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Superior Court of California
County of Los Angeles

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Attorneys for Plaintiff RAFE ESQUITH, individually and
As the representative of a class of similarly-situated persons.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

BC 597979

RAFE ESQUITH, individually and as the
representative of a class of similarly-situated
persons;

Case No.:

**CLASS ACTION COMPLAINT
FOR:**

Plaintiffs,

1. VIOLATION OF DUE PROCESS [42 U.S.C. § 1983—INJUNCTION]
2. VIOLATION OF DUE PROCESS [42 U.S.C. § 1983—DAMAGES]
3. AGE DISCRIMINATION
4. WHISTLEBLOWER RETALIATION
5. WRONGFUL DISCHARGE IN VIOLATION OF PUBLIC POLICY

vs.

LOS ANGELES UNIFIED SCHOOL
DISTRICT; RAMON C. CORTINES, an
individual; DOE SUPERINTENDENT; and
DOES 1 through 50, inclusive;

DEMAND FOR JURY TRIAL

Defendants.

Plaintiff Rafe Esquith, individually and as the representative of a class of similarly-situated persons, alleges as follows:

INTRODUCTION

1. This class action arises out of Defendant Los Angeles Unified School District's ("LAUSD") unconstitutional imprisonment of thousands of its own teachers, executed at the direction of its superintendent, Defendant Ramon C. Cortines. LAUSD operates as a criminal cartel, systematically denying its teachers any semblance of due process while detaining them in nondescript, fenced-in, warehouse facilities throughout Los Angeles

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1 County which LAUSD refers to as “Educational Services Centers”—but that teachers and
2 the media have exposed as “teacher jails.” LAUSD’s teacher jails are expressly designed as
3 a shrewd cost-cutting tactic, implemented to force its older and better-paid teachers out the
4 door at the expense of the students these experienced educators serve.

5 2. Plaintiff Rafe Esquith brings this class action on behalf of the approximately
6 2,000 teachers unlawfully detained by LAUSD, each of whom LAUSD has deprived of
7 approximately \$500,000.00 in pension and health benefits by terminating them or forcing
8 them to quit following their time in teacher jail. Damages in this class action exceed one
9 billion dollars (\$1,000,000,000.00). The teachers also seek a permanent injunction to ensure
10 that LAUSD closes its unconstitutional teacher jails immediately.

11 3. LAUSD’s imprisonment of its own teachers follows a remarkably consistent
12 pattern. An older, experienced, and well-paid teacher will unexpectedly be pulled from the
13 classroom in dramatic fashion. LAUSD does not provide any opportunity to contest the
14 removal, nor does it provide any information regarding why the removal is taking place.
15 LAUSD provides no description of any pending complaint or charges against the teacher
16 whatsoever. Disturbingly, from the very outset LAUSD administrators label the teachers as
17 immoral, unethical, thieves, abusers, or criminals, while at the same time LAUSD places the
18 teacher under a gag order. This is despite the fact that no criminal charges or even civil
19 lawsuits exist.

20 4. Most shockingly, the LAUSD administrators leading the witch hunts against
21 teachers and ruining their lives are the same administrators who have been sanctioned by
22 courts for concealing, manipulating, and destroying evidence of abuse, who are under FBI
23 and other governmental investigation for misappropriation, are led by a superintendent who
24 settled a crotch-grabbing lawsuit for \$300,000.00 of taxpayer money, and who argue in
25 California Superior Courts and to a Court of Appeal (last month) that the age of consent is
26 the same one endorsed by ISIS.

27 5. LAUSD orders the teacher to report to one of its numerous teacher jails the
28 following morning. The teacher is then placed in a cubicle with little or no direction while

1 administrators patrol the hallways and prevent teachers from talking to each other. The
2 teacher can be required to report to teacher jail daily for months or even years—some
3 teachers have been sitting in a cubicle and staring at the wall for over three years, all at
4 taxpayer expense. Once LAUSD’s teacher jails filled up, which occurred rapidly, teachers
5 were told to report to their own homes and regularly phone LAUSD to prove that they are
6 not doing anything productive. Regrettably, most teachers are fired or constructively
7 terminated following their time in teacher jail.

8 6. Moreover, LAUSD provides its imprisoned teachers no meaningful
9 opportunity to contest the unknown charges against them. When LAUSD agents choose to
10 meet with an incarcerated teacher, no pending charges or complaints are revealed, no
11 opportunity to contest accusations is provided, and the “guilty as charged” outcome of the
12 meeting is wholly predetermined—teachers have even received notices stating that the
13 purpose of these meetings is to “discuss your *inappropriate* conduct,” rather than even
14 considering the possibility that the imprisoned teacher may not have done anything wrong.

15 7. Sadly, students in Los Angeles County are deprived of their most experienced
16 teachers so LAUSD can shave numbers off of its bottom line. LAUSD admits that it cannot
17 fund its benefits package for older teachers nearing retirement—who also tend to be at the
18 top of the pay scale—and has decided to solve its funding shortfall by stripping its seasoned
19 educators of their benefits based on secret, and almost exclusively baseless, allegations
20 intended to force them to quit rather than endure a life sentence in teacher jail.

21 **JURISDICTION, VENUE, AND NOTICE**

22 8. This Court has jurisdiction over this action because the nature of the claims
23 and the amounts in controversy meet the requirements for unlimited jurisdiction in the
24 Superior Court of California, County of Los Angeles.

25 9. This Court has jurisdiction over the parties pursuant to Code of Civil Procedure
26 section 410.10, as all Defendants are physically present and domiciled within the State of
27 California.

28 10. Venue is proper in this Court pursuant to Code of Civil Procedure section

1 395(a) because at least one Defendant resides within the jurisdiction of this Court in the
2 County of Los Angeles, California.

3 11. On June 22, 2015, Plaintiff timely served notice of the claims herein alleged
4 upon Defendants pursuant to California Government Code section 910. Defendants
5 constructively rejected the claims forty-five days later on August 6, 2015. Additionally,
6 Plaintiff received a Notice of Case Closure and Right to Sue letter from the California
7 Department of Fair Employment and Housing on August 13, 2015.

8 **PARTIES**

9 12. At all relevant times, Plaintiff Rafe Esquith was a resident of the County of
10 Los Angeles, California. Mr. Esquith has taught at Hobart Boulevard Elementary School
11 since 1984. Located between the Koreatown and Westlake neighborhoods in central Los
12 Angeles, Hobart Elementary primarily serves first generation Americans as well as students
13 from underprivileged backgrounds. At the helm of Hobart Elementary's world-renowned
14 "Room 56," Mr. Esquith has garnered international recognition as a breakthrough leader in
15 innovative teaching. He has been awarded the Disney National Outstanding Teacher of the
16 Year Award, a Sigma Beta Delta Fellowship from John Hopkins University, Oprah
17 Winfrey's \$100,000.00 "Use Your Life Award," Parents Magazine's "As You Grow
18 Award," the National Medal of Arts, and was made an honorary member of the Order of the
19 British Empire in recognition of his exceptional teaching achievements. Mr. Esquith is also
20 a perennial New York Times Best Selling Author of books relating to his unique educational
21 and teaching philosophy. Students from Room 56 routinely enroll in top universities and
22 graduate programs, and both former students and visiting administrators regularly attend his
23 classes hoping to gain insight into his successful teaching strategies. Since 1989, Mr.
24 Esquith has also headed a private nonprofit organization known as the "Hobart
25 Shakespeareans," which provides extracurricular music and arts education to local students.
26 Mr. Esquith helps to fund the nonprofit by donating the fees he earns at speaking
27 engagements.

28 13. At all relevant times, Defendant Los Angeles Unified School District

1 (“LAUSD”) was a unified school district organized and operating pursuant to the laws of the
2 State of California. LAUSD is the largest public school system in the state of California and
3 consists of 1,124 schools, 31,748 teachers, and 655,494 students. As of the 2012–13 school
4 year, LAUSD’s operating budget was approximately \$6.78 billion. LAUSD is responsible
5 for the hiring, retention, supervision, and discipline of thousands of employees countywide,
6 including Plaintiff and all Class Members. LAUSD maintains numerous nondescript,
7 fenced-in, warehouse facilities throughout Los Angeles County commonly known as
8 “teacher jails.”

9 14. At all relevant times, Defendant Ramon C. Cortines was an individual residing
10 in the County of Los Angeles, California. Mr. Cortines has served as Superintendent of the
11 Los Angeles Unified School District since October 20, 2014. Since assuming that role, Mr.
12 Cortines has not visited Room 56, attended a performance of the Hobart Shakespeareans, nor
13 even introduced himself to Mr. Esquith.

14 15. Plaintiff is informed and believes, and thereupon alleges, that Defendant
15 Ramon C. Cortines will resign as LAUSD Superintendent by the end of 2015. Defendant
16 DOE SUPERINTENDENT will serve as Mr. Cortines’ successor as LAUSD Superintendent
17 and his or her identity is unknown to Plaintiff at the time of filing this Complaint. DOE
18 SUPERINTENDENT will be named specifically herein once his or her identity is
19 ascertained.

20 16. At all relevant times, Class Members, including Plaintiff, were employees of
21 LAUSD in Los Angeles County, California, in the position of teacher. As such, Class
22 Members, including Plaintiff, were the type of persons contemplated to be protected by the
23 United States Constitution and the California Constitution, and said laws were intended to
24 apply to LAUSD specifically to prevent the type of injury and damage alleged herein. Upon
25 information and belief, approximately 2,000 Class Members have been unlawfully detained
26 in LAUSD’s “teacher jails.”

27 17. Plaintiff is informed and believes, and thereupon alleges, that at all times
28 mentioned herein, Defendants DOES 1 through 50, inclusive, were, and now are, the agents,

1 employees, servants, officers, board members, attorneys, administrators, teachers, assistants,
2 managers, and/or safety officers employed or retained by any or all Defendants.

3 18. The true names and capacities, whether individual, corporate, associate or
4 otherwise of Defendants sued herein as DOES 1 through 50, inclusive, are unknown to
5 Plaintiff at the time of filing this Complaint, who therefore sues said Defendants by such
6 fictitious names.

7 19. Plaintiff is informed and believes, and based thereon alleges, that at all times
8 mentioned herein, each of the Defendants was the agent, servant, employee, co-venturer, and
9 co-conspirator of each of the remaining Defendants, and was at all times herein mentioned
10 acting within the course, scope, purpose, consent, knowledge, ratification, and authorization
11 of and for such agency, employment, joint venture and conspiracy.

12 20. Plaintiff is further informed and believes, and thereon alleges, that at all
13 relevant times, each Defendant was completely dominated and controlled by its Co-
14 Defendants, and each was the alter ego of the other. Whenever and wherever reference is
15 made in this Complaint to any conduct by Defendant or Defendants, such allegations and
16 references shall also be deemed to mean the conduct of each of the Defendants, acting
17 individually, jointly, and severally. Whenever and wherever reference is made to individuals
18 who are not named as Defendants in this Complaint, but were employees and/or agents of
19 Defendants, such individuals at all relevant times acted on behalf of Defendants named in
20 this Complaint within the scope of their respective employments.

21 21. Plaintiff will ask leave of Court to amend this Complaint to show the true
22 names and capacities of such Defendants when their names have been ascertained. Plaintiff
23 is informed and believes, and thereupon alleges, that each of the Defendants designated
24 herein, including DOES 1 through 50, are responsible in some manner and liable herein by
25 reason of intentional wrongdoing, negligence, and/or other actionable conduct, and that such
26 conduct was a substantial factor in causing the injuries to Plaintiff complained herein.

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1 **GENERAL ALLEGATIONS**

2 **Rafe Esquith's Incarceration in Teacher Jail**

3 22. On or around March 19, 2015, Mr. Esquith was unexpectedly called to a
4 meeting by Hobart Boulevard Elementary School's Principal. When Mr. Esquith entered the
5 meeting, a school staff member was also present. The staffer was crying and stated "I don't
6 want this to ruin our friendship." Mr. Esquith did not understand what she was talking about
7 or why she was crying. The Principal assured Mr. Esquith that "you have nothing to worry
8 about. This is a bump in the road. I need to counsel you that you need to be careful what
9 you say in front of students." Mr. Esquith did not understand what he was talking about, and
10 the Principal abruptly ended the meeting without any other substantive communications.

11 23. Mr. Esquith heard nothing more of the unusual meeting until nearly a month
12 later. On or around April 7, 2015, following spring break, the Principal came into Mr.
13 Esquith's classroom and informed him that LAUSD had forwarded a complaint regarding
14 Mr. Esquith to the California Commission on Teacher Credentialing. The Principal did not
15 give more details, but again assured Mr. Esquith that "you have nothing to worry about. I
16 will help you. This is about nothing."

17 24. The very next day, on or around April 8, 2015, the Principal called Mr. Esquith
18 into his office. The Principal explained that the staffer who had been crying in his office the
19 previous month had lodged the complaint against Mr. Esquith. Apparently, the complaint
20 stemmed from a joke about "nudity" Mr. Esquith made in front of his students.

21 25. After informing the Principal that he had no idea what he was talking about,
22 and that he had never before received a complaint about making inappropriate jokes in his
23 classroom, Mr. Esquith explained that his statements came from, and students understood
24 them to be, a Mark Twain passage.

25 26. In discussing LAUSD's lack of funding for the arts, Mr. Esquith told his class
26 that if fundraising fell short for the annual Shakespearean play, which Mr. Esquith funded
27 entirely from his own pocket and from private donations, "we will all have to play the role of
28 the king in Huckleberry Finn."

1 27. Mr. Esquith then quoted directly from Mark Twain's *The Adventures of*
2 *Huckleberry Finn*:

3 At last, when he'd built up everyone's expectations high enough,
4 he rolled up the curtain. The next minute the king came prancing
5 out on all fours, naked. He was painted in rings and stripes all
6 over in all sorts of colors and looked as splendid as a rainbow.
7 And . . . well, never mind the rest of his outfit—it was just as
8 wild, but it was really funny. The people nearly died laughing.
9 And when the king finished prancing around and capered off
10 stage, they roared and clapped and raged and guffawed until he
11 came back and did it all over again.

12 28. The Principal explained that he was receiving "pressure" from LAUSD,¹ which
13 was demanding that Mr. Esquith issue an apology. The Principal reiterated that LAUSD
14 assured him that "nothing bad was going to happen," but that LAUSD nevertheless wanted
15 Mr. Esquith to sign a written apology acknowledging that his statements might be viewed as
16 "serious" and may have made "others uncomfortable."

17 29. Relying on the Principal's assurances about LAUSD's intent, Mr. Esquith did
18 what any reasonable teacher in his position would do and acquiesced to the Principal's
19 demand, drafting a formal apology for his quotation of Mark Twain:

20 I am deeply and sincerely sorry that any comment someone
21 heard, *or thought they heard*, has anyone uncomfortable. I am a
22 teacher who prides himself on professionalism. I dress
23 immaculately for the job. Over a thousand teachers a year come
24 to my class to seek my guidance about the profession of teaching.
25 As a proud teacher, I am deeply saddened by this situation.

26 30. Following this, Mr. Esquith was told by the Principal that because of his
27 students' high performance that LAUSD administrators wanted his class to be the first group
28 of students to take the "Common Core Test." Once Mr. Esquith completed supervising his
class, he was told to report to teacher jail. He was thereafter housed in a nondescript, fenced-
in, warehouse facility located on North Soto Street in an industrial area of Los Angeles.

 31. LAUSD simultaneously issued a formal gag order against Mr. Esquith
prohibiting him from communicating with his students or their parents. Mr. Esquith
subsequently received hundreds of emails and calls each day from parents and students

¹ This Principal, who spent his entire career at Hobart Boulevard Elementary School, unexpectedly "transferred" out of the school in the midst of the persecution of Rafe Esquith.

1 regarding his unexplained absence. He was not permitted to respond to a single one.

2 32. LAUSD investigators then began removing Mr. Esquith's former students from
3 their new classes, without their parents' knowledge or consent, to intimidate and interrogate
4 them.

5 33. LAUSD investigators also physically and psychologically tortured graduates of
6 Mr. Esquith's classroom in late August 2015, well after every other attempt at discrediting
7 Mr. Esquith failed. The investigators, with no jurisdiction, besieged homes and
8 unexpectedly crept up on former students, begging for negative statements about Mr.
9 Esquith. In fact, some of these students have retained their own attorneys and intend to bring
10 legal action against LAUSD based on the harassing conduct, physical intimidation, and
11 abuse by LAUSD investigators.

12 34. This fits a disturbingly consistent pattern and practice of LAUSD investigators
13 terrorizing, tormenting, and abusing students in order to extract statements that fit its
14 narrative to terminate a targeted teacher. In many cases, investigators provide students with
15 questionnaires containing loaded questions having nothing to do with why the teacher was
16 removed from class, such as: "what creepy things did teacher X do?" or "has teacher Y ever
17 looked at you funny?" or "give examples of how teacher Z makes you feel uncomfortable"
18 or "explain why teacher Q might be racist."

19 35. As discussed above, LAUSD referred Mr. Esquith to the California Commission
20 on Teacher Credentialing for serious conduct and abuse. On or about May 27, 2015, the
21 California Commission on Teacher Credentialing diligently vetted LAUSD's claims and
22 closed its investigation of Mr. Esquith having found no evidence of misconduct.

23 36. Despite the fact that the State of California itself found the complaint
24 completely baseless, LAUSD was intent on destroying Mr. Esquith's livelihood. Mr.
25 Esquith was not returned to his classroom, the harassment escalated, and rather than receive
26 a *Skelly* hearing, Mr. Esquith was instead notified in September 2015 that he must attend
27 something LAUSD labeled a "your inappropriate conduct" conference.

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The Conditions of Teacher Jail

1
2 37. The story of imprisonment and denial of due process in LAUSD's unlawful
3 teacher jail is common to the class. Approximately 2,000 other teachers have suffered the
4 same fate. The vast majority of investigations are based not on student or parent complaints,
5 but rather upon vague allegations by LAUSD administrators which eventually widen to
6 encompass a complete audit of a teacher's life and every association, affiliation, and
7 relationship the teacher has ever had his or her entire life. Teachers with unblemished and
8 impeccable records (unlike LAUSD administrators) fear for their lives and reputations, and if
9 they challenge the district they are publically shamed by an institution with limitless
10 resources.

11 38. While hard to imagine existing anywhere but in countries without due process,
12 "teacher jails" are gated structures spread throughout Los Angeles County where teachers are
13 forced to spend their days staring at cubicle walls and are forbidden from using any
14 electronic device. Gag orders are imposed, teachers' entire lives are pried into by a school
15 district acting as a rogue regime with its own rules unto itself, devoid of due process, all
16 because the targeted teacher decided to sacrifice his or her life to public education. Teachers
17 have described the experience as psychological torture, where they are deprived of dignity,
18 and as an experience unlike anything matched in their entire lives.

19 39. While in teacher jail, educators are forced to spend approximately 6 hours each
20 day in a cubicle where they are allowed to do little more than stare at a wall. Teachers are
21 not allowed to communicate with other jailed teachers or use a computer, and are permitted
22 only one 30 minute lunch break and additional 20 minute "stretch breaks." Ironically, many
23 teachers who find themselves in teacher jail are told to work on lesson plans that they will
24 never have the opportunity to utilize in the classroom.

25 40. A teacher's "sentence" in teacher jail varies, with some teachers held for as
26 little as one week while others housed for more than three years. Mirroring California's own
27 prison issues, overcrowding in teacher jails has forced LAUSD to begin housing the falsely-
28 accused teachers within their own homes. While in teacher jail at home, teachers are treated

1 like convicted felons and are not allowed to leave their own property until their six-hour
2 daily housing period ends and must periodically call LAUSD to check in. LAUSD agents
3 patrol teachers' homes and neighborhoods in hopes of finding teachers violating their
4 draconian sentences, even going so far as to scale fences to spy on teachers.

5 **LAUSD's Teacher Jails Are a Criminal Scheme**
6 **to Cut Costs at Students' Expense**

7 41. LAUSD recently reported that it expects to suffer a budget deficit of over half
8 a billion dollars over the next three years—a figure that does not include an estimated eleven
9 billion dollars in presently-unfunded future pension and healthcare obligations for retired
10 teachers.

11 42. LAUSD's criminal scheme to imprison experienced, veteran teachers is a bald-
12 faced attempt to reduce its ballooning retiree obligations by intimidating its best educators
13 into quitting their profession before accruing retiree health care and pension benefits.
14 Tragically, it is the students who suffer most from LAUSD's unconstitutional teacher jails,
15 as the most qualified teachers in the district are forced to languish within fenced-in facilities
16 rather than serve their communities.

17 43. It is beyond dispute that nearly every teacher unlawfully detained by LAUSD
18 in teacher jail is nearing eligibility for lifelong benefits. As the District's own statistics have
19 shown, the teacher jail system now overwhelmingly targets older, high earning teachers.

20 **CLASS ACTION ALLEGATIONS**

21 44. Plaintiff brings this class action on his own behalf and on behalf of all persons
22 similarly situated. Such a representative action is necessary to prevent and remedy the
23 unconstitutional, unlawful, and unfair practices alleged herein.

24 45. All claims alleged herein arise under California and Federal law for which
25 Plaintiff seeks relief.

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1 46. This action is brought and may be properly maintained as a class action
2 pursuant to the provisions of Rule 23 of the Federal Rules of Civil Procedure. Plaintiff
3 brings this action on behalf of himself and all members of the class, defined as follows:

4 **During the fullest period allowed by law, all natural persons**
5 **who were and/or are LAUSD teachers who were denied due**
6 **process under the United States Constitution and/or**
7 **California Law when LAUSD removed them from their**
8 **classrooms and placed them in one of its "teacher jail"**
9 **facilities. This class excludes: (1) any Defendant or any of**
10 **Defendants' legal representatives, officers, directors, assigns,**
11 **and successors; (2) the Judge to whom this case is assigned**
12 **and any member of the Judge's staff or immediate family;**
13 **and (3) Class Counsel.**

14 47. Plaintiff also seeks to represent a proposed sub-class (the "Retirement Age
15 Sub-Class"), defined as follows:

16 **During the fullest period allowed by law, all natural persons**
17 **who were and/or are LAUSD teachers above the age of forty**
18 **(40) years old who were discriminated against on the basis of**
19 **age by LAUSD. This sub-class excludes: (1) any Defendant**
20 **or any of Defendants' legal representatives, officers,**
21 **directors, assigns, and successors; (2) the Judge to whom this**
22 **case is assigned and any member of the Judge's staff or**
23 **immediate family; and (3) Class Counsel.**

24 48. Plaintiff also seeks to represent a proposed sub-class (the "Whistleblower Sub-
25 Class"), defined as follows:

26 **During the fullest period allowed by law, all natural persons**
27 **who were and/or are LAUSD teachers who suffered**
28 **retaliation by LAUSD for reporting misconduct. This sub-**
29 **class excludes: (1) any Defendant or any of Defendants' legal**
30 **representatives, officers, directors, assigns, and successors;**
31 **(2) the Judge to whom this case is assigned and any member**
32 **of the Judge's staff or immediate family; and (3) Class**
33 **Counsel.**

34 49. Plaintiff also seeks to represent a proposed sub-class (the "Wrongfully
35 Discharged Sub-Class"), defined as follows:

36 **During the fullest period allowed by law, all natural persons**
37 **who were LAUSD teachers who were wrongfully discharged**
38 **or wrongfully constructively discharged. This sub-class**
39 **excludes: (1) any Defendant or any of Defendants' legal**
40 **representatives, officers, directors, assigns, and successors;**
41 **(2) the Judge to whom this case is assigned and any member**
42 **of the Judge's staff or immediate family; and (3) Class**
43 **Counsel.**

44 50. Plaintiff reserves the right to amend the class definition or any and all sub-class
45 definitions if discovery or further investigations reveal that the class or sub-class should be

1 expanded or otherwise modified.

2 **Numerosity and Ascertainability**

3 51. The members of the class are so numerous that joinder of all members would
4 be impracticable. While the exact number of class members is likely to increase by the
5 thousands, Plaintiff is informed and believes, and based thereon alleges, that LAUSD
6 unlawfully imprisoned approximately 2,000 teachers during the Class Period. The precise
7 number of members can be ascertained through discovery, which will include Defendants'
8 disciplinary records, termination and resignation information, and other records.

9 **Well-Defined Community of Interest**

10 52. Commonality and Predominance: There are common questions of law and fact
11 that predominate over any questions affecting only individual members of the class.
12 Defendants' wrongful conduct has harmed each individual teacher in an identical fashion.
13 Specific common legal and factual questions include, but are not limited to, the following:

- 14 a) Whether Defendant LAUSD has an official policy and/or custom of
15 removing teachers from their classrooms and detaining them in teacher
16 jail without providing any notice of a complaint or charge against them,
17 and whether such policy and/or custom is and was unlawful;
- 18 b) Whether Defendant LAUSD has an official policy and/or custom of
19 removing teachers from their classrooms and detaining them in teacher
20 jail without providing any opportunity for hearing, and whether such
21 policy and/or custom is and was unlawful;
- 22 c) Whether Defendant LAUSD has an official policy and/or custom of
23 removing teachers from their classrooms and detaining them in teacher
24 jail without providing any opportunity to contest a complaint or charge
25 against them, and whether such policy and/or custom is and was
26 unlawful;
- 27 d) Whether Defendant LAUSD has an official policy and/or custom of
28 removing teachers from their classrooms and detaining them in teacher

1 jail in order to deprive them of post-retirement benefits, and whether
2 such policy and/or custom is and was unlawful;

3 e) Whether Defendant Ramon C. Cortines is the person responsible for
4 establishing LAUSD's final policy with respect to the hiring, retention,
5 discipline, termination, and compensation of LAUSD's teachers, and
6 whether he personally violated and/or ratified the violation of Plaintiffs'
7 due process rights;

8 f) Whether the denial of Plaintiffs' due process rights was a conscious and
9 deliberate choice to follow a course of action among various
10 alternatives, and whether Defendants personally committed and/or
11 ratified the aforementioned acts with knowledge that these acts would
12 result in the denial of Plaintiffs' due process rights;

13 g) Whether Defendants' conduct was the moving force behind, and the
14 direct and proximate cause of, the denial of Plaintiffs' due process
15 rights;

16 h) Whether age was a substantial motivating factor in Defendants'
17 discriminatory violations of due process targeting members of the
18 Retirement Age Sub-Class; and

19 i) Whether the advanced age and proximity to securing health care and
20 pension benefits of the Retirement Age Sub-Class were a substantial
21 motivating reason for Defendants to terminate or constructively
22 terminate all members of the Sub-Class.

23 53. Typicality: The representative Plaintiff's claims are typical of the claims of the
24 members of the class. Plaintiff and all class members have been injured by the same
25 unlawful and unconstitutional conduct by Defendants. Plaintiff's claims arise from the same
26 practices and course of conduct that give rise to the claims of the class members and are
27 based on the same legal theories.

28 54. Adequacy: Plaintiff is a representative who will fully and adequately assert

1 and protect the interests of the class, and has retained class counsel who are experienced and
2 qualified in prosecuting class actions. Neither Plaintiff nor his attorneys have any interests
3 contrary to or conflicting with the class.

4 **Superiority of Class Action**

5 55. A class action is superior to all other available methods for the fair and
6 efficient adjudication of this lawsuit, because individual litigation of the claims of all class
7 members is economically unfeasible and procedurally impracticable. While the aggregate
8 damages sustained by the class are substantial, the individual damages incurred by each class
9 member are too small to warrant the expense of individual suits. The likelihood of
10 individual class members prosecuting their own separate claims is remote, and even if every
11 class member could afford individual litigation, the court system would be unduly burdened
12 by individual litigation of such cases. Further, individual members of the class do not have a
13 significant interest in individually controlling the prosecution of separate actions, and
14 individualized litigation would also result in varying, inconsistent, or contradictory
15 judgments and would magnify the delay and expense to all of the parties and the court
16 system because of multiple trials of the same factual and legal issues. By contrast, the
17 conduct of this action as a class action presents fewer management difficulties, conserves the
18 resources of the parties, and the court system and protects the rights of each class member.

19 56. Defendants have access to address information for the class members, which
20 may be used for the purpose of providing notice of the pendency of this action.

21 57. Additionally, Defendants have refused to act to close their unconstitutional
22 teacher jails, return the imprisoned teachers back to their classrooms, and reinstate teachers
23 unlawfully terminated or constructively terminated. Injunctive relief mandating the
24 aforementioned remedies would be appropriate for the Class Members as a whole.

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1 **FIRST CAUSE OF ACTION**

2 **VIOLATION OF DUE PROCESS [42 U.S.C. § 1983—INJUNCTION]**

3 ***(By Plaintiff Rafe Esquith Individually and On Behalf of All Class Members***
4 ***Against Defendants Ramon C. Cortines, DOE SUPERINTENDENT,***
5 ***and DOES 1–50, Acting in Their Official Capacities)***

6 58. Plaintiff realleges and incorporates herein by reference each and every
7 allegation contained in the preceding paragraphs of this Complaint as though fully set forth
8 herein.

9 59. Defendants Ramon C. Cortines, DOE SUPERINTENDENT, and Does 1–50
10 are employed by LAUSD and at all relevant times were acting under color of state law in
11 their official capacities.

12 60. Plaintiff and Class Members have the right of due process guaranteed by the
13 Fifth and Fourteenth Amendments of the United States Constitution. State action may not
14 violate Plaintiffs' due process rights. These due process provisions require that state action
15 be applied with fundamental fairness. Defendants' conduct in this case amounts to state
16 action.

17 61. Defendants have an official policy and/or custom of violating its teachers' due
18 process rights by depriving them of their ability to pursue their profession and retain post-
19 retirement benefits. This deprivation was accomplished by removing teachers from their
20 classrooms and detaining them in teacher jail without providing any notice of a complaint or
21 charge against them, any opportunity for hearing, or any opportunity to contest a complaint
22 or charge. Defendants' conduct also deprived teachers of post-retirement benefits that they
23 have worked years or decades to secure by stripping them of their ability to practice their
24 profession, thereby forcing them to quit and forfeit a primary benefit of the years of work
25 made towards obtaining their post-retirement healthcare and pension.

26 62. Pursuant to this policy and/or custom, Defendants violated Plaintiff Rafe
27 Esquith's and Class Members' due process rights by detaining them in teacher jail, depriving
28 them of the right to practice their profession, and depriving them of post-retirement benefits.

1 63. Defendant Ramon C. Cortines is the Superintendent of Defendant LAUSD and
2 is the person responsible for establishing LAUSD's final policy with respect to all aspects of
3 its operation, including the hiring, retention, discipline, termination, and compensation of
4 teachers. Mr. Cortines personally violated and/or ratified the violation of Plaintiffs' due
5 process rights as described above. Mr. Cortines' personal involvement in Mr. Esquith's
6 imprisonment and the subsequent investigation, by personally hiring a team of investigators,
7 retaining a law firm to assist in the investigation, and issuing a press release, is
8 demonstrative of his direct involvement in all Class Members' denial of due process.

9 64. Mr. Cortines' denial of Plaintiffs' due process rights was a conscious and
10 deliberate choice to follow a course of action among various alternatives, and Mr. Cortines
11 personally committed and/or ratified the aforementioned acts with knowledge that these acts
12 would result in the denial of Plaintiffs' due process rights.

13 65. Through its deliberate conduct, Defendants' detention of Plaintiffs in teacher
14 jail was the moving force behind, and the direct and proximate cause of, the denial of
15 Plaintiffs' due process rights.

16 66. Plaintiff and Class Members seek injunctive relief against Defendants to
17 preclude them from unlawfully stripping Plaintiffs of their classrooms and detaining them in
18 teacher jail without comporting with Plaintiffs' due process rights. Defendants refuse to
19 cease these constitutional violations and continue to violate Plaintiffs' due process rights.

20 67. Unless enjoined by an Order of the Court, Defendants will continue to violate
21 Plaintiffs' constitutional rights and Plaintiffs have no adequate and complete remedy at law
22 to preclude this immediate violation. If Plaintiffs do not seek temporary relief and ultimate
23 injunction, they will suffer irreparable harm to their reputation as educators and to their
24 future employability, for which no monetary damage will suffice to compensate. Moreover,
25 granting injunctive relief will not harm Defendants whatsoever, as it would simply allow
26 teachers to return to the classrooms to which they are assigned to perform educational duties
27 for which they are already being paid.

28 68. Due to the conduct of Defendants, Plaintiffs have incurred and will continue to

1 incur attorneys' fees, and are entitled to recovery of said fees pursuant to 42 U.S.C. § 1988.

2 **SECOND CAUSE OF ACTION**

3 **VIOLATION OF DUE PROCESS [42 U.S.C. § 1983—DAMAGES]**

4 ***(By Plaintiff Rafe Esquith Individually and On Behalf of All Class Members***

5 ***Against Defendants Ramon C. Cortines, DOE SUPERINTENDENT,***

6 ***and DOES 1–50, Acting in Their Individual Capacities)***

7 69. Plaintiff realleges and incorporates herein by reference each and every
8 allegation contained in the preceding paragraphs of this Complaint as though fully set forth
9 herein.

10 70. Defendants Ramon C. Cortines, DOE SUPERINTENDENT, and Does 1–50
11 are employed by LAUSD and at all relevant times were acting under color of state law in
12 their individual capacities.

13 71. Plaintiff and Class Members have the right of due process guaranteed by the
14 Fifth and Fourteenth Amendments of the United States Constitution. State action may not
15 violate Plaintiffs' due process rights. These due process provisions require that state action
16 be applied with fundamental fairness. Defendants' conduct in this case amounts to state
17 action.

18 72. Defendants violated Plaintiff's and Class Members' due process rights by
19 depriving them of their ability to pursue their profession and retain post-retirement benefits.
20 This deprivation was accomplished by removing teachers from their classrooms and
21 detaining them in teacher jail without providing any notice of a complaint or charge against
22 them, any opportunity for hearing, or any opportunity to contest a complaint or charge.
23 Defendants' conduct also deprives teachers of post-retirement benefits that they have worked
24 years or decades to secure by stripping them of their ability to practice their profession,
25 thereby forcing them to quit and forfeit a primary benefit of the years of work made towards
26 obtaining their post-retirement healthcare and pension.

27 73. Mr. Cortines personally violated and/or ratified the violation of Plaintiffs' due
28 process rights as described above. Mr. Cortines' personal involvement in Mr. Esquith's

1 imprisonment and the subsequent investigation, by personally hiring a team of investigators,
2 retaining a law firm to assist in the investigation, and issuing a press release, is
3 demonstrative of his direct involvement in all Class Members' denial of due process.

4 74. Defendants' denials of Plaintiffs' due process rights were committed with
5 knowledge that these acts would result in the denial of Plaintiffs' due process rights.

6 75. Through its deliberate conduct, Defendants' detention of Plaintiffs in teacher
7 jail was the moving force behind, and the direct cause of, the denial of Plaintiffs' due process
8 rights.

9 76. In acting as alleged herein, Defendants caused Plaintiffs general and special
10 damages, including pain and suffering, in an amount according to proof.

11 77. Due to the conduct of Defendants, Plaintiffs have incurred and will continue to
12 incur attorneys' fees, and are entitled to recovery of said fees pursuant to 42 U.S.C. § 1988.

13 THIRD CAUSE OF ACTION

14 AGE DISCRIMINATION

15 *(By Plaintiff Rafe Esquith Individually and on Behalf of the*
16 *Retirement Age Sub-Class Against All Defendants)*

17 78. Plaintiff realleges and incorporates as if fully stated herein each and every
18 allegation contained above and below and incorporates the same herein by this reference as
19 though set forth in full.

20 79. California Government Code section 12940(a) states in pertinent part:
21 It is an unlawful employment practice for an employer, because
22 of the race, religious creed, color, age, sexual orientation, or
23 military and veteran status of any person, to discharge the person
24 from employment or to discriminate against the person in
25 compensation or in terms, conditions, or privileges of
26 employment.

27 80. Defendants intentionally created or knowingly permitted the above-described
28 working conditions to exist.

81. Plaintiffs were subjected to the above-described discrimination in the terms,
conditions, or privileges of employment in violation of Government Code sections 12940(a).

82. Plaintiff Rafe Esquith and members of the Retirement Age Sub-Class were all

1 over the age of 40 at the time they were subjected to the above-described discrimination and
2 unlawful treatment by Defendants. Plaintiff received a Notice of Case Closure and Right to
3 Sue letter from the California Department of Fair Employment and Housing on August 13,
4 2015.

5 83. Defendants discriminated against Plaintiff Rafe Esquith and members of the
6 Retirement Age Sub-Class by removing them from their classrooms and detaining them in
7 teacher jail without providing notice of any complaint or charge against them, an opportunity
8 for hearing, or the ability to contest the complaint or charge, all in violation of their rights to
9 due process.

10 84. Defendants also discriminated against Plaintiff Rafe Esquith and members of
11 the Retirement Age Sub-Class by removing them from their classrooms and detaining them
12 in teacher jail in an effort to deprive them of securing post-retirement benefits they worked
13 years towards earning.

14 85. As a direct and proximate cause of the tortious, unlawful, and wrongful acts of
15 Defendants and their respective agents, servants, employees, and authorized representatives
16 as aforesaid, Plaintiffs have suffered past and future special damages and past and future
17 general damages in an amount according to proof at trial. Plaintiffs have been damaged
18 emotionally and financially, including but not limited to emotional suffering from emotional
19 distress and ridicule, as well as loss of income, employment, and career benefits.

20 86. In engaging in the conduct as hereinabove alleged, Defendants and their
21 agents, servants, employees, and authorized representatives acted with malice, fraud, and
22 oppression and/or in conscious disregard of Plaintiffs' health, rights, and well-being, and
23 intended to subject Plaintiffs to unjust hardship, thereby warranting an assessment of
24 punitive damages in an amount sufficient to punish Defendants and deter others from
25 engaging in similar conduct.

26 87. Plaintiff is entitled to an award of attorneys' fees against Defendants pursuant
27 to Government Code section 12965.

28 ///

1 **FOURTH CAUSE OF ACTION**

2 **WHISTLEBLOWER RETALIATION**

3 **(By Plaintiff Rafe Esquith Individually and on Behalf of the**
4 **Whistleblower Sub-Class Against All Defendants)**

5 88. Plaintiff realleges and incorporates herein by reference each and every
6 allegation contained in the preceding paragraphs of this Complaint as though fully set forth
7 herein.

8 89. Plaintiff and members of the Whistleblower Sub-Class engaged in protected
9 activity by reporting illegal, economically wasteful, inefficient, and/or incompetent conduct
10 by Defendants, and/or Defendants believed that Plaintiff and members of the Whistleblower
11 Sub-Class would engage in such protected activity.

12 90. Plaintiff Rafe Esquith, for example, has been an outspoken critic of LAUSD's
13 collusion with big business and of its wasteful spending on ill-advised programs. He has
14 publicly opposed many of LAUSD's recent policies and initiatives, including its disastrous
15 "iPad for every student" program, and on August 27, 2013 was the featured speaker at
16 KPCC's "Crawford Family Forum," in which Mr. Esquith publically stated that LAUSD's
17 policies were making good teachers an "endangered species."

18 91. As a result of this disclosure and/or reporting, Plaintiff and the Whistleblower
19 Sub-Class members suffered adverse employment actions including, but not limited to, being
20 stripped of their classrooms and confined to teacher jail, denied benefits, and termination
21 and/or constructive discharge. Defendants' retaliatory conduct was a substantial factor in
22 causing Plaintiff's and the Sub-Class members' harm.

23 92. By taking the above described adverse employment actions against Plaintiff
24 and the Whistleblower Sub-Class, Defendants violated Labor Code section 1102.5 and
25 Education Code section 44113.

26 93. This protected activity was a contributing factor in Defendants' decision to
27 take the adverse employment actions described above. Defendants cannot and will not be
28 able to prove by clear and convincing evidence that such adverse employment actions as set

1 forth above would have been taken in the absence of Plaintiff's and Sub-Class members'
2 protected activity.

3 94. In acting as alleged herein, Defendants caused Plaintiffs general and special
4 damages, including pain and suffering, in an amount according to proof.

5 95. In engaging in the conduct as hereinabove alleged, Defendants acted with
6 malice, fraud, and oppression and/or in conscious disregard of Plaintiffs' health, rights, and
7 well-being, and intended to subject Plaintiffs to unjust hardship, thereby warranting an
8 assessment of punitive damages in an amount sufficient to punish Defendants and deter
9 others from engaging in similar conduct.

10 96. Due to the conduct of Defendants, Plaintiffs have incurred and will continue to
11 incur attorneys' fees, and are entitled to recovery of said fees pursuant to Education Code
12 section 44114(c).

13 FIFTH CAUSE OF ACTION

14 **WRONGFUL DISCHARGE IN VIOLATION OF PUBLIC POLICY**

15 *(By Plaintiff Rafe Esquith on Behalf of the*

16 *Wrongfully Discharged Sub-Class Against All Defendants)*

17 97. Plaintiff realleges and incorporates herein by reference each and every
18 allegation contained in the preceding paragraphs of this Complaint as though fully set forth
19 herein.

20 98. It is a violation of public policy to terminate an employee on the basis of that
21 employee's advanced age.

22 99. All members of the Retirement Age Sub-Class were employed by Defendants
23 as teachers and subsequently terminated or constructively terminated by Defendants.

24 100. The advanced age and proximity to securing health care and pension benefits
25 of the Retirement Age Sub-Class were a substantial motivating reason for Defendants to
26 terminate or constructively terminate all members of the Sub-Class.

27 101. In acting as alleged herein, Defendants caused Plaintiffs general and special
28 damages, including pain and suffering, in an amount according to proof.

GERAGOS & GERAGOS, APC
HISTORIC ENGINE CO. NO. 28
644 SOUTH FIGUEROA STREET
LOS ANGELES, CALIFORNIA 90017-3411

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102. In engaging in the conduct as hereinabove alleged, Defendants acted with malice, fraud, and oppression and/or in conscious disregard of Plaintiffs' health, rights, and well-being, and intended to subject Plaintiffs to unjust hardship, thereby warranting an assessment of punitive damages in an amount sufficient to punish Defendants and deter others from engaging in similar conduct.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on his own behalf, and on behalf of the Class Members and Sub-Class Members, prays for judgment as follows:

1. For an order certifying the proposed Classes and Sub-Classes;
2. That Plaintiff be appointed as the representative of the Classes and Sub-Classes;
3. That counsel for Plaintiff be appointed as Class Counsel;
4. For all general and special damages in an amount according to proof;
5. For all actual, consequential, and incidental damages in an amount according to proof;
6. For all punitive and exemplary damages in an amount according to proof;
7. That the Court enjoin Defendants from holding any of its employees in its teacher jail facilities without providing them due process;
8. For attorney's fees where applicable;
9. For costs of suit herein incurred; and
10. For such other and further relief as the Court may deem just and proper.

DATED: October 15, 2015

GERAGOS & GERAGOS, APC

By: 

MARK J. GERAGOS
BEN J. MEISELAS
ZACK V. MULJAT
Attorneys for Plaintiff RAFE ESQUITH,
individually and as the representative of a
class of similarly-situated persons.

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff RAFE ESQUITH, individually and as the representative of a class of similarly-
3 situated persons, hereby demands a jury trial.

4
5 DATED: October 15, 2015

GERAGOS & GERAGOS, APC

7
8 

9 By:

10 MARK J. GERAGOS
11 BEN J. MEISELAS
12 ZACK V. MULJAT
13 Attorneys for Plaintiff RAFE ESQUITH,
14 individually and as the representative of a
15 class of similarly-situated persons

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