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Eliezer Williams, *et al.*

18  
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  
situated,

23 Plaintiffs,

24 v.

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

27 Defendants.

No. 312236

[CLASS ACTION]

[Proposed] ORDER DENYING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT, OR IN  
THE ALTERNATIVE, SUMMARY ADJUDICATION  
AS TO ALL CAUSES OF ACTION ALLEGED BY  
THE CLOVERDALE PLAINTIFFS

Hearing: April 11, 2001  
Time: 8:30  
Department: 16, Hall of Justice  
Judge: Hon. Peter J. Busch  
Date Action Filed: May 17, 2001

ENDORSED  
FILED  
San Francisco County Superior Court

APR 25 2001

GORDON PARK-LI, Clerk  
MANUELITA ECHEVERRIA  
Deputy Clerk

1 On April 11, 2001, defendants'<sup>1</sup> motion for summary judgment or, in the alternative, for  
2 summary adjudication as to all of the causes of action brought by the Cloverdale plaintiffs came on  
3 regularly for hearing before the above-encaptioned Court, in Department No. 16, the Honorable Peter  
4 J. Busch presiding. John Daum appeared as attorney on behalf of the State of California, Thomas  
5 Yanger appeared on behalf of the remaining defendants and Lois Perrin appeared for plaintiffs,  
6 Eliezer Williams, *et al.*

7 After full consideration of the evidence, the supporting memoranda of points and authorities  
8 and related papers, and the oral argument of counsel, the Court hereby denies defendants' motion for  
9 summary judgment or, in the alternative, for summary adjudication for the following reasons.

10 In 1990, the summary judgment statute was amended to restrict the summary adjudication remedy to  
11 motions that would adjudicate, *inter alia*, an entire cause of action. The Legislature declared the  
12 purpose of the amendment to § 437(f): "to stop the practice of adjudication of facts or adjudication of  
13 issues that do not completely dispose of a cause of action or a defense." (Stats. 1990, ch. 1561, § 1).

14 Section 437c, subdivision (f)(1), as amended in 1990 and 1993, provides, in full:

15 *A party may move for summary adjudication as to one or more causes*  
16 *of action within an action, one or more affirmative defenses, one or*  
17 *more claims for damages, or one or more issues of duty, if that party*  
18 *contends that the cause of action has no merit or that there is no*  
19 *affirmative defense thereto, or that there is no merit to an affirmative*  
20 *defense as to any cause of action, or both, or that there is no merit to a*  
21 *claim for damages, as specified in Section 3294 of the Civil Code, or*  
22 *that one or more defendants either owed or did not owe a duty to the*  
23 *plaintiff or plaintiffs. A motion for summary adjudication shall be*  
24 *granted only if it completely disposes of a cause of action, an*  
25 *affirmative defense, a claim for damages, or an issue of duty.*

26 (Italics added).

27 The term "cause of action" as contemplated by § 437c(f) means "a group of related  
28 paragraphs in the complaint reflecting a separate theory of liability." *See Lilienthal & Fowler v.*  
*Superior Court*, 12 Cal. App. 4th 1848, 1853 (1993); *see also Edward Fineman Co. v. Superior*  
*Court*, 66 Cal. App. 4th 1110, 1118 (1998). The Cloverdale plaintiffs are but a subset of a group of

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<sup>1</sup> Defendants Delaine Eastin, the State Department of Education and the State Board of  
Education filed their joinder to the State's motion on or about March 27, 2001.

1 plaintiffs that have alleged, on their own behalf and on behalf of a class of similarly situated children,  
2 violations of their rights under the equal protection clauses, the free and common schools clause, the  
3 due process clause and Title VI of the 1964 Civil Rights Act.

4 Under California Code of Civil Procedure § 437c(f)(1), a motion for summary judgment or  
5 summary adjudication can only be granted if it “completely disposes of a cause of action.” Cal. Civ.  
6 Proc. § 437c(f)(1). Defendants’ motion as to the Cloverdale plaintiffs would have no such effect,  
7 and is therefore prohibited by California Code of Civil Procedure § 437c(f)(1).

8 Accordingly, defendants’ motion for summary judgment or, in the alternative, for summary  
9 adjudication as to the Cloverdale plaintiffs is hereby DENIED.

10 IT IS SO ORDERED.

11 Dated: April 20, 2001


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14 **Peter J. Busch**

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The Hon. Peter J. Busch

Respectfully submitted on April 19, 2001, by:

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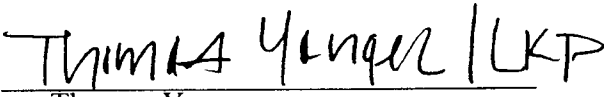
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By:   
Lois K. Perrin  
Attorneys for plaintiffs Eliezer Williams, et al.

APPROVED AS TO FORM:

By: \_\_\_\_\_  
John F. Daum  
Attorneys for defendant State of California

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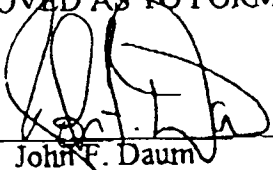
By:   
Thomas Yanger  
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State Board of Education, and State Department of Education

Respectfully submitted on April \_\_, 2001, by:

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6 By: \_\_\_\_\_  
7 Lois K. Perrin  
8 Attorneys for plaintiffs Eliezer Williams, et al.

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12 John F. Daum  
13 Attorneys for defendant State of California

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16 By: \_\_\_\_\_  
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