XAVIER BECERRA
Attorney General of California
SUSAN M. CARSON
Supervising Deputy Attorney General
State Bar No. 35875
JENNIFER A. BUNSHOFT
Deputy Attorney General
State Bar No. 197306
HADARA R. STANTON
Deputy Attorney General
State Bar No. 227040
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3377
Fax: (415) 703-5480
E-mail: Jennifer.Bunshoft@doj.ca.gov
Attorneys for Defendants

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

Ella T. and Katie T., through their guardian ad litem Tamika T.; Sasha E., through her guardian ad litem Thomas E.; Russell W., through his guardian ad litem Tiana W.; Dylan O., through his guardian ad litem Melody O.; Bella G. and Alex G., through their guardian ad litem Samantha G.; Judith B., through her guardian ad litem Sophie B.; Victoria Q., through her guardian ad litem Alexis Q.; and Bernie M., through his guardian ad litem Wanda M., Fathers & Families of San Joaquin; CADRE; Azalee Green; and David Moch,

Plaintiffs,

v.

STATE OF CALIFORNIA; State Board of Education; State Department of Education; Tom Torlakson, in his official capacity as State Superintendent of Public Instruction, and DOES 1 - 100,

Defendants.

Case No. BC685730

DEFENDANTS' ANSWER TO COMPLAINT

Dept: 28
Judge: The Honorable Yvette Palazuelos

Trial Date: October 21, 2019

Action Filed: December 5, 2017

GENERAL DENIAL

In response to the allegations in plaintiffs' Complaint, defendants State of California, State Board of Education, California Department of Education, and State Superintendent of Public Instruction answer the Complaint as follows: Pursuant to section 431.30 of the Code of Civil Procedure, defendants generally and specifically deny each and every allegation contained in the Complaint, which was unverified, and specifically deny that defendants, or any agent or employee thereof, violated the California Constitution.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to allege facts sufficient to constitute a cause of action against defendants.

SECOND AFFIRMATIVE DEFENSE

The sole and proximate cause of the harm alleged by plaintiffs in the Complaint was and is a result of the conduct of persons and/or entities other than defendants.

THIRD AFFIRMATIVE DEFENSE

The Complaint, and each cause of action, fails for lack of certainty.

FOURTH AFFIRMATIVE DEFENSE

The Complaint fails to state a case or controversy or a justiciable cause of action against defendants as to which relief can be granted.

FIFTH AFFIRMATIVE DEFENSE

The State of California is improperly joined as a defendant in this action. As a result, there is a defect or misjoinder of parties pursuant to Code of Civil Procedure section 430.10.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to join indispensable parties to obtain the relief they seek.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by their failure to exhaust administrative remedies.

EIGHTH AFFIRMATIVE DEFENSE

The Complaint, and each cause of action, is barred because the action is moot and no actual controversy exists, or in the alternative, the action is premature, is not ripe and no actual controversy exists.

NINTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred in whole or part because defendants' acts, to the extent any were alleged in the Complaint, were reasonable and without fault and/or were permitted by the Constitution, statute, regulation, ordinance or other law.

TENTH AFFIRMATIVE DEFENSE

The Complaint, and each cause of action, is barred by the doctrines of collateral estoppel and/or res judicata.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiffs are not entitled to injunctive relief because they have an adequate remedy at law.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiffs' claims, and the relief sought, are barred by the separation of powers doctrine.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiffs lack standing to assert the causes of action set forth in the Complaint against defendants.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiffs are barred by laches from proceeding in this action against defendants.

FIFTEENTH AFFIRMATIVE DEFENSE

Because defendants cannot fully anticipate all defenses that may be applicable to this action, defendants have not knowingly or intentionally waived any applicable affirmative defenses to plaintiffs' claims, allegations or causes of action. Accordingly, defendants reserve the right to answer and rely on other such additional defenses, if and to the extent such defenses are applicable, as may become available or apparent during discovery or other proceedings in this action. Defendants further reserve the right to amend this answer to add any such affirmative defenses.

PRAYER FOR RELIEF

WHEREFORE, defendants pray as follows:

1. That judgment be entered in favor of defendants and against plaintiffs.

2. That plaintiffs take nothing by their Complaint as against defendants.

3. That defendants be awarded their costs and expenses incurred in this action; and

4. That defendants be awarded such other and further relief as the Court may deem just and proper.

Dated: August 6, 2018

Respectfully Submitted,

XAVIER BECERRA
Attorney General of California
JENNIFER A. BUNSHOFT
HADARA R. STANTON
Deputy Attorneys General

SUSAN M. CARSON
Supervising Deputy Attorney General
Attorneys for Defendants

SF2017402525