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17 [Additional Counsel Listed on Signature Page]
Attorneys for Plaintiffs
18 Eliezer Williams, *et al.*

19 SUPERIOR COURT OF THE STATE OF CALIFORNIA

20 COUNTY OF SAN FRANCISCO

21 ELIEZER WILLIAMS, a minor, by Sweetie
Williams, his guardian ad litem; et al., each
22 individually and on behalf of all others similarly
23 situated,

24 Plaintiffs,

25 v.

26 STATE OF CALIFORNIA; DELAINE EASTIN,
State Superintendent of Public Instruction;
STATE DEPARTMENT OF EDUCATION;
27 STATE BOARD OF EDUCATION,

28 Defendants.

ENDORSED
FILED
San Francisco County Superior Court

MAR 28 2001

GORDON PARK-LI, Clerk
BY: MANUELITA ECHEVERRIA
Deputy Clerk

No. 312236
[CLASS ACTION]
PLAINTIFFS' SEPARATE STATEMENT OF
UNDISPUTED MATERIAL FACTS IN
OPPOSITION TO DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT OR, IN THE
ALTERNATIVE, FOR SUMMARY
ADJUDICATION, AS TO ALL CAUSES OF
ACTION BROUGHT BY THE CLOVERDALE
PLAINTIFFS

Date: April 11, 2001
Time: 8:30 a.m.
Dept.: 16

Pursuant to California Code of Civil Procedure § 437c, plaintiffs submit the following opposition to the separate statement of undisputed facts filed by defendant State of California on March 14, 2001,¹ in support of its motion for summary judgment or, in the alternative, for summary adjudication as to all causes of action my the Cloverdale plaintiffs.

ISSUE 1: THERE IS NO MERIT TO THE CLOVERDALE PLAINTIFFS' FIRST CAUSE OF ACTION FOR VIOLATION OF ARTICLE I, SECTION 7(a) AND ARTICLE IV, SECTION 16(a) OF THE CALIFORNIA CONSTITUTION BECAUSE THE CONDITIONS ABOUT WHICH THEY COMPLAIN EITHER DO NOT EXIST OR HAVE BEEN MISCHARACTERIZED.

| DEFENDANTS' PURPORTED UNDISPUTED MATERIAL FACTS | PLAINTIFFS' RESPONSE AND SUPPORTING EVIDENCE |
|---|--|
| 1. In every class at Cloverdale High that utilizes a textbook, with the exception of Physics, each student has a textbook to use in class and to take home. Lile Decl., ¶ 5. | 1. Disputed. There are insufficient textbooks for students in some classes, including science and geography classes. During the 1999-2000 school year, there was only one set of textbooks for all of the Integrated Science classes. Students were unable to bring textbooks home for homework. Sometimes the teacher would provide the students with photocopies of pages to complete their homework at home. C. Kehrli Decl., ¶ 3, 4; J. Kehrli Decl., ¶ 4; Melton-Piper Decl., ¶ 5 |
| 2. The following science classes are offered at Cloverdale High: Biology, Advanced Biology, Chemistry, Physics, Physical Science, and Integrated Science. Lile Decl., ¶ 10. | 2. Undisputed. |
| 3. Biology, Advanced Biology, Chemistry, Physics, and Physical Science each had a sufficient number of textbooks for students to use in class and to take home prior to and during the 1999-2000 school year. | 3. At this time, plaintiffs do not have sufficient knowledge to respond. However, even if this fact is true, this does not refute plaintiffs' allegation that some students in some classes are not provided with textbooks to take home for |

¹ On or about March 27, 2001, Delaine Eastin, the Department of Education and the Board of Education filed their joinder to the State's summary judgment motion.

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DEFENDANTS' PURPORTED
UNDISPUTED MATERIAL FACTS

PLAINTIFFS' RESPONSE AND
SUPPORTING EVIDENCE

Lile Decl., ¶ 7.

homework.

4. In the current 2000-2001 school year, Biology, Advanced Biology, Chemistry, Integrated Science, and Physical Science had and has a sufficient number of textbooks for students to use in class and to take home. **Lile Decl., ¶¶ 8, 11**

4. At this time, plaintiffs do not have sufficient knowledge to respond.

5. At the beginning of the current 2000-2001 school year, Physics had a sufficient number of textbooks for students to use in class and to take home. **Lile Decl., ¶ 9.**

5. At this time, plaintiffs do not have sufficient knowledge to respond.

6. Some Physics textbooks have been lost or damaged by students during the course of the current school year. **Lile Decl., ¶ 9.**

6. At this time, plaintiffs do not have sufficient knowledge to respond.

7. Because the Cloverdale Unified School District is purchasing a new edition of the Physics textbook for all students for the upcoming 2001-2002 school year, it has decided not to replace those Physics textbooks that have been lost or damaged by students. **Lile Decl., ¶ 9.**

7. At this time, plaintiffs do not have sufficient knowledge to respond. However, the fact that the school district has elected not to provide each student with his or her own textbook for use in class and to take and leave home for homework *confirms* plaintiffs' allegation that the students cannot take textbooks home for homework in some classes.

8. Physics teachers provide those students whose textbooks have been lost or damaged with photocopies of the necessary textbook information. **Lile Decl., ¶ 9.**

8. At this time, plaintiffs do not have sufficient knowledge to respond. However, the fact that the teachers may provide students with photocopies when necessary materials *confirms* plaintiffs' allegation that the students cannot take textbooks home for homework in some classes. Indeed, Mr. Lile admits that not every student has his or her own textbook to use in class and to take or leave home for homework.

1 DEFENDANTS' PURPORTED
2 UNDISPUTED MATERIAL FACTS

PLAINTIFFS' RESPONSE AND
SUPPORTING EVIDENCE

3 9. Some classes at Cloverdale High use
4 instructional materials other than
5 textbooks, but only in cases where
6 teachers make a professional judgment
7 that such materials may provide a superior
8 method of instruction. **Lile Decl., ¶ 5.**

9. **Disputed.** See Response to Nos. 1, 3, 8
and 7.

7 10. Geography classes at Cloverdale High use
8 atlases, maps, and on-line resources
9 instead of textbooks. **Lile Decl., ¶ 6.**

10. **Disputed.** Students in geography classes
receive photocopies instead of textbooks
because the school fails to provide
textbooks. **J. Kehrli Decl., ¶ 4**

10 11. Each geography student at Cloverdale
11 High has access to atlases and maps and is
12 provided with photocopies of these
13 resources as needed for assignments. **Lile
Decl., ¶ 6.**

11. **Disputed.** See Response to No. 10.

14 12. Notebooks that contain instructional
15 information are used during geography
16 class and are distributed to students at the
beginning of the semester. **Lile Decl., ¶ 6.**

12. **Disputed.** See Response to No. 10.

17 13. Cloverdale High has two main wings of
18 classrooms, six portable classrooms, two
19 computer labs, an auto/metal shop
20 classroom, a woodshop classroom, and a
library. **Lile Decl., ¶ 12.**

13. **Undisputed.**

21 14. The six portable classrooms, the two
22 computer labs, and the library all have air-
23 conditioning. **Lile Decl., ¶ 12.**

14. **Undisputed as to the portable
classrooms and library.** At this time,
plaintiffs do not have sufficient knowledge
to respond to whether the computer labs
are equipped with air conditioning.

25 15. The two main wings of classrooms and the
26 two shop classrooms currently lack air-
27 conditioning. **Lile Decl., ¶ 12.**

15. **Undisputed.**

1 DEFENDANTS' PURPORTED
2 UNDISPUTED MATERIAL FACTS

PLAINTIFFS' RESPONSE AND
SUPPORTING EVIDENCE

3 16. Every classroom at Cloverdale High has
4 two ceiling-fans; when it is hot, teachers
5 use the ceiling fans to ventilate the
6 classrooms with cool air in the morning
7 and to maintain the airflow in the
8 classrooms during the day. **Lile Decl.,**
9 **¶ 12.**

10 17. In 1999, voters in the Cloverdale Unified
11 School District passed a \$4 million
12 facilities improvement and modernization
13 bond that will provide air-conditioning in
14 the two classroom wings at Cloverdale
15 High that currently lack it. **Lile Decl.,**
16 **¶ 13.**

17 18. The installation of air-conditioning in the
18 two classroom wings is expected to be
19 completed within the next two years. **Lile**
20 **Decl., ¶ 13.**

21 19. Temperatures in Cloverdale occasionally
22 reach 90 degrees at the beginning of the
23 school year (late August) or at the end of
24 the school year (early June), but these are
25 not average temperatures even at those
26 times of the year. **Lile Decl., ¶ 14.**

16. **Disputed.** The fans do not significantly
lower the temperature in the classrooms on
very hot days. **J. Kehrli Decl., ¶ 3**

17. **Undisputed.** The fact that the school
district intends to install air conditioning in
the two classroom wings at Cloverdale
High indicates that for at least some of the
year, air conditioning is necessary to
maintain a comfortable temperature.
Additionally, the fact that the school
district intends to install air conditioning in
the two classroom wings does not negate
the fact that classroom temperatures during
the school year can reach as high as 110°
and that these temperatures substantially
impair the student's ability to learn.
R. Smith Decl., ¶ 3; Melton-Piper Decl.,
¶ 3.

18. **Undisputed.** See Response to No. 17.

19. **Disputed.** For a couple of months each
school year, the temperature in Cloverdale
is above 80 degrees. **C. Kehrli Decl., ¶ 3**
It can get as hot as 115 degrees outside in
Cloverdale. **R. Smith Decl., ¶ 3;**
Classroom temperatures during the school
year can reach as high as 110°. **Melton-**
Piper Decl., ¶ 3.

1
2 **ISSUE 2: THERE IS NO MERIT TO THE CLOVERDALE PLAINTIFFS' SECOND**
3 **CAUSE OF ACTION FOR VIOLATION OF ARTICLE IX, SECTIONS 1 AND 5 OF**
4 **THE CALIFORNIA CONSTITUTION BECAUSE THE CONDITIONS ABOUT**
5 **WHICH THEY COMPLAIN EITHER DO NOT EXIST OR HAVE BEEN**
6 **MISCHARACTERIZED.**

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11 20. The State incorporates by reference
12 Undisputed Material Facts 1-19 and the
13 evidence in support thereof.

20. **Disputed.** Plaintiffs incorporate by
reference their comments upon the State's
Undisputed Material Facts 1-19 and the
evidence in support thereof.

14
15 **ISSUE THREE: THERE IS NO MERIT TO THE CLOVERDALE PLAINTIFFS'**
16 **THIRD CAUSE OF ACTION FOR VIOLATION OF ARTICLE I, SECTIONS 7(a) AND**
17 **15 OF THE CALIFORNIA CONSTITUTION BECAUSE THE CONDITIONS ABOUT**
18 **WHICH THEY COMPLAIN EITHER DO NOT EXIST OR HAVE BEEN**
19 **MISCHARACTERIZED.**

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21. **Disputed.** Plaintiffs incorporate by
reference their comments upon the State's
Undisputed Material Facts 1-19 and the
evidence in support thereof.

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119 **ISSUE FOUR: THERE IS NO MERIT TO THE CLOVERDALE PLAINTIFFS'**
120 **FOURTH CAUSE OF ACTION FOR VIOLATION OF TITLE VI OF THE CIVIL**
121 **RIGHTS ACT OF 1964 BECAUSE THE CLOVERDALE PLAINTIFFS ARE WHITE**
122 **STUDENTS AND THE THEORY OF THE FIRST AMENDED COMPLAINT IS THAT**
123 **WHITE STUDENTS ARE FAVORED BY THE STATE'S ALLEGED CONDUCT.**

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22. **Undisputed but irrelevant.** As fully set
forth in plaintiffs' opposition to the
summary judgment motion, the Cloverdale
plaintiffs do not individually allege a
violation of Title VI. Rather, all of the
named 98 plaintiff schoolchildren allege,
on their own behalf and on behalf of a
class of similarly situated children, that
deplorable conditions exist for tens of
thousands of California's schoolchildren
and that the existence of these conditions
violates provisions of the California
Constitution and other statutory rights.

1 **ISSUE FIVE: BECAUSE THERE IS NO MERIT TO THE CLOVERDALE**
2 **PLAINTIFFS' FIRST, SECOND, THIRD, AND FOURTH CAUSES OF ACTION,**
3 **THERE IS NO MERIT TO THEIR SEVENTH CAUSE OF ACTION FOR**
4 **DECLARATORY RELIEF.**

5 23. The State incorporates by reference
6 Undisputed Material Facts 1-19 and 22
7 and the evidence in support thereof.

8 23. **Disputed.** Plaintiffs incorporates by
9 reference their comments upon the State's
10 Undisputed Material Facts 1-19 and the
11 evidence in support thereof.

12 Dated: March 28, 2001

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