’s failure to exhaust successfully the judicial and administrative remedies available to Plaintiff.

TENTH AFFIRMATIVE DEFENSE

(Collateral Estoppel/Res Judicata)

141. Any recovery on Plaintiff’s SAC is barred, in whole or in part, by collateral estoppel and/or res judicata.

ELEVENTH AFFIRMATIVE DEFENSE

(Same Decision)

142. Any recovery on Plaintiff’s SAC is barred, in whole or in part, because Defendant would have made the same decisions or taken the same actions, if any, irrespective of Plaintiff’s alleged protected speech or activities.

TWELFTH AFFIRMATIVE DEFENSE

(Adequate Justification)

143. Any recovery on Plaintiff’s SAC is barred, in whole or in part, because to the extent Defendant treated Plaintiff differently from other members of the general public, she had an adequate justification for doing so.

THIRTEENTH AFFIRMATIVE DEFENSE

(Good Faith)

144. Any recovery on Plaintiff’s SAC is barred, in whole or in part, because any and every action taken by Defendant with respect to Plaintiff was privileged, and undertaken with good cause, in good faith, or with a good faith belief that good cause existed.

FOURTEENTH AFFIRMATIVE DEFENSE

(No Protected Conduct by Plaintiff)

145. Plaintiff did not engage in any protected conduct under the First Amendment, or any other constitutional, statutory or common law provision.

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FIFTEENTH AFFIRMATIVE DEFENSE

(Management Discretion)

146. Any and all conduct of which Plaintiff complains was a just and proper exercise of management discretion, undertaken for a fair and honest reason, without malice or unlawful motive, and regulated by good faith under the circumstances that existed.

SIXTEENTH AFFIRMATIVE DEFENSE

(Legitimate Reasons)

147. At all times, any and all actions taken with regard to Plaintiff were taken without retaliation, based on legitimate reasons and not as a pretext for illegal action or motive.

SEVENTEENTH AFFIRMATIVE DEFENSE

(After-Acquired Evidence)

148. Any recovery on the SAC is barred, in whole or in part, by the after-acquired evidence doctrine.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Plaintiff As Cause)

149. Plaintiff is barred from recovering for any injuries or damages because such injuries and damages were the sole, direct and proximate result of Plaintiff's own conduct.

NINETEENTH AFFIRMATIVE DEFENSE

(No But-For or Proximate Causation)

150. Any acts, or omissions to act, by Defendant were not the but-for cause, or the proximate cause, of any damages or injuries allegedly suffered by Plaintiff.

TWENTIETH AFFIRMATIVE DEFENSE

(Plaintiff's Failure to Mitigate)

151. Any recovery on Plaintiff's SAC is barred, in whole or in part, by Plaintiff's failure to mitigate damages, and Defendant's liability, if any, must be

1 limited to the amount of damage which would have been suffered if Plaintiff had
2 exercised the reasonable diligence required of him in mitigating damages.

3 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

4 **(Set Off for Collateral Source Benefits)**

5 152. In the event of an adverse judgment, Defendant is entitled to a set off
6 for any collateral source benefits pursuant to Cal. Gov't Code § 985.

7 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

8 **(Unconstitutionality of Punitive Damages)**

9 153. Plaintiff is not entitled to recover punitive damages to the extent such
10 an award would violate Defendant's rights under the Constitution of the United
11 States, including Defendant's rights to procedural and substantive due process and
12 protection from excessive fines.

13 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

14 **(Attorneys' Fees)**

15 154. Defendant is entitled to recover all costs and attorneys' fees incurred
16 herein pursuant to Fed. R. Civ. P. 11, 42 U.S.C. § 1988, and/or any other applicable
17 statute, rule or law, inasmuch as any and all of the claims alleged in Plaintiff's SAC
18 are frivolous, unreasonable, or without foundation.

19 **RESERVATION OF RIGHTS**

20 155. The SAC does not describe the events and claims asserted therein with
21 sufficient particularity to enable Defendant to determine all of the defenses that may
22 exist to such events and claims. Defendant therefore reserve the right to add, delete,
23 or modify any and all defenses which may pertain to the SAC if the precise nature of
24 such events and claims is determined through clarification or amendment of the
25 SAC, through discovery, through further legal analysis of Plaintiff's claims, causes
26 of action, and positions in this litigation, or otherwise.

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PRAYER

WHEREFORE, Defendant prays as follows:

1. Plaintiff take nothing by way of his SAC;
2. Defendant be awarded all reasonable attorneys’ fees and costs of suit incurred herein; and
3. Defendant be awarded such other and further relief as the Court may deem just and proper.

DATED: December 12, 2024

BALLARD ROSENBERG
GOLPER & SAVITT, LLP

By: 

Linda Miller Savitt
John J. Manier
Attorneys for all named Defendants

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