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 12 UNITED STATES DISTRICT COURT
 13 SOUTHERN DISTRICT OF CALIFORNIA

14 ELIZABETH MIRABELLI, an individual,
 15 and LORI ANN WEST, an individual,

16 Plaintiffs,

17 v.

18 MARK OLSON, in his official capacity as
 19 President of the EUSD Board of
 20 Education, et al.,

21 Defendants.

Case No.: 3:23-cv-0768-BEN-WVG

**Supplemental Declaration
 of Plaintiff Lori Ann West
 in Support of Motion for a
 Preliminary Injunction**

Judge: Hon. Roger T. Benitez
 Courtroom: 5A
 Hearing Date: June 26, 2023
 Hearing Time: 10:30 a.m.

1 I, Lori Ann West, declare and state as follows:

2 1. I am a plaintiff in this action. I am a primary school teacher employed by
3 the Escondido Union School District. I have been teaching middle-school Physical
4 Education at Rincon Middle School in Escondido since 1999. The matters discussed
5 below are based on my own personal knowledge. I could and would testify to them if
6 called upon to do so in court. This declaration is submitted to supplement my prior
7 declaration, dated May 15, 2023, with testimony concerning subsequently occurring
8 events.

9 **SUPPLEMENTAL REACTION TO THE LAWSUIT**

10 2. In my original declaration, I stated that I was offered the opportunity by
11 the Escondido Union School District to go on paid administrative leave on Thursday,
12 May 4, 2023. However, I explained that I declined because I wanted to participate in
13 my eighth grade students’ graduation and provide them with their end-of-year
14 awards. I love all of my students, and every year I am very proud to send my students
15 on to high school. I did not want to miss that graduation.

16 3. However, an incident occurred on Monday, May 1, 2023. On that day I
17 walked through the lunch tables during lunch, coming from the parking lot. As I
18 walked in, the closest table was a group of kids—some with a Rainbow Pride fans and
19 others with Rainbow Pride flags. Like I always would, I came up to them and said
20 “hello.” Some of the kids politely responded with “hello” while others stayed silent.

21 4. Then, as I continued through the lunch tables, a large group of students
22 ran up to me to each give me a “High Five.” A lot of these students began cheering
23 for me; others said that they loved me. I did not instigate this incident or make any
24 efforts to prolong it. The students just continued coming up to me.

25 5. After a few minutes, I had reached the other side of the lunch area and
26 looked back at so many of the students cheering for me. In my class, whenever I or
27 one of my students performs an impressive feat, I do a “Superstar” pose from the

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1 Saturday Night Live Mary Katherine Gallagher skit. I decided to do that pose to close
2 out this strange occurrence with the students.

3 6. Shortly thereafter, I learned that this whole incident was not well
4 received by some students and teachers. I heard rumors that various teachers were
5 saying that I instigated the incident and that it was disrupting the school's operations.
6 One rumor was that a school social worker called the students' clapping "disgusting
7 behavior." In the days that followed, I also learned that there is apparently a video
8 recording of the incident that is circulating among Rincon Middle School staff. I have
9 been told that the video exists but have not seen it.

10 7. A few weeks later, on Thursday, May 18, 2023, my attorney received an
11 email out of the blue stating that I was involuntarily being placed on paid
12 administrative leave. The email says that some students have complained about me
13 and that I was being placed on leave pending EUSD's investigations. I cannot
14 imagine anything other than the above incident that could have triggered complaints.
15 A true and correct copy of that email is attached as **Exhibit 44**. At 3:26 p.m., I was
16 told not to show up for work the next day.

17 8. This was devastating for me. I absolutely want to go to work and wanted
18 to see out the rest of the school year. When discussing the situation with my co-
19 plaintiff, I broke down in tears. How can EUSD deny me the ability to do my job—
20 which I do extremely well—and deny me the ability to be at the 8th grade graduation?


21 9. Putting me on administrative leave also hurts my students. They will
22 never know why I am gone or get to say goodbye to me—or me to them. Grades were
23 due shortly after May 18. I had planned to grade my students' year-long weight room
24 project the next day, May 19. Now that project will simply not be graded and not
25 included in the students' evaluation. The students are being denied the fruits of their
26 hard work for the entire school year.

27 10. May 18, 2023, was a very emotionally difficult day for me. I felt
28 extremely disrespected—and I felt worse for my students. I don't want to be on paid

1 administrative leave. I want to do my job and teach my students. So I need the Court
2 to rule promptly on my motion for a preliminary injunction and strike down EUSD's
3 unconstitutional policies that hurt students and teachers.

4 I declare under penalty of perjury under the laws of the United States and the
5 State of California that the foregoing is true and correct.

6 Executed on May 26, 2023, in Escondido, California.

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8 Lori Ann West
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EXHIBIT 44

Jeffrey Trissell

From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Thursday, May 18, 2023 3:26 PM
To: Paul Jonna
Cc: Jeffrey Trissell; Jack Sleeth; Nopealey Lay
Subject: Re: Mirabelli v. Olson, S.D. Cal. 23cv768

Dear Mr. Jonna,

The District has received complaints from students regarding your client Ms. West. The District has decided to place Ms. West on paid administrative leave immediately while the complaints are investigated. Please be assured that this decision is not disciplinary in nature and that no conclusions have been made. The District is simply following its normal protocol.

I respectfully request that you let your client know that she is not to show up to the campus tomorrow, Friday May 19th. Please ask Ms. West to refrain from entering on to any EUSD facilities or properties without prior approval from the assistant superintendent of human resources or his designee. Please also advise your client that she is to avoid contact with all EUSD employees or students while in a paid administrative leave status, except for the EEEA President or designee, and her substitute teacher as it pertains to lesson planning. Additionally, she is required to make herself available by telephone for conferencing and or scheduled meetings during normal work hours. Please be assured you office will be notified of any meetings or discussions regarding the complaints that have been made .

Sincerely,
Daniel Shinoff

Sent from my iPhone

On May 5, 2023, at 11:42 AM, Paul Jonna <PJonna@limandri.com> wrote:

Daniel:

Two updates:

1. Lori West wishes to stay working, but she appreciates your offer. I will keep you posted if that changes.
2. Mrs. Mirabelli requests that her AP, Katelyn Slyvester, visit her classes and shares that she was not fired, but that she chose to take a leave of absence in order to allow teachers and students to focus on learning. She also wants the kids to do their best as the year ends, and she wants to reassure them all that she cares about them. She believes that being off campus for this brief period will take the spotlight off the lawsuit for now, so that everyone can focus on academics.

Paul Jonna

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CERTIFICATE OF SERVICE

Elizabeth Mirabelli v. Mark Olson, President of the EUSD Board of Education, et al.
USDC Court Case No.: 3:23-cv-00768-BEN-WVG

I, the undersigned, declare under penalty of perjury that I am over the age of eighteen years and not a party to this action; my business address is P.O. Box 9120, Rancho Santa Fe, California 92067, and that I served the following document(s):

- **Supplemental Declaration of Plaintiff Lori Ann West in Support of Motion for a Preliminary Injunction.**

on the interested parties in this action by placing a true copy in a sealed envelope, addressed as follows:

Thomas Prouty, Deputy General Counsel
California Department of Education
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Attorneys for EUSD Defendants

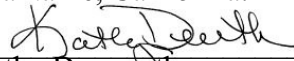
X **(BY MAIL)** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Rancho Santa Fe, California in the ordinary course of business. The envelope was sealed and placed for collection and mailing on this date following our ordinary practices. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

X **(BY ELECTRONIC MAIL)** I served a true copy, electronically on designated recipients via electronic transmission of said documents.

X **(BY ELECTRONIC FILING/SERVICE)** I caused such document(s) to be Electronically Filed and/or Service using the ECF/CM System for filing and transmittal of the above documents to the above-referenced ECF/CM registrants.

I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct.

Executed on May 26, 2023, at Rancho Santa Fe, California.



Kathy Denworth