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San Francisco County Superior Court

MAR 14 2001

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO

11 ELIEZER WILLIAMS, et al., ) Case No. 312 236  
12 )  
13 Plaintiffs, ) Hearing Date: April 11, 2001  
14 )  
15 vs. ) Time: 8:30 A.M.  
16 )  
17 STATE OF CALIFORNIA, DELAINE ) Department: 16  
18 EASTIN, State Superintendent )  
19 Of Public Instruction, STATE ) Judge: Hon. Peter J. Busch  
20 DEPARTMENT OF EDUCATION, STATE )  
21 BOARD OF EDUCATION, )  
22 )  
23 Defendants. )  
24 )  
25 AND RELATED CROSS-ACTION )  
26 )  
27 )  
28 )

SEPARATE STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF  
MOTION OF DEFENDANT STATE OF CALIFORNIA FOR SUMMARY JUDGMENT OR,  
IN THE ALTERNATIVE, FOR SUMMARY ADJUDICATION AS TO THE FIRST,  
SECOND, THIRD, FOURTH, AND/OR SEVENTH CAUSES OF ACTION  
BROUGHT BY THE CLOVERDALE PLAINTIFFS

1 Defendant State of California submits the following  
 2 statement of undisputed material facts and references to  
 3 supporting evidence pursuant to California Civil Procedure Code §  
 4 437c(b). These undisputed facts include every essential element  
 5 to entitle the State to judgment as a matter of law.

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

13 UNDISPUTED MATERIAL FACTS

SUPPORTING EVIDENCE

14 1. In every class at Cloverdale Lile Decl. ¶ 5.  
 15 High that utilizes a  
 16 textbook, with the exception  
 17 of Physics, each student has  
 18 a textbook to use in class  
 19 and to take home.

20 2. The following science classes Lile Decl. ¶ 10.  
 21 are offered at Cloverdale  
 22 High: Biology, Advanced  
 23 Biology, Chemistry, Physics,  
 24 Physical Science, and  
 25 Integrated Science.

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UNDISPUTED MATERIAL FACTS

SUPPORTING EVIDENCE

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.

Lile Decl. ¶ 7.

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.

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.

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UNDISPUTED MATERIAL FACTS

SUPPORTING EVIDENCE

6. Some Physics textbooks have been lost or damaged by students during the course of the current school year.

Lile Decl. ¶ 9.

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.

8. Physics teachers provide those students whose textbooks have been lost or damaged with photocopies of the necessary textbook information.

Lile Decl. ¶ 9.

9. Some classes at Cloverdale High use instructional materials other than

Lile Decl. ¶ 5.

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UNDISPUTED MATERIAL FACTS

SUPPORTING EVIDENCE

textbooks, but only in cases where teachers make a professional judgment that such materials may provide a superior method of instruction.

10. Geography classes at Cloverdale High use atlases, maps, and on-line resources instead of textbooks.

Lile Decl. ¶ 6.

11. Each geography student at Cloverdale High has access to atlases and maps and is provided with photocopies of these resources as needed for assignments.

Lile Decl. ¶ 6.

12. Notebooks that contain instructional information are used during geography class and are distributed to students at the beginning of the semester.

Lile Decl. ¶ 6.

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UNDISPUTED MATERIAL FACTS

SUPPORTING EVIDENCE

13. Cloverdale High has two main wings of classrooms, six portable classrooms, two computer labs, an auto/metal shop classroom, a woodshop classroom, and a library.

Lile Decl. ¶ 12.

14. The six portable classrooms, the two computer labs, and the library all have air-conditioning.

Lile Decl. ¶ 12.

15. The two main wings of classrooms and the two shop classrooms currently lack air-conditioning.

Lile Decl. ¶ 12.

16. Every classroom at Cloverdale High has two ceiling-fans; when it is hot, teachers use the ceiling fans to ventilate the classrooms with cool air in the morning and to maintain the airflow in the classrooms during the day.

Lile Decl. ¶ 12.

UNDISPUTED MATERIAL FACTS

SUPPORTING EVIDENCE

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17. In 1999, voters in the Cloverdale Unified School District passed a \$4 million facilities improvement and modernization bond that will provide air-conditioning in the two classroom wings at Cloverdale High that currently lack it.

Lile Decl. ¶ 13.

18. The installation of air-conditioning in the two classroom wings is expected to be completed within the next two years.

Lile Decl. ¶ 13.

19. Temperatures in Cloverdale occasionally reach 90 degrees at the beginning of the school year (late August) or at the end of the school year (early June), but these are not average temperatures even at those times of the year.

Lile Decl. ¶ 14.

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

UNDISPUTED MATERIAL FACTS                      SUPPORTING EVIDENCE

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

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

UNDISPUTED MATERIAL FACTS                      SUPPORTING EVIDENCE

21. The State incorporates by reference Undisputed Material Facts 1-19 and the evidence in support thereof.



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

UNDISPUTED MATERIAL FACTS

SUPPORTING EVIDENCE

22.The Cloverdale Plaintiffs are Lile Decl. ¶ 15.  
non-Hispanic Caucasian  
students.

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

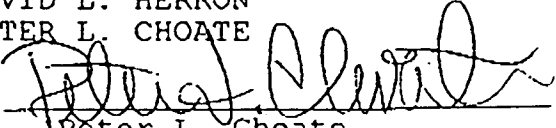
UNDISPUTED MATERIAL FACTS

SUPPORTING EVIDENCE

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

Dated: March 14, 2001.

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By   
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