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Attorneys for Plaintiffs

18 **UNITED STATES DISTRICT COURT**
 19 **CENTRAL DISTRICT OF CALIFORNIA**

20 **MATTHEW BRACH**, an individual,
et al.,

21 Plaintiffs,

22 v.

23 **GAVIN NEWSOM**, in his official
capacity as the Governor of California,
24 *et al.*,

25 Defendants.

Case Number: 2:20-CV-06472-SVW-AFM

**SUPPLEMENTAL DECLARATION
OF MARIANNE BEMA**

Judge: Hon. Stephen V. Wilson
Courtroom: 10A

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I, Marianne Bema, declare:

1. I am a resident of Los Angeles County, California.
2. I am a single mother with three school-aged children, all of who have IEPs.
3. I received an email from the school superintendent Ben Drati on September 10, 2020 concerning special education students and English learners.
4. The September 10th email states that teachers and staff may return to school to implement distance learning.
5. The email also says that waivers for opening elementary schools are not being permitted.
6. The email discusses the limited in-person cohort guidance for special education students, and even though the LA County Department of Public Health (LACDPH) approved districts to start as early as September 14th, the superintendent says that “the implementation of necessary protocols will take some time” and that the “plan provides for a maximum of 10% of the usual student population allowed to be on campus at any one time with restrictions.”
7. The email notes that “Any district taking advantage of this opportunity would have to satisfy the safety protocols set forth by the county before opening.”
8. So, even though the state and county seem to allow the cohort guidance, the email does not set a date for children to return.
9. Then, the next day on September 11, 2020 I received another email (“second email”) from the superintendent, Dr. Ben Shrati.
10. The second email mentions the recall of a survey regarding distance learning.
11. The second email was extremely confusing and concerning.
12. The second email mentions a date of November for return to in-person learning, but then also says “it is highly unlikely that any substantive changes will occur before the end of the first semester.”

1 13. Regarding in-person learning for students with IEPs, the second email
2 states that even though LACDPH released new guidelines that provide a return to
3 additional in-person instruction - that does not include my district, Santa Monica
4 Malibu Unified School District (SMMUSD).

5 14. The email also says the school cannot accommodate both an in-person and
6 distance learning model simultaneously: “The staff who are currently assigned to teach
7 distance learning are the same staff who will teach in-person within the hybrid model. It
8 is not possible for secondary staff to teach both in-person and teach in our current
9 distance learning model at the same time. There may be some areas where we can use
10 SMMUSD teachers to provide distance learning in a format similar to the present
11 configuration. Those areas of instruction might include general subjects such as English
12 or some math classes. But, to put it more simply, in a hybrid model we do not have
13 enough staff to maintain the distance learning model we are currently providing. No
14 school district in our area has the staffing or funding levels to provide that sort of
15 instructional model (hybrid and distance learning as currently structured).

16 15. This email makes it sounds like parents have to choose either all in-person
17 or all-distance learning.

18 16. I then received another email during the evening of September 14, 2020
19 from the Santa Monica-Malibu Director of Special Education (“third email) that again
20 mentioned the 10% cap on persons present on each school campus and that children
21 who ride the school bus must sit one child, per every other seat on the school bus
22 (drastically reducing the amount of children who will be able to be transported to
23 school).

24 17. The third email mentions that vulnerable children will be phased onto the
25 school campus first, and that children with IEPs will be brought to campus “for some
26 services in a later phase.”

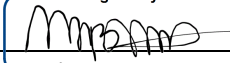
27 18. I still maintain that it is best for my children to be enrolled in in-person
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1 learning, where my children can pay proper attention to trained teachers, and socialize
2 appropriately in-person as opposed to at home and distanced learning.

3 19. I also do not understand why my children cannot attend in-person using the
4 cohort plan now, which is supposed to be a special accommodation for students with
5 IEPs.

6 I declare under penalty of perjury, under the laws of the United States of
7 America, that the foregoing is true and correct and is executed this 15th day of
8 September 2020, at Los Angeles County, California.

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DocuSigned by:

Marianne Bema