



**NOTICE OF MOTION AND MOTION TO STRIKE ALLEGATIONS**

PLEASE TAKE NOTICE that on July 18, 2018 at 2:00 p.m. before the Honorable William H. Orrick in Courtroom #2 on 17<sup>th</sup> floor of the above-entitled Court, RABAB ABDULHADI (“Dr. Abdulhadi”) will move pursuant to Rule 12(f) of the Federal Rules of Civil Procedure to strike various allegations of the Plaintiffs’ Second Amended Complaint (“SAC”) filed on June 19, 2017.

Dr. Abdulhadi respectfully moves the Court to strike the following portions of the Plaintiffs’ Complaint pursuant to Rule 12(f):

- (1) Paragraph 33 of Plaintiffs’ Complaint whereby the Plaintiffs provide the Court with a distorted version of the U.S. State Department’s definition of Anti-Semitism.

This Motion is based upon the Memorandum of Points and Authorities included herein, the existing record in this matter, and any such additional authority and argument as may be requested in Abdulhadi’s reply and at the hearing on this Motion.

DATED: April 30, 2018

RESPECTFULLY SUBMITTED

**LAW OFFICE OF MARK ALLEN KLEIMAN**

By: /s/ Mark Allen Kleiman

Mark Allen Kleiman, Esq.

**LAW OFFICES OF BEN GHARAGOZLI**  
Ben Gharagozli, Esq.

**GAVIN, CUNNINGHAM & HUNTER**  
Alan F. Hunter, Esq.  
Elizabeth Gong Landess, Esq.

Attorneys for Dr. Abdulhadi

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NOTICE OF MOTION AND MOTION TO STRIKE ALLEGATIONS  
OF SECOND AMENDED COMPLAINT

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I) INTRODUCTION**

In a 51-page SAC, Plaintiffs demand legal and equitable relief for purported civil rights violations without addressing the many deficiencies that the Court identified in the Plaintiff's First Amended Complaint.

Plaintiffs' SAC intentionally distorts the U.S. Department of State's definition of anti-Semitism for a third time. This is a distortion at best and a misrepresentation at worse. While the previous instances may have been inadvertent, it is difficult to believe that the present distortion was not intentional.

**II) ARGUMENT**

Federal Rule of Civil Procedure (FRCP) 12(f) provides in pertinent part that a "court may strike from a pleading ...any redundant, immaterial, impertinent, or scandalous matter" either on its own motion or upon motion by a party. The function of a 12(f) motion is "to avoid the expenditure of time and money that must arise from litigating spurious issues by dispensing with those issues prior to trial." Whittlestone, Inc. v. Handi-Craft Co., 618 F.3d 970, 973 (9th Cir. 2010).

**A) The Court Should Strike Plaintiffs Distortion of the Department of State's Definition of Anti-Semitism.**

Paragraph 33 of the Plaintiffs' Complaint urges the Court to adopt what Plaintiffs claim to be the U.S. State Department's definition of Anti-Semitism. The definition is immaterial and impertinent for the pleading stage as there is no legal authority indicating that the State Department's definition is binding upon this Court. What is more, paragraph 33 is a self-serving distortion of the Department of State's definition.

Specifically, Plaintiffs misstate the examples of Anti-Semitism that the Department of State definition provides:

The first example Plaintiffs provide from the Department of State definition states: “Calling for, aiding, or justifying the killing or harming of Jews (often in the name of a radical ideology or an extremist view of religion.”

However, the Department of State’s example actually states this example as follows:

“Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.”

The distortion is material because whereas the Plaintiffs’ version indicates that this is often in the name of a radical ideology or an extremist view of religion, the language from the Department of State website categorically requires that the enumerated actions be in the name of a radical ideology or an extremist view of religion. Accordingly, Plaintiffs seek to broaden this example to include more than what the Department of State definition envisioned.

The second example that Plaintiffs distort states:

“Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, the state of Israel, or even for acts committed by non-Jews.”

However, the Department of State’s example actually states this example as follows:

“Accusing Jews as a people for being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.”

The distortion is material because while the Department of State’s example is limited to Jews, Plaintiffs broaden the example to the state of Israel. Interestingly, Plaintiff’s attempt to equate Zionism and Jewishness is one of the central and inherent flaws of Plaintiff’s lawsuit as a whole.

1 In short, Plaintiffs urge the Court to adopt a non-binding definition of anti-  
 2 Semitism and then distort that very definition by misrepresenting (in a self-serving  
 3 manner) the examples that the definition provides.

4 B) The State Department Definition is Too Ephemeral to be Relied Upon.

5 In the four months between the hearing on Plaintiffs' First Amended Complaint  
 6 and the filing of their latest effort, the State Department definition has changed in  
 7 significant ways. Plaintiffs, who earlier urged this Court to accept the earlier version as  
 8 definitive, now urge the Court to embrace the newer version. Nothing could better  
 9 illustrate the perils of relying on government administrative agencies to determine  
 10 matters directly affecting constitutional doctrine. This alteration, by itself, shows why  
 11 the Court should form its own conclusions.

### 12 13 **III) CONCLUSION**

14 Plaintiffs have materially misstated the Department of State's definition of anti-  
 15 Semitism for the third time. The misstatement on an issue as fraught with controversy as  
 16 this one ought not remain in the records and should be stricken.

17 DATED: April 30, 2018

RESPECTFULLY SUBMITTED

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19  
20 By: /s/ Mark Allen Kleiman

21 Mark Allen Kleiman, Esq.

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

JACOB MANDEL, CHARLES VOLK, LIAM  
KERN, SHACHAR BEN-DAVID, MICHAELA  
GERSHON, MASHA MERKULOVA, and  
STEPHANIE ROSEKIND,

Plaintiffs,  
v.

BOARD OF TRUSTEES of the CALIFORNIA  
STATE UNIVERSITY, SAN FRANCISCO  
STATE UNIVERSITY, RABAB ABDULHADI,  
in her individual capacity, and LESLIE WONG,  
MARY ANN BEGLEY, LUOLUO HONG,  
LAWRENCE BIRELLO, REGINALD PARSON,  
OSVALDO DEL VALLE, KENNETH  
MONTEIRO, BRIAN STUART, and MARK  
JARAMILA, in their official and individual  
capacities,

Defendants.

) Case No.: 3:17-CV-03511-WHO  
)  
) **[PROPOSED] ORDER STRIKING**  
) **ALLEGATIONS OF SECOND**  
) **AMENDED COMPLAINT**

- ) Date: July 18, 2018
- ) Time: 2:00 p.m.
- ) Location: Courtroom 2, 17<sup>th</sup> Floor
- ) Judge: William H. Orrick
- ) Original Action Filed: June 19, 2017

[PROPOSED] ORDER STRIKING ALLEGATIONS  
OF SECOND AMENDED COMPLAINT

**[PROPOSED] ORDER**

Dr. Abdulhadi's Motion to Strike paragraph 33 of Plaintiffs' Second Amended Complaint is GRANTED.

**IT IS SO ORDERED.**

Dated:

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Hon. William H. Orrick  
Judge of the Northern District California

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[PROPOSED] ORDER STRIKING ALLEGATIONS  
OF SECOND AMENDED COMPLAINT

Case No. 3:17-CV-03511-WHO