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13 Attorneys for Defendants, Tulare City School District, Jennifer Marroquin, Ira Porchia, Phillip
14 Pierschbacher, and Cherry Ave Middle School

15 **IN THE UNITED STATES DISTRICT COURT**
16 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

17 Guida Dennis,

18 Plaintiff,

19 vs.

20 Tulare City School District,
21 County of Tulare,
22 Jennifer Marroquin,
23 Ira Porchia,
24 Phillip Pierschbacher,
25 Cherry Ave Middle School,
26 &
27 Does 1-100

28 Defendants.

) CASE NO. 1:22-CV-00045-JLT-BAM

) **NOTICE OF MOTION TO DISMISS &**
) **MOTION TO DISMISS**

) Date: April 6, 2022

) Time: 9:00 a.m.

) Ctrm: 4, 7th Floor

) The Honorable Jennifer L. Thurston

) Complaint Filed: January 11, 2022

) Trial Date: TBA

29 PLEASE TAKE NOTICE THAT on April 22, 2022 at 9:30 a.m., or as soon thereafter as
30 the court matter can be heard in Courtroom 4, 7th Floor of the above-entitled court, Defendants
31 Tulare City School District, Jennifer Marroquin, Ira Porchia, Phillip Pierschbacher, and Cherry
32 Ave Middle School will and hereby do, move this court pursuant to Fed. R. Civ. P. 12(b)(6), Fed.
33 R. Civ. P. 12(b)(7), and Fed. R. Civ. P. 19 for an order to dismiss Plaintiff Guida Dennis’
34 Complaint on the following grounds:

35 1. The Eleventh Amendment bars Plaintiff’s First, Second, and Third Causes of
36 Action;

1 2. Defendants Jennifer Marroquin, Ira Porchia, Phillip Pierschbacher, and Cherry Ave
2 Middle School are redundant defendants;

3 3. Defendants' COVID mitigation measures do not violate Plaintiff's rights under the
4 California Confidentiality of Medical Information pursuant to Cal. Civ. C. § 56 *et seq.*; and

5 4. Plaintiff's failure to join indispensable parties;

6 This motion is based on this notice of motion and motion, the memorandum of points and
7 authorities filed herewith, and on the records and files of this matter, and on such oral and
8 documentary evidence as may be presented at the hearing of this motion.

9 **A. MEET AND CONFER REQUIREMENT**

10 Counsel for Defendants attempted to meet and confer with Plaintiff's counsel regarding this
11 motion through a letter correspondence, email correspondence, and telephonically without success.

12 **B. STATEMENT OF RELIEF SOUGHT**

13 This motion seeks dismissal of all claims asserted against Defendants without leave to
14 amend.

15
16 DATED: March 1, 2022

WEAKLEY & ARENDT
A Professional Corporation

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19 By: /s/David González
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Leslie M. Dillahunty
David González
Attorneys for Defendants,
Tulare City School District, Jennifer Marroquin,
22 Ira Porchia, Phillip Pierschbacher, and
23 Cherry Ave Middle School
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