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17 * **Pro Hac Vice Pending**
18 Attorneys for Intervenors

19 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
20 **COUNTY OF SAN BERNARDINO**

21 THE PEOPLE OF THE STATE OF
22 CALIFORNIA, EX REI. ROB BONTA,
23 ATTORNEY GENERAL OF THE STATE
24 OF CALIFORNIA,

25 Plaintiff,

26 vs.

27 CHINO VALLEY UNIFIED SCHOOL
28 DISTRICT,

Defendants,

NICHOLE VICARIO, an individual,
RICHARD N. WALES Jr., an individual,

Case No.: CIVSB 2317301

**[PROPOSED] INTERVENOR'S
ANSWER TO PLAINTIFF'S
UNVERIFIED COMPLAINT**

Date: September 15, 2023

Time: 8:30 a.m.

Department: 527

Judge: Hon. Thomas Garza

Action Filed: 8/28/2023

1 **MISTY STARTUP**, an individual,
2 **DARICE DE GUZMAN**, an individual,
3 **KRISTI MARCOS**, an individual, and
4 **KRISTAL BARRET**, an individual.

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Prospective Intervenors.

Prospective Intervenors Nichole Vicario, Richard N. Wales Jr., Misty Startup, Darice De Guzman, Kristi Marcos, and Kristal Barret hereby answer Plaintiff, The People of the State of California, *ex rel.*, Rob Bonta, Attorney General of the State of California (“Plaintiff’s”) unverified complaint (“Complaint”) filed on August 28, 2023, as follows:

11 **GENERAL DENIAL**

12 Pursuant to California Code of Civil Procedure § 431.30(d), Defendant denies, generally and
13 specifically, each and every allegation, paragraph, and cause of action in Plaintiff’s Complaint.
14 Defendant further denies, generally and specifically, that Plaintiff is entitled to any of the relief
15 requested, or that Plaintiff has been damaged or will be damaged in any sum, or at all, by reason of
16 any act or omission on the part of the Defendant, or any of their past or present agents, representatives,
17 or employees.

18 Without admitting any of the facts alleged by the Plaintiff in the Complaint, Defendant pleads
19 the following affirmative defenses to the Complaint:

20 **AFFIRMATIVE DEFENSES**

21 Defendant further alleges the following affirmative defenses to the purported causes of action
22 in the Complaint, without conceding that they bear the burden of proof of persuasion as to any of
23 them, as follows:

24 **FIRST AFFIRMATIVE DEFENSE**

25 Plaintiff’s Complaint, and each purported cause of action therein, is barred because the
26 conduct upon which the Complaint is based was lawful under the doctrine of justification.

1 **SECOND AFFIRMATIVE DEFENSE**

2 Plaintiff's Complaint, and each purported cause of action therein, is barred because the actions
3 complained of were taken and would still have been taken, notwithstanding any of Plaintiff's factual
4 allegations, for legitimate and non-discriminatory reasons.

5 **THIRD AFFIRMATIVE DEFENSE**

6 Plaintiff's Complaint, and each purported cause of action therein, is barred because
7 Defendant's alleged acts or omissions, if any, were in good faith and with reasonable belief that the
8 alleged acts or omissions, if any, were not a violation of any applicable law.

9 **FOURTH AFFIRMATIVE DEFENSE**

10 Plaintiff's Complaint, and each purported cause of action alleged therein, is barred because
11 any conduct complained of against Defendant and its agents, if any, was a just and proper exercise of
12 management discretion undertaken for a fair and honest reason regulated by good faith under the
13 circumstances then existing.

14 **FIFTH AFFIRMATIVE DEFENSE**

15 Defendant denies that it unlawfully discriminated or retaliated against or harassed anyone.
16 Assuming that Plaintiff proves Defendant relied upon any illegal motivation, Defendant would have
17 taken the same action even if they had not relied upon the allegedly illegal ground.

18 **SIXTH AFFIRMATIVE DEFENSE**

19 Plaintiff is not entitled to any equitable or injunctive relief as prayed for in the Complaint
20 because nobody has suffered an irreparable injury based on any alleged conduct of Defendant.

21 **ADDITIONAL AFFIRMATIVE DEFENSES**

22 Because Plaintiff's Complaint is couched in vague and conclusory terms, Defendant cannot
23 fully anticipate all defenses that may be applicable to this action. Accordingly, Defendants reserve
24 the right to assert additional affirmative defenses, if and to the extent such defenses are later found or
25 determined to be applicable.

26 **PRAYER**


27 WHEREFORE, Defendant prays for judgment as follows:

- 28 1. That Plaintiff takes nothing by way of its Complaint;

- 1 2. That the Complaint and each cause of action therein be dismissed in its entirety with
2 prejudice;
- 3 3. That Plaintiff be denied each and every demand and prayer for relief contained in the
4 Complaint;
- 5 4. That judgment be entered in favor of Defendant;
- 6 5. For costs of suit incurred herein, including reasonable attorneys' fees, as allowed by
7 applicable law and/or contract; and
- 8 6. For such other and further relief as the Court deems just and proper.
- 9

10 Date: September 13, 2023

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