

1 MICHAEL D. HERSH - [State Bar No.144095]
mhersh@cta.org
2 CALIFORNIA TEACHERS ASSOCIATION - LEGAL DEPARTMENT
11745 East Telegraph Road
3 Santa Fe Springs, California 90670
Telephone: 562.478.1348
4 Fax: 562.478.1434

5 Attorneys for Union Intervenors CALIFORNIA TEACHERS ASSOCIATION;
6 and CAPISTRANO UNIFIED EDUCATION ASSOCIATION

7
8 UNITED STATES DISTRICT COURT
9 FOR THE CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION

11 CHAD FARNAN, a minor, by and
12 through his BILL FARNAN and
13 TERESA FARNAN,

14 Plaintiff,

15 v.

16
17 CAPISTRANO UNIFIED SCHOOL
DISTRICT; DR. JAMES CORBETT,
18 et al.,

19 Defendants.

20
21 CALIFORNIA TEACHERS
22 ASSOCIATION/NEA; and
23 CAPISTRANO UNIFIED
EDUCATION ASSOCIATION,

24 Union Intervenors for
25 Defendants.

Case No. : SACV-07-1434 JVS (ANx)

*BEFORE THE HONORABLE
JAMES V. SELNA – COURTROOM 10C*

**UNION INTERVENORS’ ANSWER
TO FIRST AMENDED
COMPLAINT**

JURISDICTION

1
2 1. Responding to paragraph 1 of the First Amended Complaint (“FAC”),
3 Intervenors California Teachers Association (“CTA”) and Capistrano Unified
4 Education Association (“CUEA”), together referred to herein as “Union
5 Intervenors,” admit that the FAC raises federal claims under the First and
6 Fourteenth Amendments to the United States Constitution.

7 2. Responding to paragraph 2 of the FAC, Union Intervenors admit that
8 the Court has original jurisdiction over the raised federal law claims by operation
9 of 28 U.S.C. §§ 1331 and 1343.

10 3. Responding to paragraph 3 of the FAC, Union Intervenors admit that
11 this Court has authority to issue injunctive relief under 28 U.S.C. § 1343, or costs
12 and attorney’s fees under 42 U.S.C. § 1988(b).

13
14 **VENUE**

15 4. Responding to paragraph 4 of the FAC, Union Intervenors admit that
16 venue is proper in the United States District Court for the Central District of
17 California, Southern Division because a substantial part of the alleged events
18 giving rise to the claims occurred within the Central District.

19 5. Responding to paragraph 5 of the FAC, Union Intervenors admit all
20 factual allegations therein.

21 6. Responding to paragraph 6 of the FAC, Union Intervenors admit all
22 factual allegations therein.

23
24 **IDENTIFICATION OF THE DEFENDANTS**

25 7. Responding to paragraph 7 of the FAC, Union Intervenors admit all
26 factual allegations therein.

27 8. Responding to paragraph 8 of the FAC, Union Intervenors admit all
28 factual allegations therein.

1 9. Responding to paragraph 9 of the FAC, Union Intervenors are
2 without sufficient knowledge or information to form a belief as to the truth of the
3 allegations contained therein, and on that basis deny each and every allegation
4 contained therein.

5
6 **FACTUAL ALLEGATIONS**

7 10. Responding to paragraph 10 of the FAC, Union Intervenors admit all
8 factual allegations therein.

9 11. Responding to paragraph 11 of the FAC, Union Intervenors admit
10 that plaintiff Farnan is a 16-year-old sophomore at Capistrano Valley High School.
11 Union Intervenors are without sufficient knowledge or information to form a
12 belief as to the truth of the allegation that plaintiff Farnan is an honors student
13 whose goal is to attend either the University of Southern California or the
14 University of California at Los Angeles, and on that basis deny that allegation.

15 12. Responding to paragraph 12 of the FAC, Union Intervenors are
16 without sufficient knowledge or information to form a belief as to the truth of the
17 allegation, and on that basis deny that allegation.

18 13. Responding to paragraph 13 of the FAC, Union Intervenors are
19 without sufficient knowledge or information to form a belief as to the truth of the
20 allegation, and on that basis deny that allegation.

21 14. Responding to paragraph 14 of the FAC, Union Intervenors are
22 without sufficient knowledge or information to form a belief as to the truth of the
23 allegation, and on that basis deny that allegation.

24 15. Responding to paragraph 15 of the FAC, Union Intervenors are
25 without sufficient knowledge or information to form a belief as to the truth,
26 context, or accuracy of the quotations set forth in subparagraphs (a) through (i),
27 and on that basis deny those allegations.

28 ///

1 16. Responding to paragraph 16 of the FAC, Union Intervenors are
2 without sufficient knowledge or information to form a belief as to the truth of the
3 allegation, and on that basis deny that allegation.

4 17. Responding to paragraph 17 of the FAC, Union Intervenors are
5 without sufficient knowledge or information to form a belief as to the truth of the
6 allegation, and on that basis deny that allegation.

7 18. Responding to paragraph 18 of the FAC, Union Intervenors are
8 without sufficient knowledge or information to form a belief as to the truth of the
9 allegation, and on that basis deny that allegation.

10
11 **ALLEGATIONS OF LAW**

12 19. Responding to paragraph 19 of the FAC, Union Intervenors are
13 without sufficient knowledge or information to form a belief as to the truth of the
14 allegation, and on that basis deny that allegation.

15 20. Responding to paragraph 20 of the FAC, Union Intervenors are
16 without sufficient knowledge or information to form a belief as to the truth of the
17 allegation, and on that basis deny that allegation.

18 21. Responding to paragraph 21 of the FAC, Union Intervenors are
19 without sufficient knowledge or information to form a belief as to the truth of the
20 allegation, and on that basis deny that allegation.

21
22 **CLAIMS FOR RELIEF**

23 21. Responding to paragraph 21 (apparently an inadvertent
24 misnumbering) re-allege and incorporate herein by reference the responses to
25 plaintiff's allegations set forth above.

26 22. Responding to paragraph 22, Union Intervenors deny that allegation.

27 23. Responding to paragraph 23, Union Intervenors deny that allegation.

28 24. Responding to paragraph 24, Union Intervenors deny that allegation.

1 25. Responding to paragraph 25, Union Intervenors deny that allegation.
2

3 **AFFIRMATIVE DEFENSES**

4 1. As a first affirmative defense, Union Intervenors assert that the
5 factual allegations in the FAC fail to state a claim of the Establishment Clause of
6 the First Amendment because the alleged statements of Defendant Corbett do not
7 taken apart or as pattern of such statements, plausibly favor “irreligion” over
8 “religion” nor any particular religious group over another.

9 2. As a second affirmative defense, Union Intervenors assert that the
10 relief sought by plaintiff would violate the First Amendment expressive rights and
11 inalienable free speech rights pursuant Article I, section 2 of the California
12 Constitution of Defendants and Union Intervenors, as well as those of students,
13 California agencies and officials responsible for setting teacher standards and
14 curricula, and the public at large.

15 3. As a third affirmative defense, Union Intervenors assert that the relief
16 sought by Plaintiff would violate the Establishment Clause of the First
17 Amendment by equating religious beliefs and practices that are not based upon
18 established historical, social and scientific facts with curricula and teaching
19 material based upon established historical, social and scientific facts.

20 4. As a fourth affirmative defense, Union Intervenors assert that the
21 relief sought by plaintiff would violate Article IX, section 1 of the California
22 Constitution which states that, “A general diffusion of knowledge and intelligence
23 being essential to the preservation of the rights and liberties of the people, the
24 Legislature shall encourage by all suitable means the promotion of intellectual,
25 scientific, moral and agricultural improvement.”

26 5. As a fifth affirmative defense, Union Intervenors assert that the relief
27 sought by plaintiff would violate Article IX, section 8 of the California
28 Constitution which states in relevant part, “nor shall any sectarian or

1 denominational doctrine be taught, or instruction thereon be permitted, directly or
2 indirectly in any of the common schools of this State.”

3 6. As a sixth affirmative defense, Union Intervenors assert that the
4 statements of Dr. Corbett alleged in the FAC were performed within the scope of
5 his official duties and were subject to a qualified immunity.

6 7. As a seventh affirmative defense, Union Intervenors assert that
7 plaintiff’s claims are barred by the doctrine of estoppel because of his illegal tape
8 recording of a classroom in violation of section 51512 of the California Education
9 Code.

10 8. As an eighth affirmative defense, Union Intervenors assert that
11 plaintiff failed to exhaust administrative remedies available through the defendant
12 School District and State Department of Education prior to filing the Complaint
13 and FAC.

14 9. As a ninth affirmative defense, Union Intervenors assert that plaintiff
15 failed to join as defendants persons so situated as a practical matter as to impair
16 the effectiveness of the relief sought by plaintiff, including, but not limited to,
17 State and school district officials responsible for setting professional teaching
18 standards and AP course curricula.

19 10. As a tenth affirmative defense, Union Intervenors assert that the
20 allegation that Plaintiff is “uncomfortable going to class and feels like Dr. Corbett
21 has created an atmosphere where he cannot effectively learn” in paragraph 18 of
22 the FAC, is not a cognizable injury resulting from an Establishment Clause
23 violation where such discomfort will naturally result whenever students encounter
24 doctrines and historical, social and scientific facts or contrary opinions in a public
25 school that conflict with a student’s sincerely held beliefs.

26 ///

27 ///

28 ///

