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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 12 CITY AND COUNTY OF SAN FRANCISCO

13 ELIEZER WILLIAMS, et al.,) Case No. 312 236
 14)
 15 Plaintiff,) Hearing Date: September 13, 2001
 16)
 17 vs.) Time: 8:30 a.m.
 18)
 19 STATE OF CALIFORNIA, DELAINE) Department: 16
 20 EASTIN, State Superintendent)
 21 Of Public Instruction, STATE) Judge: Hon. Peter J. Busch
 22 DEPARTMENT OF EDUCATION, STATE)
 23 BOARD OF EDUCATION,)
 24)
 25 Defendants.)
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101 DECLARATION OF DENNIS BELLET IN SUPPORT OF DEFENDANT STATE OF
 102 CALIFORNIA'S OPPOSITION TO PLAINTIFFS' MOTION FOR CLASS
 103 CERTIFICATION

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I, Dennis Bellet, declare as follows:

1. I currently am employed by the Division of the State Architect ("DSA") of the State of California. I make this declaration in support of the opposition of defendant State of California to plaintiffs' motion for class certification. All the facts set forth in this declaration are known to me personally and, if called as a witness, I could testify competently thereto.

2. Since May 2001, I have served as the Chief Structural Engineer for the DSA. I have held various positions within the DSA since 1986, including Principal Structural Policy, Senior Structural Engineer, and Regional Manager. I received an undergraduate degree and a master's degree in civil engineering from the University of California at Davis. I am a licensed civil and structural engineer. The DSA acts as California's policy leader for building design and construction, and provides design and construction oversight for K-12 schools and community colleges throughout the state. The DSA also develops and maintains the accessibility standards and codes utilized in public and private buildings in California.

3. I am familiar with the Williams v. State of California case, and I have read the plaintiffs' proposed class definition. I understand that the proposed class includes, among others, all students that attend schools with "inadequate, unsafe and unhealthful facilities such that . . . there are insufficient

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1 numbers of clean, stocked and functioning toilets and bathrooms."
2 I also understand that the plaintiffs have stated that 24 C.C.R.
3 Part 5, Appendix C would need to "apply to all schools not just
4 those schools that are planned or being built." I understand
5 that the plaintiffs further assert that even if the requirements
6 set forth in 24 C.C.R. Part 5, Appendix C applied to all schools
7 (not just those built after 1994), this still would not be
8 sufficient because "this existing standard, even as applicable to
9 all schools . . . provide[s] too few toilets for girls, if the
10 number of toilets and urinals provided for boys is correct."
11

12 4. The regulations that govern the construction of
13 buildings in California are set forth in Title 24 of the
14 California Code of Regulations, known as the California Building
15 Standards Code or just "Title 24." Title 24 is composed of 12
16 "parts." Part 5 is the California Plumbing Code and contains
17 plumbing standards applicable to public buildings in California,
18 including public schools. The number of toilet fixtures required
19 for student use in schools designed and constructed before 1994
20 is specified in the Uniform Building Code, Section 805. With
21 respect to schools designed and constructed after 1994, the
22 Uniform Plumbing Code, Appendix C applies. (The Uniform Building
23 Code and Uniform Plumbing Code both are part of the California
24 Building Code.)
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26 5. For public schools designed and built before 1994,
27 the toilet requirements for public schools are as follows:
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- Elementary Schools: One urinal for every 30 boys plus one toilet for every 100 boys; one toilet for every 35 girls;
- Secondary Schools: One urinal for every 30 boys plus one toilet for every 100 boys; one toilet for every 45 girls;
- Kindergarten: Determined by local school board; and
- Staff: Determined by local school board.

6. For public schools designed and built after 1994, the toilet requirements for public schools are as follows:

- Elementary Schools: One urinal for every 75 boys plus one toilet for every 30 boys; one toilet for every 25 girls. In addition, the 1998 Uniform Plumbing Code requires an equal number of fixtures for boys and girls.
- Secondary Schools: One urinal for every 35 boys plus one toilet for every 40 boys; one toilet for every 30 girls. Again, the 1998 Uniform Plumbing Code requires an equal number of fixtures for boys and girls.
- Kindergarten: For girls, one toilet serves 1-20 people; two toilets serve 21-50 people; over 50, add one toilet for each additional 50 persons. For boys, the requirements are the same. Toilets for kindergartners are to be provided within the classroom or within the kindergarten complex (see Title 5, Section 14030(g)(2)). The School Facilities Planning Division of the California Department of Education interprets the code to require separate facilities for kindergarten boys and girls;
- Staff: For women, one toilet serves 1 to 15 people; two toilets serve 16 to 35 people; three toilets serve 36 to 55 people; over 55, add one toilet for each additional 40 persons. For men, the requirements are the same as the women's, except add

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one urinal for 50 persons. The 1998 Code requires an equal number of fixtures for men and women.

7. A comparison of these provisions reveals that the toilet requirements applicable to pre-1994 schools are less stringent than those applicable to post-1994 schools. For example, the pre-1994 regulations do not contain any requirements for kindergartens or staff, leaving decisions regarding those bathrooms to local school boards. The pre-1994 regulations also require fewer toilets than the post-1994 regulations at both the elementary and secondary school levels. And it was not until 1998 that the regulations required parity in the number of toilets for boys and girls.

8. As a practical matter, most schools are designed and constructed to meet the minimum requirements of the specific code provisions that are in effect at the time the planning, design and construction work is done; rarely does anyone voluntarily decide to design or construct school facilities that exceed code requirements. Because the vast majority of California's more than 8,500 schools were designed and built before the 1994 toilet requirements went into effect, the vast majority of the bathrooms in public schools throughout the state would not satisfy plaintiffs' proposed bathroom standard. This is particularly true because it can take approximately two years from the time that a new school's plans are submitted for approval until the first date of beneficial occupancy. Thus, the only schools that would comply with the 1994 toilet requirements

1 would be those that were planned, designed and constructed after
2 the 1994 provisions took effect - this may only include those
3 schools that have opened their doors to students since
4 approximately 1996.

5
6 9. Furthermore, it appears that even the bathrooms in
7 schools planned, designed and built after the 1994 code
8 provisions took effect may not satisfy plaintiffs' proposed
9 bathroom standard. Plaintiffs apparently claim that all
10 bathrooms must provide the same number of fixtures for girls as
11 they do for boys. But the regulations requiring parity for girls
12 and boys did not go into effect until 1998. Given the time
13 necessary for planning, designing and constructing a school,
14 there are likely very few schools in the state that meet every
15 aspect of the 1998 bathroom regulations.

16
17 10. In addition to their complaints about bathrooms,
18 Plaintiffs' proposed class includes, among others, all students
19 that attend "overcrowded schools such that . . . the average
20 square footage per student is less than 25 square feet."
21 Plaintiffs apparently assert that a school is "overcrowded" if it
22 fails to provide grade 1 through 12 classrooms that are less than
23 960 square feet; or fails to provide kindergarten classrooms that
24 are less than 1350 square feet; or fails to provide total
25 classroom space that does not meet or exceed the school's
26 capacity.

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1 11. Plaintiffs' proposed standards regarding classroom
2 size appear to be similar to - although possibly more stringent
3 than - those contained in the current versior of Title 5, Section
4 14030. Prior to October 1993, Section 14030 did not provide any
5 standards concerning the minimum square footage that must be
6 provided in California's classrooms. At that time, however,
7 Section 14030 was amended to require, in relevant part, as
8 follows:

9
10 (g) Classrooms.

11 Classrooms at new school sites shall have
12 adequate space to perform the curriculum functions for
13 the planned enrollment as described in the school
14 district's facility master plan, specifically:

15 (1) Classroom size standard:

16 (A) General classrooms, grades one through
17 twelve are not less than 960 square feet or an
18 equivalent space that provides not less than 30 square
19 feet per student;

20 (B) Proposed classrooms of less than 960
21 square feet have written justification consistent with
22 the educational program and curriculum indicating that
23 the district's education program can be delivered in
24 the proposed size classrooms.

25 ...

26 (2) Kindergarten Classrooms.

27 (A) Kindergarten classroom size for permanent
28 structures is not less than 1350 square feet, including
29 restrooms, storage, teacher preparation and wet and
30 dray areas.

31 Section 14030(g).

32 12. Once again, plaintiffs apparently claim that all
33 K-12 classrooms throughout the State must comply with - or,
34 perhaps, even exceed - standards that were not implemented until
35

1 October 1993 and which only apply to "new school sites" planned
2 after the regulation's effective date. The vast majority of
3 schools throughout the state do not comply with the October 1993
4 version of Section 14030 because the vast majority of schools
5 were planned, designed and constructed before that regulation
6 became effective. Furthermore, since plaintiffs' proposed
7 overcrowding standards appear to require ever more space than the
8 current statute, it is uncertain whether any school in the state
9 would satisfy plaintiffs' proposed requirements.

10
11 13. Plaintiffs' proposed class also includes, among
12 others, students that attend classes "in one or more rooms in
13 which the temperature falls outside the 65-80 degrees Fahrenheit
14 range." In California, this would seem to bring all students
15 that attend a school without air conditioning into the proposed
16 class because, throughout most of the state, the temperatures
17 rise above 80 degrees on some days throughout the school year.
18 There are many schools throughout the state at which the
19 classrooms are not air-conditioned.

20
21 14. The mere fact that most of California's public
22 schools do not satisfy plaintiffs' proposed toilet or classroom
23 size standards does not mean that those facilities are
24 "insufficient," as plaintiffs apparently allege. On the
25 contrary, most school facilities throughout the state are
26 adequate to meet the needs of each particular school. The only
27 way to determine whether a particular bathroom or classroom is
28 insufficient would be to examine the facility in question, to

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1 analyze the applicable regulations, and to give consideration to
2 the specific circumstances of the particular school.

3
4 15. Plaintiffs may not realize what an enormous
5 undertaking it would be to bring every school facility into
6 compliance with the standards they propose. They also may not
7 realize the potential costs. For example, it would be extremely
8 expensive to bring every bathroom in the state into compliance
9 with the 1998 toilet regulations or to bring every classroom in
10 the state into compliance with the classroom size regulations
11 implemented in 1993. Similarly, it would cost an enormous amount
12 of money to install air conditioning at every California school
13 that does not have it.

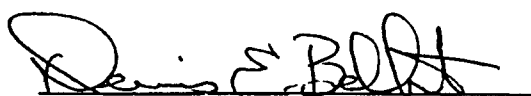
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15 16. The DSA maintains records that describe the
16 various construction projects that have been undertaken
17 throughout the state and that provide the approximate costs of
18 completing those projects. The DSA's records indicate that
19 renovating a school's toilet facilities can cost tens of
20 thousands of dollars. For example, in February 1998, toilet room
21 renovations at Westmont High School in Santa Clara County cost
22 approximately \$30,000; in February 1998, alterations to toilet
23 rooms at various sites at Spruce Elementary School in San Mateo
24 County cost approximately \$50,000; and, in December 2000,
25 alterations to 22 toilet buildings at 9 sites in the Capistrano
26 Unified School District cost approximately \$1,710,500.

1 17. Similarly, installing air conditioning in a school
2 can prove to be quite costly. Schools frequently require repair
3 or replacement of their Heating, Ventilation and Air-Conditioning
4 ("HVAC") systems. Replacement of HVAC rooftop units at Burton C.
5 Tiffany Elementary School in San Diego County recently cost
6 \$372,530. Similarly, at Deportola Elementary School in Orange
7 County, alterations to one building and toilets, as well as an
8 upgrade to the school's HVAC system recently cost \$1,402,000.

9
10 I declare under penalty of perjury that the foregoing
11 is true and correct.

26 *DB*

12 Executed this 27 day of July, at Sacramento,
13 California.

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15 _____
16 Dennis Bellet

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