

1 LINDA MILLER SAVITT, SBN 94164
lsavitt@brgslaw.com
2 JOHN J. MANIER, SBN 145701
jmanier@brgslaw.com
3 BALLARD ROSENBERG GOLPER & SAVITT, LLP
15760 Ventura Boulevard, Eighteenth Floor
4 Encino, California 91436
T: (818) 508-3700 | F: (818) 506-4827

5 Attorneys for Defendants GLENDALE UNIFIED
6 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 DEFENDANTS
KATHLEEN CROSS, INGRID
GUNNELL, SHANT SAHAKIAN,
JENNIFER FREEMON, AND
NAYIRI NAHABEDIAN TO
SECOND AMENDED COMPLAINT**

18
19 Defendants Kathleen Cross, Ingrid Gunnell, Shant Sahakian, Jennifer
20 Freemon, and Nayiri Nahabedian, in their respective individual capacities
21 (Defendants), for themselves and no other defendants, hereby respond to the Second
22 Amended Complaint (SAC) (Dkt. No. 26) filed by Plaintiff Ray Shelton (Plaintiff),
23 and admit, deny, and allege as follows:

24 1. Answering Paragraph 1 of the SAC, Defendants admit that this Court
25 has subject matter jurisdiction over the within matter pursuant to 28 U.S.C. §§ 1331
26 and 1343 and 42 U.S.C. § 1983. Defendants deny, generally and specifically, each
27 and every remaining allegation in said Paragraph 1.

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1 2. Answering Paragraph 2 of the SAC, Defendants admit that venue is
2 proper in the United States District Court for the Central District of California under
3 28 U.S.C. § 1391(b). Defendants deny, generally and specifically, each and every
4 remaining allegation in said Paragraph 2.

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

10 4. Paragraph 4 of the SAC states only legal conclusions; accordingly, no
11 response is required from Defendants. To the extent any such response is deemed
12 required, Defendants lack knowledge or information sufficient to form a belief as to
13 the truth of the allegations contained in said Paragraph 4 and, on that basis, deny
14 each and every allegation contained in said Paragraph 4.

15 5. Paragraph 5 of the SAC states only legal conclusions; accordingly, no
16 response is required from Defendants. To the extent any such response is deemed
17 required, Defendants lack knowledge or information sufficient to form a belief as to
18 the truth of the allegations contained in said Paragraph 5 and, on that basis, deny
19 each and every allegation contained in said Paragraph 5.

20 6. Defendants deny, generally and specifically, each and every allegation
21 in Paragraph 6 of the SAC.

22 7. Answering Paragraph 7 of the SAC, Defendants admit that Plaintiff
23 was a fifth-grade teacher employed by the Glendale Unified School District
24 (GUSD). Defendants lack knowledge or information sufficient to form a belief as to
25 the truth of the remaining allegations contained in said Paragraph 7 and, on that
26 basis, deny each and every remaining allegation contained in said Paragraph 7.

27 8. Answering Paragraph 8 of the SAC, Defendants admit, on information
28 and belief, that Plaintiff attended a GUSD Board of Education (School Board)

1 meeting on April 18, 2023. Defendants lack knowledge or information sufficient to
2 form a belief as to the truth of the remaining allegations contained in said Paragraph
3 8 and, on that basis, deny each and every remaining allegation contained in said
4 Paragraph 8.

5 9. Answering Paragraph 9 of the SAC, Defendants admit that on April 19,
6 2023, GUSD directed Plaintiff to leave his classroom and placed Plaintiff on paid
7 administrative leave, and the principal of Plaintiff's school disseminated an email to
8 families of the school's students. Defendants deny, generally and specifically, each
9 and every remaining allegation contained in said Paragraph 9.

10 10. Answering Paragraph 10 of the SAC, Defendants lack knowledge or
11 information sufficient to form a belief as to the truth of the allegation contained in
12 said Paragraph 10 that Plaintiff looked forward to watching his students graduate
13 every year, and, on that basis, deny said allegation. Defendants deny, generally and
14 specifically, each and every remaining allegation contained in said Paragraph 10.

15 11. Defendants deny, generally and specifically, each and every allegation
16 in Paragraph 11 of the SAC.

17 12. Defendants lack knowledge or information sufficient to form a belief as
18 to the truth of the allegations contained in Paragraph 12 of the SAC and, on that
19 basis, deny each and every allegation contained in said Paragraph 12.

20 13. Defendants admit, on information and belief, the allegations in
21 Paragraph 13 of the SAC.

22 14. Defendants admit, on information and belief, the allegations in
23 Paragraph 14 of the SAC.

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

1 16. Defendants admit, on information and belief, the allegations in
2 Paragraph 16 of the SAC.

3 17. Defendants admit the allegations in Paragraph 17 of the SAC.

4 18. Defendants admit the allegations in Paragraph 18 of the SAC.

5 19. Defendants admit the allegations in Paragraph 19 of the SAC.

6 20. Defendants admit the allegations in Paragraph 20 of the SAC.

7 21. Defendants admit the allegations in Paragraph 21 of the SAC.

8 22. Defendants admit, on information and belief, the allegations in
9 Paragraph 22 of the SAC.

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

21 24. Answering Paragraph 24 of the SAC, Defendants admit that the School
22 Board has final authority to formulate and adopt GUSD policies, including
23 regulations that govern GUSD personnel, that the Board has the authority to approve
24 personnel decisions such as selection, release, termination, unpaid certificated
25 suspensions, assignment, and transfer of employees, that the Board may authorize
26 the Superintendent to employ personnel without Board approval, that the Board
27 refers all complaints, criticisms, and suggestions called to its attention to the
28 Superintendent for study and recommendations, and that the Board does not

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1 participate in making decisions to investigate teachers or place them on paid
2 administrative leave pending such investigations. Defendants deny, generally and
3 specifically, each and every remaining allegation contained in said Paragraph 24.

4 25. Answering Paragraph 25 of the SAC, Defendants admit that the School
5 Board did not instruct GUSD personnel to rescind the decision placing Plaintiff on
6 paid administrative leave, and that Plaintiff's retirement effective June 9, 2023,
7 eliminated the need to determine whether Plaintiff should be dismissed or otherwise
8 disciplined. Defendants deny, generally and specifically, each and every remaining
9 allegation contained in said Paragraph 25.

10 26. Answering Paragraph 26 of the SAC, Defendants admit, on information
11 and belief, that Vivian Ekchian, Ed.D. (Dr. Ekchian) was Superintendent of GUSD
12 from July 1, 2019, until she retired effective June 30, 2023. Defendants deny,
13 generally and specifically, each and every remaining allegation contained in said
14 Paragraph 26.

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

23 28. Answering Paragraph 28 of the SAC, Defendants admit, on information
24 and belief, that as Superintendent, Dr. Ekchian was notified of at least one complaint
25 that at a School Board meeting on April 18, 2023, Plaintiff displayed a swastika to a
26 teacher who happened to be Jewish, that Dr. Ekchian determined such action
27 violated GUSD's nondiscrimination policy (BP/AR 4030) and the Code of Ethics
28 (BP/AR 4119.21), and that based solely on said complaint and determination, she

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1 decided to ask GUSD’s Human Resources Department to investigate the complaint
2 and to place Plaintiff on paid administrative leave pending the investigation.
3 Defendants admit, on information and belief, that Dr. Ekchian did not instruct any
4 GUSD personnel to cease the investigation or to rescind Plaintiff’s paid
5 administrative leave before the investigation was completed. Defendants deny,
6 generally and specifically, each and every remaining allegation contained in said
7 Paragraph 28.

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

22 30. Answering Paragraph 30 of the SAC, Defendants admit, on information
23 and belief, that Darneika Watson, Ph.D. (Dr. Watson) was the Chief Human
24 Resources and Operations Officer of GUSD from April 21, 2020 until June 30,
25 2023, that she was Interim Superintendent of GUSD from July 1, 2023 until October
26 9, 2023, and that she has been Superintendent of GUSD since October 10, 2023.
27 Defendants deny, generally and specifically, each and every remaining allegation
28 contained in said Paragraph 30.

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1 31. Answering Paragraph 31 of the SAC, Defendants admit, on information
2 and belief, that as Chief Human Resources and Operations Officer, Dr. Watson had
3 authorities and responsibilities delegated to her by the Superintendent, including
4 those pertaining to personnel matters, such as the investigation process and
5 discipline, and that Dr. Watson has the same authority and responsibilities as
6 Superintendent as those previously held by Dr. Ekchian. Defendants deny, generally
7 and specifically, each and every remaining allegation contained in said Paragraph
8 31.

9 32. Answering Paragraph 32 of the SAC, Defendants admit, on information
10 and belief, that as Chief Human Resources and Operations Officer, Dr. Watson was
11 notified of at least one complaint that at a School Board meeting on April 18, 2023,
12 Plaintiff displayed a swastika to a teacher who happened to be Jewish, that Dr.
13 Ekchian determined such action violated GUSD’s nondiscrimination policy (BP/AR
14 4030) and the Code of Ethics (BP/AR 4119.21), and that based solely on said
15 complaint and Dr. Ekchian’s determination, Dr. Watson agreed with Dr. Ekchian’s
16 request to investigate the complaint and to place Plaintiff on paid administrative
17 leave pending the investigation. Defendants deny, generally and specifically, each
18 and every remaining allegation contained in said Paragraph 32.

19 33. Defendants admit, on information and belief, the allegations in
20 Paragraph 33 of the SAC.

21 34. Answering Paragraph 34 of the SAC, Defendants admit, on information
22 and belief, that as Principal of Mark Keppel Visual and Performing Arts Magnet
23 School (Mark Keppel or Keppel), Kristine Tonoli possessed the authority to assign,
24 train, supervise, and evaluate all certificated and classified staff at Mark Keppel.
25 Defendants deny, generally and specifically, each and every remaining allegation
26 contained in said Paragraph 34.

27 35. Defendants deny, generally and specifically, each and every allegation
28 in Paragraph 35 of the SAC.

1 36. Paragraph 36 of the SAC states only legal conclusions; accordingly, no
2 response is required from Defendants. To the extent any such response is deemed
3 required, Defendants deny, generally and specifically, each and every allegation
4 contained in said Paragraph 36.

5 37. Answering Paragraph 37 of the SAC, Defendants admit, on information
6 and belief, that Plaintiff was a fifth-grade teacher at Mark Keppel, which is part of
7 GUSD, for about 25 years. Defendants lack knowledge or information sufficient to
8 form a belief as to the truth of the remaining allegations contained in said Paragraph
9 37 and, on that basis, deny each and every remaining allegation contained in said
10 Paragraph 37.

11 38. Defendants lack knowledge or information sufficient to form a belief as
12 to the truth of the allegations contained in Paragraph 38 of the SAC and, on that
13 basis, deny each and every allegation contained in said Paragraph 38.

14 39. Defendants lack knowledge or information sufficient to form a belief as
15 to the truth of the allegations contained in Paragraph 39 of the SAC and, on that
16 basis, deny each and every allegation contained in said Paragraph 39.

17 40. Defendants lack knowledge or information sufficient to form a belief as
18 to the truth of the allegations contained in Paragraph 40 of the SAC and, on that
19 basis, deny each and every allegation contained in said Paragraph 40.

20 41. Defendants lack knowledge or information sufficient to form a belief as
21 to the truth of the allegations contained in Paragraph 41 of the SAC and, on that
22 basis, deny each and every allegation contained in said Paragraph 41.

23 42. Defendants lack knowledge or information sufficient to form a belief as
24 to the truth of the allegations contained in Paragraph 42 of the SAC and, on that
25 basis, deny each and every allegation contained in said Paragraph 42.

26 43. Answering Paragraph 43 of the SAC, Defendants admit that GUSD and
27 its personnel follow California state laws which require that all students be
28 permitted to participate in school programs, activities, and facilities in accordance

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1 with their gender identity, affirm every individual on campus the right to be
2 addressed by their chosen names and pronouns, and are intended to ensure that
3 transgender students are protected and have the same opportunities to participate
4 and succeed as all other students. The remaining allegations in said Paragraph 43
5 consist of arguments to which no response is required from Defendants. To the
6 extent any such response is deemed required, Defendants lack knowledge or
7 information sufficient to form a belief as to the truth of the remaining allegations
8 contained in said Paragraph 43 and, on that basis, deny each and every remaining
9 allegation contained in said Paragraph 43.

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

22 45. Answering Paragraph 45 of the SAC, Defendants admit that GUSD’s
23 official policies are consistent with California state laws which require that all
24 students be permitted to participate in school programs, activities, and facilities
25 (including bathrooms and locker rooms) in accordance with their gender identity,
26 affirm every individual on campus the right to be addressed by their chosen names
27 and pronouns and to keep their transgender status private if desired, ensure that any
28 disclosures of a student’s transgender status are made in a way that reduces or

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1 eliminates the risk of re-disclosure, protect the transgender student’s safety, protect
2 against harassment or discrimination, and are intended to ensure that transgender
3 students are protected and have the same opportunities to participate and succeed as
4 all other students. Defendants admit, on information and belief, that GUSD,
5 consistent with federal and California state law, keeps all student files and records
6 private, subject to disclosure only under specified circumstances, and that additional
7 privacy measures are taken when a family requests a change to the gender listed on
8 a student’s original cumulative file, including but not limited to creating an updated
9 cumulative file and securely storing the original file with restricted access.

10 Defendants deny, generally and specifically, each and every remaining allegation
11 contained in said Paragraph 45.

12 46. Defendants lack knowledge or information sufficient to form a belief as
13 to the truth of the allegations contained in Paragraph 46 of the SAC and, on that
14 basis, deny each and every allegation contained in said Paragraph 46.

15 47. Defendants lack knowledge or information sufficient to form a belief as
16 to the truth of the allegations contained in Paragraph 47 of the SAC and, on that
17 basis, deny each and every allegation contained in said Paragraph 47.

18 48. Defendants lack knowledge or information sufficient to form a belief as
19 to the truth of the allegations contained in Paragraph 48 of the SAC and, on that
20 basis, deny each and every allegation contained in said Paragraph 48.

21 49. Defendants lack knowledge or information sufficient to form a belief as
22 to the truth of the allegations contained in Paragraph 49 of the SAC and, on that
23 basis, deny each and every allegation contained in said Paragraph 49.

24 50. Defendants lack knowledge or information sufficient to form a belief as
25 to the truth of the allegations contained in Paragraph 50 of the SAC and, on that
26 basis, deny each and every allegation contained in said Paragraph 50.

27 51. Defendants lack knowledge or information sufficient to form a belief as
28 to the truth of the allegations contained in Paragraph 51 of the SAC and, on that

1 basis, deny each and every allegation contained in said Paragraph 51.

2 52. Defendants lack knowledge or information sufficient to form a belief as
3 to the truth of the allegations contained in Paragraph 52 of the SAC and, on that
4 basis, deny each and every allegation contained in said Paragraph 52.

5 53. Answering Paragraph 53 of the SAC, Defendants admit, on information
6 and belief, that Plaintiff attended a GUSD School Board meeting on April 18, 2023.
7 Defendants lack knowledge or information sufficient to form a belief as to the truth
8 of the remaining allegations contained in said Paragraph 53 and, on that basis, deny
9 each and every remaining allegation contained in said Paragraph 53.

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

22 55. Answering Paragraph 55 of the SAC, Defendants admit, on information
23 and belief, that Plaintiff gave a short speech in front of the GUSD School Board at
24 its meeting on April 18, 2023, in which he stated as follows: “Two plus two equals
25 four. The world is not flat. Boys have penises. Girls have vaginas. Gender is binary
26 and cannot be changed. Biology is not bigotry. Heterosexuality is not hate. Gender
27 confusion and gender delusion are deep psychological disorders. No caring
28 profession or loving parent would ever support the chemical poisoning or surgical

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1 mutilation of a child’s genitalia. Transgender ideology is anti-gay. It is anti-woman
2 and is anti-human. It wants to take away women’s sports, women’s rights, women’s
3 achievements. It is misogyny writ large. And I can say this also as a gay man, the
4 gay people d-- ... [*speech ends*].” Defendants deny, generally and specifically, each
5 and every remaining allegation contained in said Paragraph 55.

6 56. Paragraph 56 of the SAC states only legal conclusions; accordingly, no
7 response is required from Defendants. To the extent any such response is deemed
8 required, Defendants lack knowledge or information sufficient to form a belief as to
9 the truth of the allegations contained in said Paragraph 56 and, on that basis, deny
10 each and every allegation contained in said Paragraph 56.

11 57. Defendants lack knowledge or information sufficient to form a belief as
12 to the truth of the allegations contained in Paragraph 57 of the SAC and, on that
13 basis, deny each and every allegation contained in said Paragraph 57.

14 58. Defendants deny, generally and specifically, each and every allegation
15 in Paragraph 58 of the SAC.

16 59. Defendants deny, generally and specifically, each and every allegation
17 in Paragraph 59 of the SAC.

18 60. Answering Paragraph 60 of the SAC, Defendants admit that on April
19 19, 2023, Principal Tonoli directed Plaintiff to leave his classroom and to meet in
20 her office with her and with a GUSD administrator. Defendants lack knowledge or
21 information sufficient to form a belief as to the truth of the remaining allegations
22 contained in said Paragraph 60 and, on that basis, deny each and every remaining
23 allegation contained in said Paragraph 60.

24 61. Answering Paragraph 61 of the SAC, Defendants admit that on April
25 19, 2023, Plaintiff was given a letter signed and authorized by Dr. Watson while in
26 Principal Tonoli’s office. Defendants lack knowledge or information sufficient to
27 form a belief as to the truth of the remaining allegations contained in said Paragraph
28 61 and, on that basis, deny each and every remaining allegation contained in said

1 Paragraph 61.

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

13 63. Answering Paragraph 63 of the SAC, Defendants admit the letter
14 signed and authorized by Dr. Watson stated, in part: “You are tentatively scheduled
15 to meet with Human Resources Representatives on Tuesday, April 25, 2023, from
16 10:30 AM to 11:00 AM, when you will be provided with more information on the
17 allegations. You have the right to have a union representative at this meeting, held in
18 the Human Resources Office.” Defendants deny, generally and specifically, each
19 and every remaining allegation contained in said Paragraph 63.

20 64. Answering Paragraph 64 of the SAC, Defendants admit the letter
21 signed and authorized by Dr. Watson stated, in part: “Because this is a confidential
22 personnel matter, we would recommend that you not discuss this investigation or
23 any of the information related to it with your co-workers or others, other than your
24 representative. Further, all information from this investigation should be kept
25 confidential.” Defendants deny, generally and specifically, each and every
26 remaining allegation contained in said Paragraph 64.

27 65. Answering Paragraph 65 of the SAC, Defendants admit that on April
28 19, 2023, Principal Tonoli disseminated an email to families of the school’s students

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1 that never identified Plaintiff by name and stated, in part: “We have received official
2 complaints about the actions of one of our Keppel teachers at the Glendale Unified
3 Board of Education meeting last night. Our district has processes in place to
4 investigate and address these complaints and is following up immediately. As this is
5 a personnel matter, I am unable to share additional information, but I can confirm
6 that the teacher is not currently on campus.” Defendants deny, generally and
7 specifically, each and every remaining allegation contained in said Paragraph 65.

8 66. Answering Paragraph 66 of the SAC, Defendants admit that on April
9 19, 2023, Principal Tonoli disseminated an email to families of the school’s students
10 that never 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. [¶] I am deeply saddened by our
16 employee’s actions and assure you they do not represent the values of our Keppel
17 and our Glendale Unified community. ... [¶] Hate speech and hate symbols have no
18 place in our community.” Defendants deny, generally and specifically, each and
19 every remaining allegation contained in said Paragraph 66.

20 67. Answering Paragraph 67 of the SAC, Defendants admit that on April
21 19, 2023, Principal Tonoli disseminated an email to families of the school’s students
22 that never identified Plaintiff by name and stated, in part: “Together, we have
23 created a wonderful school environment that supports our students and it is my
24 commitment that we continue to do so. Student and employee safety is and always
25 will be our top priority. We will continue to foster a positive culture that emphasizes
26 the safety and wellbeing of all of our students and staff.” Defendants deny, generally
27 and specifically, each and every remaining allegation contained in said Paragraph
28 67.

1 68. Defendants deny, generally and specifically, each and every allegation
2 in Paragraph 68 of the SAC.

3 69. Defendants deny, generally and specifically, each and every allegation
4 in Paragraph 69 of the SAC.

5 70. Answering Paragraph 70 of the SAC, Defendants admit, on information
6 and belief, that GUSD staff routinely assist school sites with functions such as
7 public statements and other messaging to the school community. Defendants deny,
8 generally and specifically, each and every remaining allegation contained in said
9 Paragraph 70.

10 71. Defendants deny, generally and specifically, each and every allegation
11 in Paragraph 71 of the SAC.

12 72. Answering Paragraph 72 of the SAC, Defendants admit, on information
13 and belief, that GUSD's then-general counsel informed Plaintiff's counsel on or
14 about June 6, 2023, that Plaintiff was not dismissed from service, that any such
15 dismissal would require School Board approval, that Human Resources normally
16 handled placements on administrative leave, that given the public nature of the
17 matter, the Board would have had to make any decision to rescind Plaintiff's
18 administrative leave, that the Board meeting scheduled to occur on the day of this
19 discussion was derailed because of a riot in the parking lot, and that Plaintiff's
20 previously-scheduled retirement date of June 9, 2023, eliminated any need to issue
21 discipline of any kind, including dismissal. Defendants deny, generally and
22 specifically, each and every remaining allegation contained in said Paragraph 72.

23 73. Defendants deny, generally and specifically, each and every allegation
24 in Paragraph 73 of the SAC.

25 74. Answering Paragraph 74 of the SAC, Defendants admit, on information
26 and belief, that as Superintendent, Dr. Ekchian was notified of at least one complaint
27 that at a School Board meeting on April 18, 2023, Plaintiff displayed a swastika to a
28 teacher who happened to be Jewish, that Dr. Ekchian determined such action

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1 violated GUSD’s nondiscrimination policy (BP/AR 4030) and the Code of Ethics
2 (BP/AR 4119.21), that based solely on said complaint and determination, she
3 decided to ask GUSD’s Human Resources Department to investigate the complaint
4 and to place Plaintiff on paid administrative leave pending the investigation, and
5 that Dr. Watson agreed with Dr. Ekchian’s request. Defendants deny, generally and
6 specifically, each and every remaining allegation contained in said Paragraph 74.

7 75. Answering Paragraph 75 of the SAC, Defendants admit the letter
8 signed and authorized by Dr. Watson stated, in part: “This letter serves to confirm
9 the District’s decision to place you on Administrative Leave with Pay effective
10 April 19, 2023.... [¶] This Administrative Leave will remain in effect pending the
11 completion of the District’s investigation and the District’s notice to you. You are
12 not to report to school or any other District site during the Administrative Leave
13 except to Payroll or Human Resources until further notice.” Defendants lack
14 knowledge or information sufficient to form a belief as to the truth of the allegation
15 contained in said Paragraph 75 that Plaintiff deeply cherished attending his students’
16 fifth-grade graduation ceremony every year to commemorate the achievement of his
17 students and to be able to celebrate with them and their families before they moved
18 on to middle school, and, on that basis, deny said allegation. Defendants deny,
19 generally and specifically, each and every remaining allegation contained in said
20 Paragraph 75.

21 76. Defendants lack knowledge or information sufficient to form a belief as
22 to the truth of the allegations contained in Paragraph 76 of the SAC and, on that
23 basis, deny each and every allegation contained in said Paragraph 76.

24 77. Defendants deny, generally and specifically, each and every allegation
25 in Paragraph 77 of the SAC.

26 78. Defendants deny, generally and specifically, each and every allegation
27 in Paragraph 78 of the SAC.

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1 79. Defendants lack knowledge or information sufficient to form a belief as
2 to the truth of the allegations contained in Paragraph 79 of the SAC and, on that
3 basis, deny each and every allegation contained in said Paragraph 79.

4 80. Answering Paragraph 80 of the SAC, Defendants specifically deny the
5 allegation in said Paragraph 80 that Defendants engaged in retaliatory conduct.
6 Defendants lack knowledge or information sufficient to form a belief as to the truth
7 of the remaining allegations contained in said Paragraph 80 and, on that basis, deny
8 each and every remaining allegation contained in said Paragraph 80.

9 81. Answering Paragraph 81 of the SAC, Defendants specifically deny the
10 allegation in said Paragraph 81 that Defendants punished Plaintiff for
11 communicating his views on “GUSD’s Sex-Change Policies.” The remainder of said
12 Paragraph 81 states only legal conclusions; accordingly, no response is required
13 from Defendants. To the extent any such response is deemed required, Defendants
14 lack knowledge or information sufficient to form a belief as to the truth of the
15 remaining allegations contained in said Paragraph 81 and, on that basis, deny each
16 and every remaining allegation contained in said Paragraph 81.

17 82. Defendants deny, generally and specifically, each and every allegation
18 in Paragraph 82 of the SAC.

19 83. Defendants deny, generally and specifically, each and every allegation
20 in Paragraph 83 of the SAC.

21 84. Defendants lack knowledge or information sufficient to form a belief as
22 to the truth of the allegations contained in Paragraph 84 of the SAC and, on that
23 basis, deny each and every allegation contained in said Paragraph 84.

24 85. Answering Paragraph 85 of the SAC, Defendants admit, on information
25 and belief, that a teacher at a different GUSD school than the one where Plaintiff
26 taught showed her third grade students a video to teach them about Pride month, that
27 this video was not sexually inappropriate, that some parents objected to the video on
28 grounds that included the video being inappropriate based on the age of the children,

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1 that the teacher was subjected to death threats and other backlash and became
2 concerned for their safety, and that the School Board condemned these threats and
3 other backlash. Defendants deny, generally and specifically, each and every
4 remaining allegation in said Paragraph 85.

5 86. Defendants lack knowledge or information sufficient to form a belief as
6 to the truth of the allegations contained in Paragraph 86 of the SAC and, on that
7 basis, deny each and every allegation contained in said Paragraph 86.

8 87. Defendants lack knowledge or information sufficient to form a belief as
9 to the truth of the allegations contained in Paragraph 87 of the SAC and, on that
10 basis, deny each and every allegation contained in said Paragraph 87.

11 88. Answering Paragraph 88 of the SAC, Defendants admit, on information
12 and belief, that Plaintiff made complaints to GUSD of alleged harassment against
13 him, that the School Board and Dr. Watson were aware of these complaints, and that
14 two incidents of harassment alleged by Plaintiff were complaints against him for
15 displaying a swastika at the School Board meeting of April 18, 2023, which the
16 complaining parties had the right to make and which GUSD had the responsibility to
17 investigate and determine whether or not the complaints could be substantiated.
18 Defendants admit, on information and belief, that two incidents of alleged
19 harassment of Plaintiff were posts on social media, that GUSD could not confirm
20 any other alleged harassment of Plaintiff, that there was no evidence that any alleged
21 harassment occurred within the employment context, during employment hours, or
22 by use of GUSD-issued accounts, and that GUSD believed such matters were
23 outside of its jurisdiction and should not be considered by GUSD as they were not
24 employment-related. Defendants deny, generally and specifically, each and every
25 remaining allegation contained in said Paragraph 88.

26 89. Answering Paragraph 89 of the SAC, Defendants admit, on information
27 and belief, that Plaintiff made complaints to GUSD of alleged harassment against
28 him, that the School Board and Dr. Watson were aware of these complaints, and that

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1 two incidents of harassment alleged by Plaintiff were complaints against him for
2 displaying a swastika at the School Board meeting of April 18, 2023, which the
3 complaining parties had the right to make and which GUSD had the responsibility to
4 investigate and determine whether or not the complaints could be substantiated.
5 Defendants admit, on information and belief, that two incidents of alleged
6 harassment of Plaintiff were posts on social media, that GUSD could not confirm
7 any other alleged harassment of Plaintiff, that there was no evidence that any alleged
8 harassment occurred within the employment context, during employment hours, or
9 by use of GUSD-issued accounts, and that GUSD believed such matters were
10 outside of its jurisdiction and should not be considered by GUSD as they were not
11 employment-related. Defendants deny, generally and specifically, each and every
12 remaining allegation contained in said Paragraph 89.

13 90. Answering Paragraph 90 of the SAC, Defendants admit that School
14 Board meetings are professional meetings that are directly connected to GUSD's
15 business, and that Plaintiff's action in displaying a swastika at a School Board
16 meeting on April 18, 2023, which was attended by GUSD teachers, was directly
17 connected to teachers in a professional capacity. Defendants deny, generally and
18 specifically, each and every remaining allegation contained in said Paragraph 90.

19 91. Defendants deny, generally and specifically, each and every allegation
20 in Paragraph 91 of the SAC.

21 92. Defendants deny, generally and specifically, each and every allegation
22 in Paragraph 92 of the SAC.

23 93. Answering Paragraph 93 of the SAC, Defendants admit that the School
24 Board made various changes to the rules of its meetings, that one change was to
25 limit the total time for public comments to 60 minutes to promote efficiency,
26 including limits of 21 minutes per topic and three minutes per speaker, the latter
27 being a reduction from five minutes per speaker, and that another change was to
28 prohibit signs at meetings because they were seen as dangerous and disruptive, in

1 response to incidents where meeting attendees blocked speakers with signs and
2 posters and caused other disruptions by waving signs, and concerns that signs could
3 be used as weapons. Defendants deny, generally and specifically, each and every
4 remaining allegation contained in said Paragraph 93.

5 94. Defendants lack knowledge or information sufficient to form a belief as
6 to the truth of the allegations contained in Paragraph 94 of the SAC and, on that
7 basis, deny each and every allegation contained in said Paragraph 94.

8 95. Defendants deny, generally and specifically, each and every allegation
9 in Paragraph 95 of the SAC.

10 96. Answering Paragraph 96 of the SAC, Defendants admit that on or
11 about March 3, 2023, Plaintiff submitted a Certificated Retirement Form to GUSD,
12 dated March 3, 2023, requesting that he retire effective June 9, 2023, and that
13 Plaintiff retired effective June 9, 2023, which was at the end of the school year.
14 Defendants deny, generally and specifically, each and every remaining allegation
15 contained in said Paragraph 96.

16 97. Answering Paragraph 97 of the SAC, Defendants reallege and
17 incorporate herein by reference the answers and responses contained in all preceding
18 Paragraphs of this Answer as though fully set forth.

19 98. Paragraph 98 of the SAC states only legal conclusions; accordingly, no
20 response is required from Defendants. To the extent any such response is deemed
21 required, Defendants lack knowledge or information sufficient to form a belief as to
22 the truth of the allegations contained in said Paragraph 98 and, on that basis, deny
23 each and every allegation contained in said Paragraph 98.

24 99. Paragraph 99 of the SAC states only legal conclusions; accordingly, no
25 response is required from Defendants. To the extent any such response is deemed
26 required, Defendants lack knowledge or information sufficient to form a belief as to
27 the truth of the allegations contained in said Paragraph 99 and, on that basis, deny
28 each and every allegation contained in said Paragraph 99.

1 100. Defendants deny, generally and specifically, each and every allegation
2 in Paragraph 100 of the SAC.

3 101. Defendants deny, generally and specifically, each and every allegation
4 in Paragraph 101 of the SAC.

5 102. Defendants deny, generally and specifically, each and every allegation
6 in Paragraph 102 of the SAC.

7 103. Defendants deny, generally and specifically, each and every allegation
8 in Paragraph 103 of the SAC.

9 104. Defendants deny, generally and specifically, each and every allegation
10 in Paragraph 104 of the SAC.

11 105. Answering Paragraph 105 of the SAC, Defendants reallege and
12 incorporate herein by reference the answers and responses contained in all preceding
13 Paragraphs of this Answer as though fully set forth.

14 106. Defendants deny, generally and specifically, each and every allegation
15 in Paragraph 106 of the SAC.

16 107. Paragraph 107 of the SAC states only legal conclusions; accordingly,
17 no response is required from Defendants. To the extent any such response is deemed
18 required, Defendants lack knowledge or information sufficient to form a belief as to
19 the truth of the allegations contained in said Paragraph 107 and, on that basis, deny
20 each and every allegation contained in said Paragraph 107.

21 108. Defendants deny, generally and specifically, each and every allegation
22 in Paragraph 108 of the SAC.

23 109. Defendants deny, generally and specifically, each and every allegation
24 in Paragraph 109 of the SAC.

25 110. Defendants deny, generally and specifically, each and every allegation
26 in Paragraph 110 of the SAC.

27 111. Defendants deny, generally and specifically, each and every allegation
28 in Paragraph 111 of the SAC.

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1 112. Defendants deny, generally and specifically, each and every allegation
2 in Paragraph 112 of the SAC.

3 113. Defendants deny, generally and specifically, each and every allegation
4 in Paragraph 113 of the SAC.

5 114. Defendants deny, generally and specifically, each and every allegation
6 in Paragraph 114 of the SAC.

7 115. Answering Paragraph 115 of the SAC, Defendants reallege and
8 incorporate herein by reference the answers and responses contained in all preceding
9 Paragraphs of this Answer as though fully set forth.

10 116. Defendants deny, generally and specifically, each and every allegation
11 in Paragraph 116 of the SAC.

12 117. Defendants deny, generally and specifically, each and every allegation
13 in Paragraph 117 of the SAC.

14 118. Defendants deny, generally and specifically, each and every allegation
15 in Paragraph 118 of the SAC.

16 119. Defendants deny, generally and specifically, each and every allegation
17 in Paragraph 119 of the SAC.

18 120. Defendants deny, generally and specifically, each and every allegation
19 in Paragraph 120 of the SAC.

20 121. Defendants deny, generally and specifically, each and every allegation
21 in Paragraph 121 of the SAC.

22 122. Defendants deny, generally and specifically, each and every allegation
23 in Paragraph 122 of the SAC.

24 123. Answering Paragraph 123 of the SAC, Defendants reallege and
25 incorporate herein by reference the answers and responses contained in all preceding
26 Paragraphs of this Answer as though fully set forth.

27 124. Paragraph 124 of the SAC states only legal conclusions and pertains
28 only to a claim that has already been dismissed with prejudice; accordingly, no

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1 response is required from Defendants. To the extent any such response is deemed
2 required, Defendants deny, generally and specifically, each and every allegation in
3 said Paragraph 124.

4 125. Paragraph 125 of the SAC states only legal conclusions and pertains
5 only to a claim that has already been dismissed with prejudice; accordingly, no
6 response is required from Defendants. To the extent any such response is deemed
7 required, Defendants deny, generally and specifically, each and every allegation in
8 said Paragraph 125.

9 126. Paragraph 126 of the SAC states only legal conclusions and pertains
10 only to a claim that has already been dismissed with prejudice; accordingly, no
11 response is required from Defendants. To the extent any such response is deemed
12 required, Defendants deny, generally and specifically, each and every allegation in
13 said Paragraph 126.

14 127. Paragraph 127 of the SAC states only legal conclusions and pertains
15 only to a claim that has already been dismissed with prejudice; accordingly, no
16 response is required from Defendants. To the extent any such response is deemed
17 required, Defendants deny, generally and specifically, each and every allegation in
18 said Paragraph 127.

19 128. Paragraph 128 of the SAC states only legal conclusions and pertains
20 only to a claim that has already been dismissed with prejudice; accordingly, no
21 response is required from Defendants. To the extent any such response is deemed
22 required, Defendants deny, generally and specifically, each and every allegation in
23 said Paragraph 128.

24 129. Paragraph 129 of the SAC states only legal conclusions and pertains
25 only to a claim that has already been dismissed with prejudice; accordingly, no
26 response is required from Defendants. To the extent any such response is deemed
27 required, Defendants deny, generally and specifically, each and every allegation in
28 said Paragraph 129.

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1 130. Paragraph 130 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 Defendants. To the extent any such response is deemed
4 required, Defendants deny, generally and specifically, each and every allegation in
5 said Paragraph 130.

6 131. The SAC’s Prayer for Relief, and Paragraphs A through G, inclusive,
7 therein, only states relief sought by Plaintiff; accordingly, no response is required
8 from Defendants. To the extent any such response is deemed required, Defendants
9 deny, generally and specifically, each and every allegation in said Prayer for Relief.

10 **FIRST AFFIRMATIVE DEFENSE**

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

12 132. Plaintiff’s SAC fails to state facts sufficient to constitute a claim upon
13 which relief can be granted.

14 **SECOND AFFIRMATIVE DEFENSE**

15 **(Waiver)**

16 133. Any recovery on Plaintiff’s SAC is barred by waiver.

17 **THIRD AFFIRMATIVE DEFENSE**

18 **(Estoppel)**

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

20 **FOURTH AFFIRMATIVE DEFENSE**

21 **(Laches)**

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

23 **FIFTH AFFIRMATIVE DEFENSE**

24 **(Unclean Hands)**

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

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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, Defendants acted with a reasonable belief that their respective actions were in accordance with applicable law, and had no contrary knowledge. At no time relevant hereto did Defendants 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

(Defendants’ 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 Defendants’ free speech rights under the First Amendment to the United States Constitution.

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.

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ELEVENTH AFFIRMATIVE DEFENSE

(Same Decision)

142. Any recovery on Plaintiff’s SAC is barred, in whole or in part, because Defendants 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 Defendants treated Plaintiff differently from other members of the general public, they 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 Defendants 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.

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.

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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 Defendants 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 Defendants' liability, if any, must be limited to the amount of damage which would have been suffered if Plaintiff had exercised the reasonable diligence required of him in mitigating damages.

TWENTY-FIRST AFFIRMATIVE DEFENSE

(Set Off for Collateral Source Benefits)

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

TWENTY-SECOND AFFIRMATIVE DEFENSE

(Unconstitutionality of Punitive Damages)

153. Plaintiff is not entitled to recover punitive damages to the extent such an award would violate Defendants’ rights under the Constitution of the United States, including Defendants’ rights to procedural and substantive due process and protection from excessive fines.

TWENTY-THIRD AFFIRMATIVE DEFENSE

(Attorneys’ Fees)

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

RESERVATION OF RIGHTS

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

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PRAYER

WHEREFORE, Defendants pray as follows:

1. Plaintiff take nothing by way of his SAC;
2. Defendants be awarded all reasonable attorneys’ fees and costs of suit incurred herein; and
3. Defendants 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

BALLARD ROSENBERG GOLPER & SAVITT, LLP
15760 VENTURA BOULEVARD, EIGHTEENTH FLOOR
ENCINO, CALIFORNIA 91436