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10 Attorneys For Plaintiffs JESSICA FELBER and BRIAN MAISSY

11 UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

13 JESSICA FELBER
14 and BRIAN MAISSY

15 Plaintiffs,

16 vs.

17 MARK G. YUDOF, PRESIDENT OF
THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA, BERKELEY, in his
18 individual capacity only as to damages,
and in his official capacity as to injunctive
19 and declaratory relief; THE REGENTS
OF THE UNIVERSITY OF
20 CALIFORNIA; ROBERT J.
BIRGENEAU, CHANCELLOR OF THE
21 UNIVERSITY OF CALIFORNIA,
BERKELEY, in his individual capacity,
22 as to damages, and in his official capacity
as to injunctive and declaratory relief;
23 JONATHAN POUILLARD, DEAN OF
STUDENTS OF THE UNIVERSITY OF
24 CALIFORNIA, BERKELEY, in his
individual capacity, as to damages, and in
25 his official capacity as to injunctive and
declaratory relief; ASSOCIATED
26 STUDENTS UNIVERSITY OF
CALIFORNIA (ASUC),

27 Defendants.
28

Case No. CV 11-1012 RS

**DECLARATION OF BRIAN MAISSY
IN OPPOSITION TO DEFENDANTS'
12(b)(6) MOTION**

Date: September 22, 2011
Time: 1:30 p.m.
Dept: Courtroom 3, 17th Floor
Judge: Honorable Richard Seeborg

Complaint Filed: March 4, 2011

1 I, Brian Maissy, declare:

2 1. I am a plaintiff in this case. I have personal knowledge of the facts stated
3 herein. if called to testify I would truthfully and competently testify as follows.

4 2. This declaration is a supplemental declaration to my declaration in the First
5 Amended Complaint ("FAC"). I have reviewed all of the photos in the First Amended
6 Complaint. I was personally present at the scenes depicted in the photographs, and they
7 accurately depict the events that I observed.

8 3. I began my studies at UC Berkeley in August 2008. At the time that I began my
9 studies I was only eighteen years old. I am from Southern California. Coming to Berkeley was
10 the first time that I had lived away from home. I am approximately 5'3" and weigh
11 approximately 125 pounds. I am an observant Jew. As such I wear a kippah (a skull cap) at all
12 times. I have a beard. These are both symbols of being an observant Jewish male.

13 4. During my time on campus I experienced situations that made me feel not only
14 uncomfortable but also fearful because of my Jewish background.

15 5. Each year in March, the University allows the SJP and the MSA to put on a
16 series of events called Apartheid Week.


17 6. A component of Apartheid Week each year is the "checkpoint" that the
18 University allows MSA and SJP to set up on campus. I have observed three so far, in 2009,
19 2010, and 2011. My declaration in the First Amended Complaint describes in part what I
20 observed there. The photos of 2011 and 2010 and 2009 accurately depict students from MSA
21 and SJP holding realistic looking guns. What the photos do not show is the students yelling at
22 passing innocent students, with such taunts as "Are you Jewish?", and "Prepare to be stopped
23 and show your identification, and be ready for inspection." It is very violent and there is a lot
24 of shouting and commotion. Some of the people doing the shouting and causing the commotion
25 are wearing Jewish Stars of David. It is a terrifying week on campus. It occurs right at Sather
26 Gate, at a central location on campus, and is difficult to avoid. The event frightens students on
27 campus who happen to be walking by. The University has done nothing to protect me and
28 other Jewish students from this Apartheid Week checkpoint harassment.

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7. Another very difficult event for me and other Jewish students occurred during the ASUC senate discussions about divestment from companies doing business with Israel in the spring of 2010. While all students should have rights to express their opinions on campus, much of the discussion calling for divestment from Israel were efforts to demonize the Jewish state. When students such as myself raised other views, we were sometimes heckled and shouted down. The University made no visible effort to moderate and make the debate civil. Rather the University allowed the heckling to continue unabashed.

8. Following the assault on Jessica Felber, there have been times when I was scared for my safety on campus. Although I cannot say for sure whether my grades have suffered, I know that at times my ability to concentrate and study has suffered due to the stress.

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct, and that I signed this declaration on August 5, 2011, in Rancho Santa Margarita, California.

/s/

BRIAN MAISSY

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CERTIFICATE OF SERVICE
WHEN ALL CASE PARTICIPANTS
ARE CM/ECF PARTICIPANTS

I hereby certify that on August 9, 2011, I caused to be electronically filed the foregoing with the Clerk of the Court for the United States District Court, Northern District of California, San Francisco Division by using the CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/

JOEL H. SIEGAL