

1 MICHAEL C. SULLIVAN (SBN 131817)  
msullivan@paulplevin.com  
2 JENNIFER M. FONTAINE (SBN 258901)  
jfontaine@paulplevin.com  
3 **PAUL, PLEVIN, SULLIVAN &  
CONNAUGHTON LLP**  
4 101 West Broadway, Ninth Floor  
San Diego, California 92101-8285  
5 Telephone: 619-237-5200  
Facsimile: 619-615-0700

6 Attorneys for Defendants San Diego  
7 Unified School District; Richard Barrera;  
Kevin Beiser; John Lee Evans; Michael  
8 McQuary; Sharon Whitehurst-Payne;  
Cynthia Marten

9  
10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 CITIZENS FOR QUALITY  
13 EDUCATION SAN DIEGO, an  
unincorporated nonprofit association;  
14 SAN DIEGO ASIAN AMERICANS  
FOR EQUALITY FOUNDATION, a  
15 nonprofit public-benefit corporation;  
SCOTT HASSON individually and as  
16 next friend on behalf of his minor child,  
C.H.; CHAOYIN HE, individually and  
17 as next friend on behalf of her minor  
child, B.H.; XUEXUN HU, individually  
18 and as next friend on behalf of his  
minor child, R.H.; KEVIN STEEL and  
19 MELISSA STEEL, individually and as  
next friends on behalf of their minor  
20 child, K.S.; JOSE VELAZQUEZ,  
individually and as next friend on  
21 behalf of his minor child, J.V.,

22 Plaintiffs,

23 v.

24 SAN DIEGO UNIFIED SCHOOL  
DISTRICT; RICHARD BARRERA, in  
25 his official capacity as Board President;  
KEVIN BEISER, in his official  
26 capacity as Board Vice President;  
JOHN LEE EVANS, in his official  
27 capacity as Board member; MICHAEL  
MCQUARY in his official capacity as  
28 Board member. SHARON

Case No. 17CV1054 BAS JMA

**NOTICE OF MOTION AND  
MOTION TO STRIKE  
ALLEGATIONS FROM  
PLAINTIFFS' FIRST AMENDED  
COMPLAINT**

**[Fed. R. Civ. P. 12(f)]**

Date: January 16, 2018  
Judge: Hon. Cynthia Bashant  
Magistrate Judge: Hon. Jan M. Adler  
Trial Date: Not Set

**NO ORAL ARGUMENT UNLESS  
REQUESTED BY THE COURT**

1 WHITEHURST-PAYNE, in her official  
2 capacity as Board member; CYNTHIA  
3 MARTEN, in her official capacity as  
4 Superintendent ,

Defendants.

5 TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

6 PLEASE TAKE NOTICE that on January 16, 2018, before the Honorable  
7 Cynthia Bashant, United States District Judge, defendants Richard Barrera; Kevin  
8 Beiser; John Lee Evans; Michael McQuary; Sharon Whitehurst-Payne; and Cynthia  
9 Marten will move this Court, pursuant to Rule 12(f) of the Federal Rules of Civil  
10 Procedure, for an order striking paragraphs 72-79, 140 (partial), 228 (partial), and  
11 230 of Plaintiffs' First Amended Complaint. This motion is made on the grounds  
12 that each of these paragraphs is impertinent, immaterial and scandalous under  
13 Federal Rule of Civil Procedure 12(f).

14 This motion is made following the conference of counsel that took place on  
15 December 7 and 8, 2017. It is based on this Notice of Motion and Motion, the  
16 Memorandum of Points and Authorities, the complaint in this matter, and all  
17 documents attached thereto, the court files and records of this action, and upon such  
18 oral argument and other matters as may be presented to the Court at the time of the  
19 hearing. There will be no oral argument unless requested by the Court. The hearing  
20 date of January 16, 2018, is to be used to calculate briefing deadlines.

21 Dated: December 12, 2017

PAUL, PLEVIN, SULLIVAN &  
CONNAUGHTON LLP

22  
23  
24 By:           /s/ Michael C. Sullivan          

MICHAEL C. SULLIVAN  
JENNIFER M. FONTAINE  
Attorneys for Defendants San Diego Unified  
School District; Richard Barrera; Kevin  
27 Beiser; John Lee Evans; Michael McQuary;  
28 Sharon Whitehurst-Payne; Cynthia Marten

**PROOF OF SERVICE**

**Citizens for Quality Education San Diego et al. v. San Diego Unified School District et al.  
Case No. 17cv01054-BAS JMA**

**STATE OF CALIFORNIA, COUNTY OF SAN DIEGO**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of San Diego, State of California. My business address is 101 West Broadway, Ninth Floor, San Diego, CA 92101-8285.

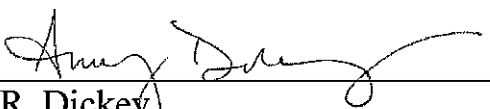
On December 12, 2017, I served true copies of the following document(s) described as **NOTICE OF MOTION AND MOTION TO STRIKE ALLEGATIONS FROM PLAINTIFFS' FIRST AMENDED COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANTS' MOTION TO STRIKE ALLEGATIONS FROM PLAINTIFFS' FIRST AMENDED COMPLAINT; and PROPOSED ORDER GRANTING MOTION TO STRIKE ALLEGATIONS FROM PLAINTIFF'S FIRST AMENDED COMPLAINT** on the interested parties in this action as follows:

Charles S. LiMandri  
Paul M. Jonna  
Teresa L. Mendoza  
Jeffrey M. Trissell  
Freedom of Conscience Defense Fund  
P.O. Box 9520  
Rancho Santa Fe, CA 92067  
Telephone: (858) 759-9948  
Facsimile: (858) 759-9938  
E-Mail: cslimandri@limandri.com  
Attorneys for Plaintiffs

**BY CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on December 12, 2017, at San Diego, California.

  
\_\_\_\_\_  
Amy R. Dickey

1 MICHAEL C. SULLIVAN (SBN 131817)  
msullivan@paulplevin.com  
2 JENNIFER M. FONTAINE (SBN 258901)  
jfontaine@paulplevin.com  
3 **PAUL, PLEVIN, SULLIVAN &  
CONNAUGHTON LLP**  
4 101 West Broadway, Ninth Floor  
San Diego, California 92101-8285  
5 Telephone: 619-237-5200  
Facsimile: 619-615-0700

6 Attorneys for Defendants San Diego  
7 Unified School District; Richard Barrera;  
Kevin Beiser; John Lee Evans; Michael  
8 McQuary; Sharon Whitehurst-Payne;  
Cynthia Marten

9  
10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 CITIZENS FOR QUALITY  
13 EDUCATION SAN DIEGO, an  
unincorporated nonprofit association;  
14 SAN DIEGO ASIAN AMERICANS  
FOR EQUALITY FOUNDATION, a  
15 nonprofit public-benefit corporation;  
SCOTT HASSON individually and as  
16 next friend on behalf of his minor child,  
C.H.; CHAOYIN HE, individually and  
17 as next friend on behalf of her minor  
child, B.H.; XUEXUN HU, individually  
18 and as next friend on behalf of his  
minor child, R.H.; KEVIN STEEL and  
19 MELISSA STEEL, individually and as  
next friends on behalf of their minor  
20 child, K.S.; JOSE VELAZQUEZ,  
individually and as next friend on  
21 behalf of his minor child, J.V.,

22 Plaintiffs,

23 v.

24 SAN DIEGO UNIFIED SCHOOL  
DISTRICT; RICHARD BARRERA, in  
25 his official capacity as Board President;  
KEVIN BEISER, in his official  
26 capacity as Board Vice President;  
JOHN LEE EVANS, in his official  
27 capacity as Board member; MICHAEL  
MCQUARY in his official capacity as  
28 Board member: SHARON

Case No. 17CV1054 BAS JMA

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
DEFENDANTS' MOTION TO  
STRIKE ALLEGATIONS FROM  
PLAINTIFFS' FIRST AMENDED  
COMPLAINT**

**[Fed. R. Civ. P. 12(f)]**

Date: January 16, 2018  
Judge: Hon. Cynthia Bashant  
Magistrate Judge: Hon. Jan M. Adler  
Trial Date: Not Set

**NO ORAL ARGUMENT UNLESS  
REQUESTED BY THE COURT**

1 WHITEHURST-PAYNE, in her official  
2 capacity as Board member; CYNTHIA  
3 MARTEN, in her official capacity as  
4 Superintendent ,

Defendants.

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TABLE OF CONTENTS**

I. INTRODUCTION..... 1

II. RELEVANT BACKGROUND..... 1

III. APPLICABLE LEGAL STANDARDS ..... 2

IV. PLAINTIFFS’ UNSAVORY ALLEGATIONS OF CAIR’S  
SUPPOSED TERRORIST AFFILIATIONS SHOULD BE STRICKEN..... 3

V. CONCLUSION ..... 6

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TABLE OF AUTHORITIES**

**Page(s)**

**FEDERAL CASES**

*Bureerong v. Uvawas*  
922 F. Supp. 1450 (C.D. Cal. 1996)..... 5

*Fantasy, Inc. v. Fogerty*  
984 F.2d 1524 (9th Cir. 1993)..... 2, 3, 4

*Fire Ins. Exch. v. United States*  
No. 15-1196, 2015 WL 11995254 (S.D. Cal. Oct. 30, 2015)..... 4

*Ghahremani v. Borders Grp., Inc.*  
No. 10-1248, 2010 WL 4008506 (S.D. Cal. Oct. 6, 2010) ..... 4, 5

*In re “Agent Orange” Prod. Liab. Litig.*  
475 F. Supp. 928 (E.D.N.Y. 1979)..... 6

*Ingram v. Grant Joint Union High Sch. Dist.*  
No. CIV S082490FCDDADPS, 2009 WL 2941463 (E.D. Cal. Sept. 10, 2009)..... 5

*Neilson v. Union Bank of California, N.A.*  
290 F. Supp. 2d 1101 (C.D. Cal. 2003)..... 2

*Sidney-Vinsein v. A.H. Robins Co.*  
697 F.2d 880 (9th Cir. 1983)..... 3

*Tuck v. Guardian Prot. Servs., Inc.*  
No. 15-1376, 2017 WL 1047122 (S.D. Cal. Mar. 20, 2017) ..... 5

*Vess v. Bank of Am., N.A.*  
No. 10-920, 2012 WL 113748 (S.D. Cal. Jan. 13, 2012)..... 3

**FEDERAL: STATUTES, RULES, REGULATIONS, CONSTITUTIONAL PROVISIONS**

42 U.S.C. § 1983..... 1

Fed. R. Civ. P. 12(f)..... 1, 2, 3

1 **OTHER AUTHORITIES**

2 5 Charles A. Wright & Arthur R. Miller, Federal Practice and  
3 Procedure § 1382 (1990) ..... 3

4 2 Moore’s Federal Practice § 12.37[3] ..... 3

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28



**I.****INTRODUCTION**

1  
2  
3 Plaintiffs have filed suit against San Diego Unified School District  
4 (“SDUSD”) as well as SDUSD’s board members and Superintendent, claiming  
5 violations of their federal and California constitutional and statutory rights through  
6 government entanglement with religion and religious discrimination. Plaintiffs have  
7 voluntarily agreed to dismiss SDUSD from their First Amended Complaint. (ECF  
8 No. 17.) The basis for their claims is that SDUSD initiated an Anti-Islamophobia  
9 Initiative to combat bullying of and discrimination against Muslim students, and  
10 entered into a partnership with the Council on American-Islamic Relations  
11 (“CAIR”), a Muslim civil liberties organization, to further that initiative.

12 Plaintiffs include several paragraphs addressing impertinent, immaterial,  
13 prejudicial and scandalous matter regarding CAIR’s alleged ties to terrorism and  
14 “anti-Israel agenda.” These allegations have no bearing on Plaintiffs’ claims against  
15 Defendants, and are only included to inflame the public against SDUSD by its  
16 association with CAIR. Thus, Defendants respectfully request that the Court strike  
17 these allegations under Federal Rule of Civil Procedure 12(f).

**II.****RELEVANT BACKGROUND**

18  
19  
20 Plaintiffs are two community organizations and parents suing individually and  
21 on behalf of their minor children. (First Amended Complaint (“FAC”) at ¶¶ 8-14.)  
22 Plaintiffs bring claims under 42 U.S.C. § 1983, the California constitution, and  
23 several provisions of the California Civil Code, Government Code and Education  
24 Code, seeking to enjoin the anti-Islamophobia Initiative by SDUSD and partnership  
25 between SDUSD and CAIR. (*Id.* at p. 27-39.) Plaintiffs allege that the Anti-  
26 Islamophobia Initiative, although enacted to “combat the bullying of, and  
27 discrimination against, Muslim students and their families,” instead set up a “subtle,  
28 discriminatory scheme that establishes Muslim students as the privileged religious

1 group.” (*Id.* ¶¶ 2-3.) To further that initiative, Plaintiffs allege that SDUSD entered  
2 into a partnership with CAIR, a Muslim civil liberties organization, in 2012. (*Id.* ¶¶  
3 62, 82.) Plaintiffs claim that this partnership “constitute[s] government  
4 entanglement with religion, and grant[s] CAIR-SD ... extraordinary discretion,  
5 power, and influence to convey religious messages, including proselytization, to  
6 students in an involuntary and coercive environment.” (*Id.* ¶ 122.)

7 Plaintiffs include several paragraphs addressing CAIR’s alleged ties to  
8 terrorism and an anti-Israel agenda, which have no bearing on their claims.  
9 Specifically, Plaintiffs allege that CAIR is “linked by a complex set of personal,  
10 financial, and operational relationships with Islamic extremist groups, including the  
11 Muslim Brotherhood and especially Hamas, which the United States State  
12 Department has designated as a terrorist organization.” (*Id.* ¶ 72.) Plaintiffs go on  
13 to allege that CAIR leaders have been convicted of terrorism-related crimes, and  
14 have supported Hamas and other terrorists. (*Id.* ¶¶ 73-75.) Furthermore, the FBI  
15 and Department of Justice are unsure as to whether CAIR has ties to Hamas, and the  
16 United Arab Emirates designated CAIR as a terrorist organization. (*Id.* ¶¶ 76-78.)  
17 CAIR also allegedly has an “anti-Israel agenda,” partners with groups that  
18 “demonize the Jewish state,” and expressed the opinion that “Israel and U.S. law  
19 enforcement pose a bigger threat to American Muslims than terrorist groups such as  
20 ISIS.” (*Id.* ¶¶ 79, 140, 228.) Plaintiffs also assert that CAIR’s ties to Hamas will  
21 impact the “objectivity and accuracy of instructional materials related to ... the  
22 relationship between the Muslim world and Israel.” (*Id.* ¶ 230.)

### 23 III.

#### 24 APPLICABLE LEGAL STANDARDS

25 The Court has broad discretion to strike “from any pleading any insufficient  
26 defense or any redundant, immaterial, impertinent, or scandalous matter.” Fed. R.  
27 Civ. P. 12(f); *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1528 (9th Cir. 1993), *rev’d*  
28 *on other grounds*, 510 U.S. 517 (1994); *Neilson v. Union Bank of California, N.A.*,

1 290 F. Supp. 2d 1101, 1152 (C.D. Cal. 2003). By focusing the case on viable issues  
2 at the outset, a Rule 12(f) motion “avoid[s] the expenditure of time and money that  
3 must arise from litigating spurious issues by dispensing with those issues prior to  
4 trial.” *Sidney-Vinsein v. A.H. Robins Co.*, 697 F.2d 880, 885 (9th Cir. 1983).  
5 Matter is immaterial if it “has no essential or important relationship to the claim for  
6 relief or the defenses being pleaded” and impertinent if it “consists of statements  
7 that do not pertain, and are not necessary, to the issues in question.” *Fantasy, Inc.*,  
8 984 F.2d at 1527 (quoting 5 Charles A. Wright & Arthur R. Miller, Federal Practice  
9 and Procedure § 1382 (1990)). Similarly, allegations are “impertinent” if they are  
10 not responsive or relevant to issues involved in the action and which could not be  
11 admitted as evidence in the action. *Id.* at 1527. Material is “scandalous” if it  
12 “improperly casts a derogatory light on . . . a party to the action.” Wright & Miller,  
13 § 1382; *see also* 2 Moore’s Federal Practice § 12.37[3] at 12–97 (“‘Scandalous’  
14 generally refers to any allegation that unnecessarily reflects on the moral character  
15 of an individual or states anything in repulsive language that detracts from the  
16 dignity of the court”).

17 **IV. PLAINTIFFS’ UNSAVORY ALLEGATIONS OF CAIR’S SUPPOSED**  
18 **TERRORIST AFFILIATIONS SHOULD BE STRICKEN**

19 Plaintiffs include in the FAC derogatory allegations regarding CAIR’s  
20 affiliation with terrorists and anti-Israel agenda that should be stricken as  
21 immaterial, impertinent, and scandalous. Rule 12(f); *Fantasy, Inc.*, 984 F.2d at  
22 1527; *Vess v. Bank of Am., N.A.*, No. 10-920, 2012 WL 113748, at \*12 (S.D. Cal.  
23 Jan. 13, 2012) (noting federal courts’ broad discretion to strike improper  
24 allegations).

25 Through this high profile lawsuit, which is accessible to members of the  
26 public and has already garnered public attention, Plaintiffs seek to inflame the  
27 public by their scandalous allegations of CAIR’s ties to terrorism and anti-Israel  
28 agenda. The true purpose of these allegations is revealed by Plaintiffs’ allegations

1 in Paragraph 140:

2 Defendants' collaborative efforts to vet and revise curricula, library books,  
3 and other educational materials with CAIR - **an anti-Israel organization**  
4 **that rejects Israel as a legitimate State and adversely demonizes Jewish**  
5 **people** - to promote a more "favorable" and "inclusive" depiction of Islam  
6 and Muslim culture, poisons the educational environment and advances a  
particular political and religious viewpoint to a captive student audience.

7 (*Id.* ¶ 140 [emphasis added].) Similarly:

8 Defendants have adopted, distributed, and disseminated instructional  
9 materials created, published, and provided by CAIR-CA, **whose**  
10 **organizational activities include disparaging Judaism, de-legitimizing**  
11 **Israel's right to exist, and adversely demonizing Jewish people.**

12 (*Id.* ¶ 228 [emphasis added].)<sup>1</sup> Plaintiffs seek to ascribe a nefarious character to  
13 SDUSD's relationship with CAIR merely by citing to CAIR's alleged terrorist ties  
14 and disparaging of Judaism. However, these allegations do not bear on Plaintiffs'  
15 claims that SDUSD has engaged in excessive religious entanglement or religious  
16 discrimination; nor do the allegations provide any factual support for Plaintiffs'  
17 claims. *See Fire Ins. Exch. v. United States*, No. 15-1196, 2015 WL 11995254, at  
18 \*4 (S.D. Cal. Oct. 30, 2015) (striking immaterial allegations to avoid potential  
19 discovery "fishing expedition"); *Ghahremani v. Borders Grp., Inc.*, No. 10-1248,  
20 2010 WL 4008506, at \*2 (S.D. Cal. Oct. 6, 2010) (striking allegations of illegal  
21 business "strategy" unrelated to plaintiff's claims).

22 Plaintiffs provide no factual assertions linking CAIR's political status as an  
23 alleged pro-terrorist and anti-Israel organization with CAIR's relationship with  
24 SDUSD.<sup>2</sup> Plaintiffs claim in a conclusory fashion that CAIR's ties to Hamas will

25 \_\_\_\_\_  
26 <sup>1</sup> Defendants move to strike only the bolded portions of Paragraph 140 and 228.

27 <sup>2</sup> Indeed, many of the allegations predate CAIR's relationship with SDUSD by  
28 several years. *See Fantasy, Inc.*, 984 F.2d at 1527 ("Superfluous historical  
allegations are a proper subject of a motion to strike.") (citation omitted).

1 impact the accuracy of instructional materials relating to the relationship between  
2 the Muslim world and Israel (*id.* ¶ 230), but provide no facts sufficient to make this  
3 leap between CAIR’s ties to Hamas and the instructional materials utilized in the  
4 anti-Islamophobia Initiative. Thus, the inclusion of such inflammatory allegations  
5 can only be intended to denigrate CAIR, and Defendants by association, in the eyes  
6 of members of the public who review the FAC. This material is immaterial,  
7 scandalous and prejudicial to Defendants and should be stricken. *See Tuck v.*  
8 *Guardian Prot. Servs., Inc.*, No. 15-1376, 2017 WL 1047122, at \*2 (S.D. Cal. Mar.  
9 20, 2017) (striking materials included “for no other reason than to cast Defendant in  
10 a negative light”); *Ingram v. Grant Joint Union High Sch. Dist.*, No. CIV  
11 S082490FCDDADPS, 2009 WL 2941463, at \*8 (E.D. Cal. Sept. 10, 2009) (striking  
12 allegations that school district police are “trigger happy,” have improper search  
13 procedures, “are not to be trusted” and are “corrupt”); *Bureerong v. Uvawas*, 922 F.  
14 Supp. 1450, 1479 (C.D. Cal. 1996) (striking term “Slave Sweatshop” from First  
15 Amended Complaint as immaterial, scandalous, and highly prejudicial where term  
16 added nothing to plaintiff’s existing material allegations and appeared to be included  
17 “only for inflammatory effect”).

18         These allegations are particularly inflammatory and scandalous in light of the  
19 political implications of a link between CAIR and organizations such as Hamas,  
20 which leads to prejudice to Defendants by even having these allegations included in  
21 the FAC. By incorporating such politically charged claims – in a publicly available  
22 document that has already attracted press attention – Plaintiffs’ clear intent is to  
23 attack CAIR on impertinent matters and hope that the scandalous nature of these  
24 allegations will confuse the relevant issues and reflect poorly on SDUSD. This is  
25 not permissible. *See Ghahremani v. Borders Grp., Inc.*, No. 10-CV-1248-BEN-  
26 RBB, 2010 WL 4008506, at \*3 (S.D. Cal. Oct. 6, 2010) (“Allegations that cause  
27 delay, confusion of issues, and unnecessarily complicate proceedings are examples  
28 of prejudice that may properly be stricken.”).

1 Defendants will also suffer prejudice by being forced to respond to these  
2 immaterial and impertinent allegations, paragraph by paragraph, in their answer. *In*  
3 *re "Agent Orange" Prod. Liab. Litig.*, 475 F. Supp. 928, 935 (E.D.N.Y. 1979)  
4 (granting motion to strike because unnecessary allegations would be burdensome to  
5 answer and would prejudice defendants).

6 Thus, even assuming the truth of Plaintiffs' allegations in paragraphs 72-79,  
7 140, 228, and 230, they provide no factual support for Plaintiffs' claims, are  
8 impertinent, immaterial, scandalous, and prejudicial, and should be stricken.

9 V.

10 CONCLUSION

11 Defendants therefore respectfully request that the Court strike Plaintiffs'  
12 derogatory allegations concerning CAIR contained in paragraphs 72-79, 140  
13 (partial), 228 (partial), and 230 of the First Amended Complaint.

14  
15 Dated: December 12, 2017

PAUL, PLEVIN, SULLIVAN &  
CONNAUGHTON LLP

16  
17  
18 By:           /s/ Michael C. Sullivan            
MICHAEL C. SULLIVAN  
19 JENNIFER M. FONTAINE  
20 Attorneys for Defendants San Diego Unified  
21 School District; Richard Barrera; Kevin  
22 Beiser; John Lee Evans; Michael McQuary;  
Sharon Whitehurst-Payne; Cynthia Marten

23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

CITIZENS FOR QUALITY EDUCATION SAN DIEGO, an unincorporated nonprofit association; SAN DIEGO ASIAN AMERICANS FOR EQUALITY FOUNDATION, a nonprofit public-benefit corporation; SCOTT HASSON individually and as next friend on behalf of his minor child, C.H.; CHAOYIN HE, individually and as next friend on behalf of her minor child, B.H.; XUEXUN HU, individually and as next friend on behalf of his minor child, R.H.; KEVIN STEEL and MELISSA STEEL, individually and as next friends on behalf of their minor child, K.S.; JOSE VELAZQUEZ, individually and as next friend on behalf of his minor child, J.V.,

Plaintiffs,

v.

SAN DIEGO UNIFIED SCHOOL DISTRICT; RICHARD BARRERA, in his official capacity as Board President; KEVIN BEISER, in his official capacity as Board Vice President; JOHN LEE EVANS, in his official capacity as Board member; MICHAEL MCQUARY in his official capacity as Board member; SHARON WHITEHURST-PAYNE, in her official capacity as Board member; CYNTHIA MARTEN, in her official capacity as

Case No. 17CV1054 BAS JMA

**ORDER GRANTING MOTION TO STRIKE ALLEGATIONS FROM PLAINTIFFS' FIRST AMENDED COMPLAINT**

[ECF No. ]

Judge: Hon. Cynthia Bashant  
Magistrate Judge: Hon. Jan M. Adler  
Trial Date: Not Set

1 Superintendent ,

2 Defendants.

3  
4 Presently before the Court is Defendants' Motion to Strike Allegations from  
5 Plaintiffs' First Amended Complaint.

6 Having read the moving papers, and good cause appearing:

7 **IT IS HEREBY ORDERED THAT:**

8  Defendants' Motion to Strike is Granted.

9  Paragraphs 72-79 and 230 are stricken from Plaintiffs' First Amended  
10 Complaint without leave to amend.

11  The portion of Paragraph 140 stating that "an anti-Israel organization that  
12 rejects Israel as a legitimate State and adversely demonizes Jewish people" and the  
13 portion of Paragraph 228 stating that "whose organizational activities include  
14 disparaging Judaism, de-legitimizing Israel's right to exist, and adversely  
15 demonizing Jewish people" are stricken from Plaintiffs' First Amended Complaint  
16 without leave to amend.

17 **IT IS SO ORDERED.**

18 DATED: \_\_\_\_\_, 2018

19  
20 \_\_\_\_\_  
21 Hon. Cynthia Bashant  
22 United States District Judge  
23  
24  
25  
26  
27  
28