

**FILED**  
Superior Court of California  
County of Los Angeles

11/16/2021

Sherri R. Carter, Executive Officer / Clerk of Court

By: M. Fregoso Deputy

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

GINA DE BACA and VIVIAN MAHL, each  
individually and on behalf of Class Members,

Plaintiffs,

v.

SANTA MONICA MALIBU UNIFIED  
SCHOOL DISTRICT; and Does 1-100,  
inclusive,

Defendants.

Case No.: BC674932

Honorable Elihu M. Berle

**~~PROPOSED~~ JUDGMENT AND ORDER  
GRANTING FINAL APPROVAL OF  
CLASS ACTION SETTLEMENT**

Date: November 10, 2021

Time: 10:00 a.m.

Dept.: SSC-6

Complaint Filed: September 6, 2017

1 This matter came before the Honorable Elihu Berle on Plaintiffs Gina de Baca and Vivian  
2 Mahl's Motion for Final Approval of Class Action Settlement ("Final Approval Motion").

3 The Court has received and reviewed the Amended Settlement Stipulation entered into  
4 between plaintiffs Gina de Baca and Vivian Mahl ("Plaintiffs"), on the one hand, and defendant  
5 Santa Monica – Malibu Unified School District ("Defendant"), on the other hand (the  
6 "Settlement"), and has considered the terms of the proposed settlement set forth therein, attached  
7 hereto as Exhibit "A".

8 On November 22, 2019, the Court entered its Order preliminarily approving the Settlement  
9 (the "Preliminary Approval Order").

10 In connection with the Preliminary Approval Order, the Court directed that Class Members  
11 be given notice of the Settlement, including the opportunity to object to the Settlement, and to  
12 appear at the final fairness hearing, and approved the form and method of notice.

13 The Court has received and considered the Motion for Final Approval of Class Action  
14 Settlement and the memorandum and declarations filed in support thereof, the Motion for an  
15 Award of Attorneys' Fees and Expenses and the memorandum and declarations filed in support  
16 thereof, and the Motion for Preliminary Approval of Class Action Settlement and the  
17 memorandum and declarations filed in support thereof, as well as the parties' February 28, 2020  
18 report including the objections attached as exhibits to that report.

19 The Court having conducted a final fairness hearing on November 10, 2021 (the "Final  
20 Approval Hearing"), and having considered the arguments presented, all papers filed, and all  
21 proceedings had therein,

22 **NOW THEREFORE IT IS HEREBY ORDERED ADJUDGED AND DECREED:**

23 1. The Court has jurisdiction over the subject matter of this action, all members of the  
24 Class, the Plaintiffs, and the Defendant, and each of them.

25 2. In accordance with the requirements of due process, all Class Members have been  
26 given proper and adequate notice of the Settlement. Based upon the evidence submitted by the  
27 Parties and the Court's Preliminary Approval Order, this notice satisfied all due process  
28

1 requirements and provided meaningful notice in a form that had a reasonable chance of reaching  
2 nearly all of the Class Members.

3         3.       The Settlement in this action warrants final approval because it is fair, adequate,  
4 and reasonable to those it affects and it resulted from vigorously contested litigation and good-  
5 faith, arm's length negotiations between the Parties. In making this determination, the Court has  
6 considered and balanced several factors, including:

- 7               (a) The strength of Plaintiffs' case;
- 8               (b) The risk, expense, complexity, and likely duration of further litigation;
- 9               (c) The risk of maintaining class action status throughout the course of the  
10               litigation;
- 11               (d) The amount and terms offered in settlement;
- 12               (e) The extent of discovery completed, and the stage of the proceedings;
- 13               (f) The experience and views of experienced counsel; and
- 14               (g) The reaction of the Class Members to the proposed settlement.

15         4.       The Final Approval Motion is hereby GRANTED, and the Settlement is hereby  
16 APPROVED as fair, reasonable, and adequate, and the terms of the Settlement are hereby  
17 determined to be fair, reasonable, adequate, and for the exclusive benefit of the Class Members.  
18 The Parties to the Settlement are directed to consummate the Settlement in accordance with its  
19 terms.

20         5.       The Court APPROVES payment of a service fee to each Plaintiff, and awards  
21 \$5,000 as an incentive award to Plaintiff Vivian Mahl and \$5,000 as an incentive award to  
22 Plaintiff Gina de Baca, consistent with the terms of the Settlement.

23         6.       The Court APPROVES payment of attorney's fees and expenses to Class Counsel,  
24 and awards \$560,000 in fees and \$15,000 in expenses to Class Counsel.

25         7.       The Court orders Defendant to provide notice to the Class Members of Final  
26 Approval pursuant to California Rules of Court as specified in the Settlement.

1           8.       The Court has scheduled a Non-Appearance Case Review re: Final Report re:  
2 Compliance with Settlement for 11/16/2021, 2022 at 1:00 p.m. in Department SSC-6  
3 of the above-entitled court. A Final Report and declaration of Class Counsel stating that the terms  
4 of the Settlement have been completed, is to be filed by 11/16/2021, 2022.

5           9.       Without affecting the finality of this Order in any way, this Court retains  
6 jurisdiction over the settlement proceedings, pursuant to California Code of Civil Procedure  
7 §664.6, the California Rules of Court, and all other applicable laws, to ensure the effectuation  
8 thereof in accordance with the Settlement, including without limitation (a) implementation of the  
9 Settlement and (b) distribution of compensation to the Class Members, the service fees to  
10 Plaintiffs, and the award of attorney's fees and costs and other expenses to Class Counsel.

11          10.      This judgment shall not apply, and shall not affect, the following Class Members  
12 who submitted a timely request for exclusion: Erin and Michael Rotgin; Margery Schwartz;  
13 Crystal Campos; Amy Levin; Elena Smolentseva; Mary Ann Todd; Anne Buttyan; Christine  
14 Buccola; T. Ernst; Eugenie Hwang; Michael F. Howard; Joseph Nichols; Eloisa DeLaurentis;  
15 Amy Young; Andrea Gonzalez; Iris Cruz; Mark Davis; Blanca Andres; Ellanora LoGreco; Jenny  
16 Rusinko; Gerald Bender; Carlos Gustavo Zitara; Laura Barcellos Malin; Charlene K. Nakamura;  
17 Kathryn Shepard; Cherie Iseppi; April Cotsen; Karen, Matt, Emerson and Aidan Hill; Sara Tropea  
18 and Michelle Lester; Steven Reicher; Alan M. Bernstein; Kristal White; Lisa Davis; Georgina and  
19 Kai Ikram; Cynthia Hill; Susan Jane Sollee; Jennifer J. Elias; Bailey Cross; Maria Ambrosano;  
20 Jing Ouyang; Emily and Delma Goldman; Miguel Rodriguez Jr.; Christine Garrett; Mariana and  
21 David Herrera; Meredith McCarthy; Marcos Cruz Perez; Linday, Morgan and Isaac Wilson;  
22 Laurel Shepard; Kevin and Kylie McNulty; Sandra Wheeler; Teodora Trentchev; Andrea Harmon;  
23 Michael Almir; Ilda Jacobsen; Judith Marasco; Theresa Luong; and Richard Pagano

24           **IT IS SO ORDERED, ADJUDGED AND DECREED.**

25          Dated: 11/16/2021



**Elihu M. Berle**  
**ELIHU M. BERLE**  
Judge of the Superior Court  
Elihu M. Berle / Judge

# EXHIBIT A

1 **SHENKMAN & HUGHES PC**  
KEVIN I. SHENKMAN (SBN 223315)  
2 MARY R. HUGHES (SBN 222662)  
ANDREA A. ALARCON (SBN 319536)  
3 28905 Wight Road  
Malibu, California 90265  
4 Phone (310) 457-0970  
*Attorneys for Plaintiffs*  
5

6 **ATKINSON ANDELSON LOYA RUUD & ROMO**  
MARK BRESEE (SBN 167346)  
12800 Center Court Drive, Suite 300  
7 Cerritos, CA 90703  
8 Tel: (562) 653-3200  
*Attorneys for Defendant*  
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **FOR THE COUNTY OF LOS ANGELES**

12 GINA DE BACA and VIVIAN MAHL, )  
each individually and on behalf of Class )  
13 Members, )

14 Plaintiffs, )

15 v. )

16 SANTA MONICA MALIBU UNIFIED )  
SCHOOL DISTRICT; and Does 1-100, )  
17 inclusive, )

18 Defendants. )  
19 )  
20 )  
21 )  
22 )  
23 )  
24 )  
25 )  
26 )  
27 )  
28 )

Case No. BC674932

**CLASS ACTION**

**AMENDED JOINT STIPULATION OF CLASS  
ACTION SETTLEMENT**

Dept.: SSC-6

[Assigned to Honorable Elihu M. Berle for all  
purposes]

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**I. PREAMBLE**

1. Subject to the terms and conditions hereof and approval of the Court, this Joint Stipulation of Class Action Settlement ("Settlement" or "Stipulation") is entered into between plaintiffs Gina De Baca and Vivian Mahl (the "Named Plaintiffs"), individually and as class representatives on behalf of certain putative class members as further defined herein (collectively, with the Named Plaintiffs, the "Settlement Class"), on the one hand, and defendant Santa Monica Malibu Unified School District ("Defendant") on the other. The Settlement Class and Defendant will be referred to collectively herein as the "Settling Parties." The releases given in this Stipulation shall extend to, and this Stipulation shall inure to the benefit of any person or entity which could be jointly liable with the Defendant for the acts, omissions and events alleged in the operative complaint.

2. The Named Plaintiffs contend that they each were required to pay student fees and to provide items necessary to participate in educational activities offered or conducted by Defendant at their own expense, or to seek scholarships or waivers to avoid paying such student fees and expenses. The Named Plaintiffs allege that, on or about July 12, 2017, they presented their claims to Defendant. The Named Plaintiffs filed their Class Action Complaint on September 6, 2017 and subsequently filed their First Amended Class Action Complaint on January 18, 2018 in Case No. BC674932 in the Superior Court of California, County of Los Angeles (the "Action"), both for themselves and for members of a class that included all persons who similarly were required to pay student fees and/or provide items necessary to participate in educational activities offered or conducted by Defendant or to seek scholarships or waivers to avoid paying such student fees and expenses. The Named Plaintiffs allege various causes of action against the Defendants, specifically: (1) Free School Guarantee - Violation of California Constitution Article IX, Section 5; (2) Equal Educational Opportunity - Violation of California Constitution Art. I, § 7(a) and Art. IV § 16(a); (3) Wealth Discrimination - Violation of California Constitution Art. I, § 7(a) and Art. IV § 16(a); (4) Violation of California's Education Code section 51004; and, (5) Unjust Enrichment. The fourth and fifth causes of action were dismissed in response to Defendant's motion for summary adjudication. The Named Plaintiffs seek injunctive relief, compensatory



1 damages, and attorneys' fees and costs on behalf of themselves and three putative classes, defined  
2 as follows:

- 3 (a) "All students, and their respective parents or legal guardians, who, on or  
4 after July 12, 2016, paid a fee to Defendants, or any one of them, or were  
5 required by Defendants or any one of them to purchase or rent any item, for  
6 participation in a curricular or extracurricular activity integral to education;  
7 (b) All students, and their respective parents or legal guardians, who on or after  
8 July 12, 2016, paid a fee, not authorized by law, to Defendants or any of  
9 them; and  
10 (c) All students, and their respective parents or legal guardians, who, on or after  
11 July 12, 2016, were required by Defendants, or any of them, to submit an  
12 application for a fee waiver financial aid or scholarship to purchase or rent  
13 any item required for participation in a curricular or extracurricular activity  
14 integral to education."

15 3. Defendant denies any liability or wrongdoing of any kind whatsoever associated  
16 with the claims alleged in the original and subsequently amended complaints filed in the Action.

17 4. It is the desire of the Settling Parties to fully, finally and forever settle,  
18 compromise, and discharge all disputes and claims arising from or related to this case. In order to  
19 achieve a full and complete release of claims, the Settling Parties acknowledge that this  
20 Stipulation is intended to include a release of:

- 21 a. Any and all allegations set forth in the pleadings in the Action, including any and all  
22 claims asserted in the original and subsequently amended complaints filed in the  
23 Action;  
24 b. Any and all claims against the Defendant arising from or related to the transactions,  
25 occurrence and events alleged in the Action, and/or the events leading up to, arising  
26 from, and/or related thereto.  
27 c. Any and all forms of recovery, including fines, penalties, interest, restitution,  
28 liquidated damages, punitive damages, declaratory relief, and/or injunctive relief



1 allegedly due and owing arising from or related to the allegations set out in the Action,  
2 whether based on statutory, regulatory, or common law (including any such claims  
3 based on federal or state law, including without limitation, the California Constitution,  
4 the Government Claims Act and/or the California Government Code, Education Code,  
5 Civil Code, Business and Professions Code, and/or Code of Civil Procedure)  
6 (hereinafter the "Released Claims").

7 5. It is the intention of the Settling Parties that this Stipulation of Settlement shall  
8 constitute a full and complete settlement and release of all claims arising from or related to this  
9 Action, which release includes in its effect any individual or entity which could be jointly liable  
10 with any of the Settling Parties.

11 6. Since the filing of the Action, the parties have engaged in extensive discovery, both  
12 formally and informally. The Named Plaintiffs and their counsel have, in addition to their  
13 extensive independent investigation, requested extensive documents and information concerning  
14 the claims and defenses involved in this action, and Defendant has complied with those requests.  
15 The Named Plaintiffs also took two depositions of the Persons Most Knowledgeable for  
16 Defendant.

17 7. Beginning in approximately January 2018, the Settling Parties began to discuss a  
18 possible settlement agreement, and subsequently agreed to mediate their dispute with Jeffrey  
19 Krivis, a respected mediator with over twenty years of experience mediating class action cases.  
20 During that mediation session the Settling Parties began to develop a term sheet which later turned  
21 into a draft memorandum of understanding. Over the months that followed, counsel for the  
22 Settling Parties exchanged drafts on all settlement terms relating to relief to the putative classes.  
23 Satisfied with the terms relating to relief to the putative class, the parties then turned to the issue of  
24 attorney's fees, costs and class representative service awards. A proposed settlement was  
25 presented to Defendant's governing board in December 2018, but was not approved by that board.  
26 On March 12, 2019, the Court heard Defendant's motion for summary judgment or, in the  
27 alternative, for summary adjudication, and denied Defendant's motion as to the first through third  
28 causes of action. Following the Court's ruling on Defendant's motion, the Settling Parties

1 discussed the possibility of renewing settlement discussions and agreed to participate in further  
2 discussions and a second mediation session, which was held on April 23, 2019. At that time, the  
3 parties reached a settlement in principle, subject to approval of the Defendant's governing board.  
4 Further discussions between counsel followed, and on May 16, 2019, Defendants' governing  
5 board approved the terms of the proposed settlement, which in turn has resulted in this Settlement  
6 and Stipulation.

7 8. Based on the independent investigation and evaluation by counsel for the Named  
8 Plaintiffs, counsel for the Named Plaintiffs is of the opinion that this Settlement with Defendant,  
9 for the consideration and on the terms set forth in this Stipulation, is fair, reasonable, and adequate  
10 and is in the best interest of the Settlement Class in light of all known facts and circumstances,  
11 including the risk of significant delay, the risk of class certification being denied, defenses asserted  
12 by Defendant, and numerous potential appellate issues. Defendant and Defendant's counsel also  
13 agree that the Settlement is fair and in the best interest of the Settlement Class.

14 9. The Settling Parties have agreed to avoid further litigation and to settle and resolve  
15 all existing and potential disputes, actions, lawsuits, charges and claims, relating to the Action and  
16 the allegations made therein, that the Settlement Class has or may have against Defendant, to the  
17 fullest extent permitted by law and without any admission of liability or wrongdoing by either  
18 party. Therefore, the Settling Parties respectfully request that the Settlement be approved by the  
19 Court.

20 10. Upon approval of this Settlement by the Court, the Settling Parties agree to  
21 cooperate and take all necessary and appropriate steps to cause the entry of judgment in this case  
22 consistent with California Court Rules, Rule 3.769(h), in consideration for the performance of  
23 their respective obligations under this Settlement.

## 24 II. CLASS CERTIFICATION FOR SETTLEMENT PURPOSES

25 11. Solely for the purpose of effectuating this Settlement, and without prejudice to the  
26 rights of the Defendant should the Settlement not be approved by the Court, all of which are  
27 reserved in this circumstance, and subject to Court approval, the Settling Parties hereby stipulate  
28 to class certification of a Settlement Class defined as follows (the "Settlement Class"):



- 1 (a) "All students, and their respective parents or legal guardians, who, on or  
2 after July 12, 2016, up to the date of preliminary approval of this Settlement  
3 Agreement, paid a fee to Defendants, or any one of them, or were required  
4 by Defendants or any one of them to purchase or rent any item, for  
5 participation in a curricular or extracurricular activity integral to education;  
6 (b) All students, and their respective parents or legal guardians, who on or after  
7 July 12, 2016, up to the date of preliminary approval of this Settlement  
8 Agreement, paid a fee, not authorized by law, to Defendants or any of them;  
9 and  
10 (c) All students, and their respective parents or legal guardians, who, on or after  
11 July 12, 2016, up to the date of preliminary approval of this Settlement  
12 Agreement, were required by Defendants, or any of them, to submit an  
13 application for a fee waiver financial aid or scholarship to purchase or rent  
14 any item required for participation in a curricular or extracurricular activity  
15 integral to education."

16 12. Persons who request exclusion (by returning a Request for Exclusion as defined  
17 below) from the Action shall not share in the distribution of the settlement funds and will not be  
18 bound by the terms of this Stipulation. A list of any person(s) who return a valid Request for  
19 Exclusion will be maintained by Counsel for the Settling Parties and presented to the Court prior  
20 to final approval of this Settlement.

21 13. The certification of the Settlement Class, the Settling Parties' settlement of the  
22 Action, and the rights and obligations of the Settling Parties hereunder, are contingent upon the  
23 Court's final approval of this Stipulation as to the Settlement Class. The Settlement Class  
24 recognizes and agrees that – in consideration of the covenants undertaken herein by the  
25 Defendant– this Stipulation settles any and all of the Released Claims, that the Settlement Class  
26 has or may have against the Defendant, and each of them, as provided herein.

27 14. Subject to Court approval, Class Counsel shall be responsible for receiving and  
28 logging any requests for exclusion and/or objections; reporting on the status of the Settlement to

1 the Settling Parties; preparing a declaration regarding their receipt of requests for exclusion and  
2 objections; and providing the Settling Parties with data regarding the filing of Requests for  
3 Exclusion and objections. Defendant shall be responsible for performing such other tasks as may  
4 be reasonable and proper to provide the Settlement Class with notice of this Settlement, as defined  
5 by this agreement. The Defendant shall bear the costs and expenses in performing its duties under  
6 this Stipulation, the costs of the Class Notice described below, and the costs of creating and  
7 administering the Claim Process described below (collectively, "the Claims Administration  
8 Costs"), in accordance with the terms stated below.

9 15. For purposes of this Settlement only, and without prejudice to the rights of the  
10 Defendant reserved herein should the settlement not be approved, the parties stipulate and agree  
11 that the requisites for establishing class certification with respect to the Settlement Class have been  
12 met and are met, as follows:

13 a. The persons or entities comprising the Settlement Class are so numerous as to make it  
14 impracticable to join all Class Members and that there is an ascertainable Settlement  
15 Class.

16 b. Common questions of law and fact predominate over questions affecting only  
17 individual Class Members, including:

18 1. Whether Defendants violated Article IX, Section 5 of the California Constitution  
19 by requiring payment of student fees and/or purchase of items to participate in  
20 educational activities, including curricular and extracurricular activities;

21 2. Whether Defendants violated Section 49010 of the California Education Code by  
22 requiring payment of student fees and/or purchase of items to participate in  
23 educational activities, including curricular and extracurricular activities; and

24 3. Whether class Defendants provided a free public education to the students  
25 attending SMMUSD schools, as defined by California law, including providing  
26 required instructional materials for all educational activities free of charge.

27 c. The claims of the Named Plaintiffs are typical of the claims of the members of the  
28 Settlement Class.



- 1 d. The Named Plaintiffs and Class Counsel will and can fairly and adequately protect the  
2 interests of the Settlement Class.
- 3 e. The prosecution of separate actions by individual members of the Settlement Class  
4 would create the risk of inconsistent or varying adjudications, which would establish  
5 incompatible standards of conduct.
- 6 f. With respect to the Settlement Class, the questions of law and fact common to the  
7 members of the Settlement Class predominate over any questions affecting any  
8 individual member, and a class action is superior to other available means for the fair  
9 and efficient adjudication of the controversy.

10 **III. APPOINTMENT OF NAMED PLAINTIFFS' COUNSEL**  
11 **AS SETTLEMENT CLASS COUNSEL**

12 16. Subject to the Court's approval, the Settling Parties hereby stipulate to the Court's  
13 appointment of Kevin I. Shenkman, Mary R. Hughes and Andrea A. Alarcon, and the law firm of  
14 Shenkman & Hughes PC, 28905 Wight Rd., Malibu, California 90265, 310-457-0970, as class  
15 settlement counsel ("Class Counsel") with respect to the Settlement Class.

16 **IV. SETTLEMENT TERMS AND "FREE SCHOOL GUARANTEE"**  
17 **MATERIALS AND NOTICES**

18 17. Subject to Court approval, and to the provisions of this Stipulation, Defendant shall  
19 perform the actions and make the payments set out in this Stipulation, in settlement of the Action.

20 18. Defendant, within three (3) months of the Court's approval of this Settlement, shall  
21 sponsor training on the "free school guarantee" for all of its school administrators, athletic  
22 directors, coaches, those who oversee other extracurricular activities, and parent organizations and  
23 foundations. Teachers and employees of Defendant will attend training to the extent not prohibited  
24 by an applicable collective bargaining agreement.

25 19. Defendant will prepare and publish a Guidelines Manual on Student Fees,  
26 Donations and Fundraising ("Guidelines Manual"). The Guidelines Manual will be:

- 27 (a) Posted on Defendant's website with a Frequently Asked Questions page;  
28 (b) Referenced in Defendant's annual notification to parents, in addition to

1 the uniform complaint notice and the existing notice regarding pupil fees;

2 (c) Translated and posted in Spanish, along with the annual notification;

3 (d) Subject to the approval by Class Counsel, such approval not to be  
4 unreasonably withheld.

5 20. The "free school guarantee" language, subject to approval by Class Counsel, not to  
6 be unreasonably withheld, and reference to the Guidelines Manual, will be included, in a  
7 conspicuous manner, in all Defendant's notices to parents regarding registration for an upcoming  
8 school year. The following language is presumed acceptable to be included in such notices by  
9 Defendant: "Students enrolled at [Name of School] are not required to pay any fee, deposit, or  
10 other charge for participation in any educational activity offered by the school or the District,  
11 except as authorized by law and consistent with the California constitution and *Hartzell v. Connell*  
12 (1984) 35 Cal.3d 899. Donations are sought and accepted, and those donations are used to support  
13 various activities and purchase supplies, and are at times critical to the continued success of  
14 classes and activities. But donations are always voluntary, and no child will be denied the right to  
15 fully and meaningfully participate in any activity because he/she has not donated money or  
16 supplies. For more information, go to [District website link].")

17 21. Defendant will send further "free school guarantee" language, with reference to the  
18 Guidelines Manual to its school sites, for use in course descriptions, parent introduction letters,  
19 syllabi, and the like. The following language is presumed acceptable to be distributed to school  
20 sites by Defendant: "Listed below are recommended materials for students taking [name of  
21 course]. These materials are not required, and full participation in the course does not require the  
22 purchase of any of these materials. State law requires us to provide a public education free of  
23 charge, and all materials and supplies required for this course will be provided. Subject to certain  
24 limited exceptions, the right to a free public education means we cannot require students or their  
25 families to purchase materials, supplies, equipment or uniforms for any educational activity,  
26 including school-sponsored extracurricular activities, to pay security deposits for access,  
27 participation, materials, or equipment, or to make donations to a class, activity or program. For  
28 more information, go to [District website link].")



1           22. Defendant will ensure that a designated "school site administrator," prior to the end  
2 of each school year, will do all of the following regarding the "free school guarantee":

3                   (a) Discuss with faculty and respond to questions;

4                   (b) Review their respective school's website for compliance with the free  
5 school guarantee;

6                   (c) Review course syllabi / descriptions to ensure that no teacher requires  
7 students to provide or pay for any materials except as authorized by law;

8                   (d) Review any course directory to ensure that no teacher requires students to  
9 provide or pay for any materials except as authorized by law;

10                  (e) Discuss with the athletic director, coaches for each season of sport, club  
11 sponsors, and parent organizations and foundations.

12           23. Defendant shall provide an appropriate notice on all field trip and science camp  
13 forms that reference a charge or other cost for participation in the field trip or science camp. The  
14 notice shall indicate that, consistent with the "free school guarantee" and applicable law, no child  
15 will be denied participation in the field trip or science camp because of an inability to pay the cost  
16 of the field trip or science camp.

17           24. Defendant shall provide and make available any required materials to students who  
18 do not provide their own materials and will comply with the free school guarantee of the  
19 California Constitution.

20           25. Upon entry of judgment, and for a period of five years thereafter, in the event any  
21 member of the Settlement Class contends that Defendant has failed, or is failing, to comply with  
22 the preceding paragraph, prior to seeking relief from the Court, said member of the Settlement  
23 Class shall first submit to Defendant and Class Counsel a written complaint (in any form)  
24 describing the alleged failure by Defendant. In the event Defendant receives such a written  
25 complaint, and it appears that the written complaint was not sent to Class Counsel, Defendant shall  
26 promptly forward a copy to Class Counsel. Upon receiving such a complaint, Defendant will  
27 make an initial determination about whether a violation of the preceding paragraph occurred and,  
28 if so, take appropriate remedial action, or dispute the complaint, in which case Defendant shall

1 forward the complaint to Brooks Allen, California State Bar No. 215357 (or another neutral agreed  
2 upon by Defendant and Class Counsel) ("Referee"). In this event Defendant must, within fifteen  
3 (15) days of receiving the complaint, submit its reason for non-payment to the Referee, along with  
4 any evidence rebutting the complaint or the amount thereof, a copy of which shall be provided to  
5 the complainant and Class Counsel. Following the Defendant's submissions, the complainant  
6 and/or Class Counsel will have the opportunity to submit a letter of explanation and/or supporting  
7 evidence, including any rebuttal of Defendant's statement or evidence. Following these  
8 submissions the Referee will determine whether a violation of the preceding paragraph occurred  
9 and, if so, order the District to take appropriate remedial action. The Referee may specify any  
10 reasonable procedures for the submission and/or resolution of any such complaint, but in any  
11 event the resolution shall occur no later than ninety (90) days after the complaint is submitted to  
12 Defendant and/or Class Counsel. Defendant shall pay all fees and costs of the Referee. Any  
13 member of the Settlement Class may still seek judicial relief from the Court for any failure to  
14 comply with the preceding paragraph, but may only do so following the decision of the Referee or  
15 expiration of the ninety (90) day period specified in this paragraph. The Settling Parties agree that  
16 the Referee and the Court, in considering any complaint submitted pursuant to this paragraph, will  
17 apply existing law applicable to all California school districts at the time of the submission of the  
18 complaint to the evidence submitted to them, and therefore will not entertain facial or as-applied  
19 challenges to the constitutionality of any existing pupil fee authorization at the time of the  
20 submission. Notwithstanding the preceding sentence, nothing herein precludes the Court or  
21 Referee from applying constitutional principles to the interpretation of a statutory fee authorization  
22 and interpreting a statutory fee authorization in light of applicable provisions of the California  
23 Constitution or U.S. Constitution. The Settling Parties also agree that appropriate remedial action  
24 for a violation of the preceding paragraph, whether taken by the District in response to a complaint  
25 or as ordered by the Referee or the Court, will consist of and be consistent with "reasonable  
26 efforts" as defined by Title 5, Ca. Code of Regulations section 4600(u).

27         26. Defendant shall, in response to retrospective claims as set forth in more detail  
28 below, reimburse the Settlement Class for amounts paid for reasonably required materials, fees



1 and charges for participation in Defendant's educational activities. Within sixty (60) days of the  
2 Effective Date, Defendant shall provide Class Counsel with a copy of all claims submitted by the  
3 Settlement Class, as well as evidence of all payments to the Settlement Class.

4 27. Defendant recognizes that Class Counsel will apply to the Court for an award of  
5 attorneys' fees incurred up to the date of filing of the application in an amount up to, but not more  
6 than Five Hundred Sixty Thousand Dollars (\$560,000). Defendant will not oppose an application  
7 by Class Counsel in accordance with this paragraph. Class Counsel's application under this  
8 paragraph shall be scheduled for determination at the Final Approval Hearing. The Named  
9 Plaintiffs, Class Counsel, and members of the Settlement Class agree that they shall not seek  
10 payment of attorneys' fees associated with work performed in this case except as set forth herein.

11 28. Defendant recognizes that Class Counsel will apply to the Court for an award of  
12 costs and expenses incurred up to the date of filing of the application in an amount up to, but not  
13 more than Fifteen Thousand Dollars (\$15,000) in costs/expenses. Defendant will not oppose an  
14 application by Class Counsel in accordance with this paragraph. Class Counsel's application  
15 under this paragraph shall be scheduled for determination at the Final Approval Hearing. The  
16 Named Plaintiffs, Class Counsel, and members of the Settlement Class agree that they shall not  
17 seek reimbursement of costs or expenses associated with work performed in this case except as set  
18 forth herein.

19 29. Defendant recognizes that, at the same time the application under the preceding  
20 paragraphs is made, Class Counsel will also apply to the Court for an award of Five Thousand  
21 Dollars (\$5,000) to each of the Named Plaintiffs, as reasonable additional compensation, for  
22 example, for the time and effort expended by them in connection with the initiation and  
23 maintenance of the Action, the risk associated with initiation and maintenance of the Action, and  
24 the release Named Plaintiffs are granting Defendant (which is broader than that granted by the  
25 Settlement Class) (the "Enhancement Award"). The Defendant will not oppose Class Counsel's  
26 application in accordance with this Paragraph. Any Enhancement Award will be in addition to  
27 any consideration Named Plaintiffs may be entitled to receive on account of their own individual  
28 claims pursuant to this Stipulation; however, the releases set out in this Stipulation shall bind the

1 Named Plaintiffs regardless of whether they file a Claim, and the Enhancement Award shall be  
2 adequate consideration for the release. The Named Plaintiffs, Class Counsel, and members of the  
3 Settlement Class shall not seek payment of any additional enhancement awards except as set forth  
4 herein.

5 30. Any proceedings or Court decisions related to Class Counsel's application for  
6 attorneys' fees, costs and expenses, and/or the Enhancement Award, each filed in accordance with  
7 the terms of this Stipulation, shall not terminate or cancel this Stipulation, or otherwise affect the  
8 finality of the Court's Order and Judgment Granting Final Approval, or affect the settlement of the  
9 Action.

10 **V. SETTLEMENT APPROVAL PROCEDURES AND NOTICE TO CLASS MEMBERS**  
11 **OF RIGHT TO OBJECT OR REQUEST EXCLUSION FROM SETTLEMENT**

12 31. The Settling Parties' settlement of the Action, and their rights and obligations  
13 hereunder, are expressly conditioned on the Court's preliminary approval of this Settlement as to  
14 the Settlement Class, on the entry by the Court of an Order and Judgment Granting Final Approval  
15 and entering judgment consistent with California Rules of Court, Rule 3.769(h), and the  
16 occurrence of the Effective Date as defined below.

17 32. Preliminary approval shall be through the entry of an "Order of Preliminary  
18 Approval," substantially in the form and content of **Exhibit A** hereto. On or before August 9,  
19 2019, Class Counsel shall file a motion with the Court for preliminary approval of the Settlement  
20 Stipulation, and for an order certifying the Settlement Class for settlement purposes only, and  
21 setting a date for the final approval hearing (the "Final Approval Hearing"). In conjunction with  
22 this request, Class Counsel shall submit this Stipulation and supporting papers, which shall set  
23 forth the terms of this Stipulation, and will include proposed content of all notices and other  
24 documents, as attached hereto, necessary to implement the Settlement Stipulation.

25 33. The Order for Preliminary Approval shall provide for notice of the Stipulation and  
26 related matters (the "Class Notice") to the Settlement Class as specified herein, including notice of  
27 the procedure to withdraw from the Settlement Class, to object to the Settlement, or to submit a  
28 claim. The Class Notice shall be substantially similar to the attached **Exhibit B**, and contain the



1 information as further described in this Stipulation.

2 34. The Class Notice shall:

3 (a) Indicate that all members of the Settling Class, except for the Named  
4 Plaintiffs, shall have the right to file written objections to the Settlement  
5 and/or to appear and object at the Final Approval Hearing (the then-  
6 current date of which shall be included in the Class Notice).

7 (b) State that written objections, if any, must be received by Class Counsel no  
8 later than twenty-one (21) days prior to the final approval hearing.

9 (c) Shall contain the release and waiver of claims against the Defendant  
10 contained in this Stipulation, and an easily understood statement alerting  
11 putative members of the Settlement Class that by failing to submit a  
12 Request for Exclusion the individual is agreeing to a release and waiver of  
13 all such claims that person may have against the Defendant, whether or  
14 not they submit a Claim or Claim Form in accordance with the Claims  
15 Process.

16 35. The Class Notice and Claim Form, substantially similar to **Exhibit C** attached  
17 hereto, shall be sent to putative class members electronically to the extent that email addresses are  
18 available, and by U.S. mail.

19 36. During the Notice Period, as defined below, the Class Notice and Request for  
20 Exclusion, substantially similar to **Exhibit D** attached hereto, shall also be made available on the  
21 District's website. To be valid, the Request for Exclusion must be printed, completed and sent to  
22 Class Counsel indicating that the putative class member does not wish to participate in this  
23 Settlement in any way and instead wishes to preserve his/her rights and be excluded from the  
24 Settlement Class. To be effective, a Request for Exclusion must be received by Class Counsel at  
25 least twenty-one (21) days prior to the final approval hearing.

26 37. Not later than five (5) court days after receipt of notice of the Court's entry of an  
27 Order of Preliminary Approval, the Defendant shall provide notice of this class action settlement  
28 as follows:

1 a. Sending the Class Notice to each member of the Settlement Class by email, to the  
2 extent an email address for said member is known to Defendant, and by U.S. mail;

3 b. Posting the Class Notice on the District's website in a conspicuous location.

4 Nothing herein shall prohibit Defendant or Class Counsel from providing notice in any additional  
5 manner not mentioned herein; however, neither Defendant nor Class Counsel, nor their respective  
6 designees, shall encourage any member of the Settlement Class to object to the Settlement, refrain  
7 from submitting a claim, or exclude themselves from the Settlement.

8 38. The notices described in the subparagraph b of the preceding paragraph shall  
9 remain in place for at least sixty (60) days (the "Notice Period").

10 39. Class Counsel shall provide a written notice report to Defendant's counsel no later  
11 than fifteen (15) days before the date of the final approval hearing, with a complete list of all  
12 putative members of the Settlement Class who have timely requested exclusion from the class, and  
13 a complete list of all putative members of the Settlement Class who have objected to the  
14 Settlement. Defendant shall provide Class Counsel no later than fifteen (15) days before the date  
15 of the final approval hearing, a complete list of all putative members of the Settlement Class who  
16 have submitted a claim.

17 40. The parties shall jointly prepare a proposed Order and Judgment Granting Final  
18 Approval, which shall be lodged with the Court no later than ten (10) calendar days before the  
19 Final Approval Hearing.

## 20 VI. THE EFFECTIVE DATE

21 41. This Settlement shall become final and effective (the "Effective Date") on the later  
22 of the following dates: If no objections are submitted, the date the judgment is entered; if one or  
23 more objections are submitted but an appeal or other review is not sought from the Order and  
24 Judgment Granting Final Approval, the sixty-fifth (65th) calendar day after entry of judgment; or  
25 if an appeal or other review is sought from the Order and Judgment Granting Final Approval by a  
26 member of the Settlement Class, the day after the trial court's judgment is affirmed or the appeal  
27 or other review is dismissed or denied, and the judgment is no longer subject to judicial review or  
28 other challenge. Upon the Effective Date, and for a period of thirty (30) days following the



Effective Date, Defendant shall post the Order and Judgment Granting Final Approval in a conspicuous manner on its website.

#### **VII. EFFECT OF NON-APPROVAL, OR FAILURE OF THE EFFECTIVE DATE TO OCCUR**

42. If this Settlement is not approved by the Court, or if it is otherwise not consummated as a result of an appeal, collateral attack, or other proceeding, then this Stipulation and Settlement shall be null and void. In such event:

- a. Nothing in this Stipulation shall be construed as a determination, admission, or concession of any substantive or procedural issue in the Action, and nothing in this Stipulation may be offered into evidence in any hearing or trial, or in any subsequent pleading or in any subsequent judicial, arbitral, or administrative proceeding;
- b. The Settling Parties expressly reserve their rights with respect to the prosecution and defense of the Action as if this Stipulation never existed; and
- c. The Defendant shall bear the costs of providing notice and/or processing claims through that date.

#### **VIII. PROCESSING OF CLASS MEMBER CLAIMS**

43. Promptly upon the Court's preliminary approval of the Settlement, Defendant will administer a claims process for reimbursement of fees and expenses paid by families of students who were enrolled during the period from July 12, 2016 through the Court's preliminary approval of the Settlement (the "Class Period").

44. The Claims Process will include a sixty (60) day claim period ("Claim Period"). A claim can be submitted in paper or online, through an interactive website link included in the Class Notice. All claims shall be made under penalty of perjury.

45. As part of this Claims Process, Defendant will:

- (a) Send a Claim Form to all families of students enrolled during the Class Period as discussed above.
- (b) The Claim Form will be sent by email (to the extent Defendant has an email address for the respective member of the Settlement Class) and

1 mail, and will be available on the District's website. A reminder email  
2 will also be sent in the middle of the Claim Period, approximately 30 days  
3 into the Claim Period. The Claim Form shall be sent in both English and  
4 Spanish.

5 (c) The Claim Form will include categories of expenses which will be  
6 reimbursed. The claim form shall include an acknowledgment that claims  
7 are available only for expenses within specified categories that were  
8 explicitly described as mandatory, or which, based on the circumstances,  
9 parents/students reasonably believed were mandatory, and shall prompt  
10 the Settlement Class members to:

- 11 1. List the amount they spent for items/activities in each category  
12 during the Class Period; and
- 13 2. Provide proof of payment (receipt, cancelled check, redacted credit  
14 card bill) or a brief explanation why proof of payment cannot be  
15 provided and how the amount paid was determined or estimated;  
16 and
- 17 3. Provide any additional information the claimant wishes to provide to  
18 assist in the assessment of the claim, including the name of the  
19 teacher/coach, course/activity, grade level, semester, etc.

20 (d) Defendant shall make submitted Claim Forms available to Class Counsel  
21 upon Class Counsel's request, within 5 days of such a request.

22 46. All amounts expended by members of the Settlement Class for items/activities in  
23 the categories set forth in the subsequent paragraphs, who choose to not make a claim for  
24 reimbursement, will be treated as donations to Defendant, and may be treated as such by members  
25 of the Settlement Class in connection with their respective tax obligations.

26 47. Upon the Effective Date, and subject to the resolution of any disputes (as discussed  
27 herein), Defendant shall reimburse the amount specified in each Claim Form received within thirty  
28 (30) days after the end of the Claim Period. All payments by Defendant shall be made by check,



1 and such checks shall be valid for at least 180 days after delivery of said checks.

2 48. If Defendant disputes a Claim:

- 3 (a) Defendant must, within 15 days of receiving the Claim Form, submit its  
4 reason for non-payment to the member of the Settlement Class and the  
5 Referee, along with any evidence rebutting Claimant's claim or the  
6 amount thereof, a copy of which shall be provided to Claimant and Class  
7 Counsel;
- 8 (b) Following the Defendant's submissions, the Settlement Class member  
9 will have the opportunity to submit a letter of explanation and/or  
10 supporting evidence, including any rebuttal of Defendant's statement or  
11 evidence; and,
- 12 (c) Following both Defendant's and the Claimant's submissions, the Referee,  
13 applying current law, will make the final determination of the amount of  
14 reimbursement to the Claimant, if any, which is not subject to appeal by  
15 either the District or the Claimant.
- 16 (d) The Referee may conduct any dispute resolution as the Referee sees fit,  
17 but must reach and communicate a final determination within 90 days of  
18 receiving a dispute from Defendant.
- 19 (e) Within thirty (30) days of receiving the Referee's decision (but no earlier  
20 than the Effective Date), Defendant shall pay the amount, if any, specified  
21 in the Referee's decision.

22 49. The categories of expenses subject to reimbursement, and to be enumerated on the  
23 Claim Form, include:

- 24 (a) Basic school supplies, including but not limited to pens, pencils, colored  
25 pencils, highlighters, markers, notebooks, binders, dividers, folders, lined  
26 paper, graph paper, and poster boards;
- 27 (b) Calculators (applicable only to secondary school students);
- 28 (c) Standardized physical education apparel that school staff required

- 1 students to purchase from the Defendant, school, or teacher;
- 2 (d) Swimwear (applicable only to secondary school students) that school staff
- 3 required students to purchase from the Defendant, school, or teacher;
- 4 (e) Fees for a field trip (not including social or recreational excursions), paid
- 5 by a parent who lacked sufficient funds, after being told (verbally, in
- 6 writing, or any other manner) by Defendant, school, or teacher that their
- 7 child would be precluded from participating if the fee was not paid;
- 8 (f) Science camp fees paid by a parent after being told (verbally, in writing,
- 9 or any other manner) by Defendant, school or teacher that their child
- 10 would be precluded from participating if the fee was not paid;
- 11 (g) Athletics fee (applicable only for the 2016-2017 school year);
- 12 (h) Athletics, cheer, and band uniforms and supplies;
- 13 (i) Athletics spirit packs;
- 14 (j) Musical instrument rentals, purchases and accessories;
- 15 (k) Uniforms or standardized, specialized clothing for choir performances
- 16 (e.g. tuxedos, school logo shirts, long black dresses purchased from the
- 17 Defendant or a teacher);
- 18 (l) Summer school fees paid to the Defendant;
- 19 (m) Reminder/agenda/planner, not including the replacement of a
- 20 reminder/agenda/planner which was lost by the student.
- 21
- 22

## 22 IX. RELEASES

23 50. Upon the Effective Date, and except as to such rights or claims as may be created

24 by this Settlement and Stipulation, the Named Plaintiffs, the Settlement Class, and each Class

25 Member (other than those who timely opt-out), including their respective successors, assigns,

26 legatees, heirs, and personal representatives, fully, finally, and forever release and discharge

27 Defendant, including all persons acting by, through, under or in concert with them, or any of them

28 ("Released Parties"), from any and all claims, debts, liabilities, demands, obligations, penalties,



1 guarantees, costs, expenses, attorneys' fees, damages, actions or causes of action of whatever kind  
2 or nature, which were alleged, or which could have been alleged arising from or related to the  
3 facts and claims alleged in the Action, arising during the Class Period.

4 51. In addition to the release given in the preceding paragraph, upon the Effective Date,  
5 and except as to such rights or claims as may be created by this Settlement and Stipulation, the  
6 Named Plaintiffs, on behalf of themselves and their successors, assigns, legatees, heirs, and  
7 personal representatives, do hereby completely release and forever discharge Defendant and the  
8 Released Parties from any and all claims, rights, demands, actions, obligations, liabilities,  
9 indebtedness, and causes of action, of any and every kind, nature and character whatsoever,  
10 whether known or unknown, which the Named Plaintiffs may now have or have ever had against  
11 Defendant and/or the Released Parties.

12 52. Upon the Effective Date, and except as to such rights or claims as may be created  
13 by this Settlement and Stipulation, Defendant completely releases and forever discharges the  
14 Named Plaintiffs from any and all claims, rights, demands, actions, obligations, liabilities,  
15 indebtedness, and causes of action, of any and every kind, nature and character whatsoever,  
16 whether known or unknown, which Defendant may now have or has ever had against the Named  
17 Plaintiffs.

18 53. In order to achieve full and complete releases of the parties and the Released  
19 Parties, as set forth above, the Named Plaintiffs and Defendant, as to themselves only and not as to  
20 the Settlement Class, acknowledge that this Settlement Stipulation is intended to include in its  
21 effect all causes of action and allegations which were alleged or which could have been alleged  
22 arising from or related to the facts and claims alleged in the Action, including any claims that the  
23 parties do not know or suspect to exist in their favor. Consequently, with regard to the causes of  
24 action which were alleged, or which could have been alleged arising from or related to the facts  
25 and claims alleged, in the Action, the parties waive all rights and benefits afforded by California  
26 Civil Code Section 1542, or any other similar provision under federal or state law, and do so  
27 understanding the significance of that waiver. Section 1542 provides:  
28

1 A general release does not extend to claims which the creditor or  
2 releasing party does not know or suspect to exist in his or her favor at  
3 the time of executing the release and that, if known by him or her,  
4 would have materially affected his or her settlement with the debtor or  
5 released party.

6 **X. ADDITIONAL TERMS AND CONDITIONS**

7 **54. Settlement Fair and Reasonable.**

8 Class Counsel has considerable experience in litigating and settling class actions of this  
9 type, and is sufficiently familiar with the facts of this case and the applicable laws and regulations  
10 to make an informed judgment as to the fairness of this Settlement. In light of this experience, and  
11 for reasons that will be more fully explained in Class Counsel's motion for preliminary approval,  
12 Class Counsel and the Named Plaintiffs believe that the settlement terms herein are fair and  
13 reasonable with regard to the interests of the Settlement Class.

14 **55. Settlement the Result of Arm's-Length Bargaining.**

15 The terms of the settlement of the Action resulted from approximately eighteen (18)  
16 months of litigation, and a period of approximately two (2) months of arm's-length negotiations  
17 regarding this Stipulation in particular.

18 **56. Notices.**

19 Except for Class Member notices which are required herein, all notices, requests, demands  
20 and other communications related to or in connection with this Stipulation shall be in writing, and  
21 shall be provided by appropriate method depending on the urgency (e.g. personal delivery, email,  
22 overnight delivery, or first-class U.S. mail) as follows:

23 **TO THE SETTLING CLASS:**

24 KEVIN I. SHENKMAN  
25 SHENKMAN & HUGHES  
26 28905 Wight Rd.  
27 Malibu, California 90265  
Telephone: (310) 457-0970  
kshenkman@shenkmanhughes.com

**TO THE DEFENDANTS**

MARK BRESEE  
ATKINSON ANDELSON LOYA RUUD & ROMO  
12800 Center Court Drive, Suite 300  
Cerritos, CA 90703  
Telephone: (562) 653-3200  
MBresee@aalrr.com



1           **57. No Admission of Liability.**

2           Nothing herein shall constitute an admission by the Defendant of wrongdoing or liability  
3 or of the truth of any factual allegations in the Action. Nothing herein shall constitute an  
4 admission by the Defendant that the Action was properly brought as a class or representative  
5 action other than for purposes related to this Settlement. To the contrary, the Defendant has  
6 denied and continues to deny each and every material factual, procedural, and/or legal allegation  
7 and alleged claim asserted in the Action. To this end, the settlement of the Action, the negotiation  
8 and execution of this Stipulation, and all acts performed or documents executed pursuant to or in  
9 furtherance of this Stipulation or the Settlement are not, shall not be deemed or described in any  
10 forum to be, and may not be used as, an admission or evidence of any wrongdoing or liability on  
11 the part of the Defendant, or of the truth of any of the factual allegations in the Action; and are not,  
12 shall not be deemed or described in any forum to be, and may not be used as, an admission or  
13 evidence of any fault or omission on the part of the Defendant in any civil, criminal or  
14 administrative proceeding in any court, administrative agency or other tribunal.

15           **58. Modification by Writing Only.**

16           This Stipulation, and its terms and Exhibits, may be modified only in a writing signed by  
17 all counsel of record for the parties, and will not become effective unless and until approved by the  
18 Court or otherwise as ordered by the Court.

19           **59. Representations.**

- 20           a. The Named Plaintiffs and Class Counsel represent that they are presently unaware of  
21 any other lawsuit or administrative proceeding which alleges any claim arising from or  
22 related to the same material facts as those asserted in this Action.
- 23           b. The Named Plaintiffs, on behalf of themselves and the Settlement Class, have  
24 expressly authorized Class Counsel to take all appropriate action required or permitted  
25 to be taken pursuant to this Stipulation to effectuate its terms.
- 26           c. Each attorney executing this Stipulation or any of its Exhibits on behalf of any party  
27 hereto hereby warrants that his/her client(s) has given full authority to do so.
- 28           d. The Defendant, Class Counsel, and the Named Plaintiffs waive their right to file an

1 appeal, writ, or any challenge whatsoever to the terms of this Stipulation; provided,  
2 however, that Class Counsel and the Named Plaintiffs may appeal the Court's  
3 determinations with regard to the award of attorneys' fees, costs, and/or Enhancement  
4 Award. However, any such appeal will have no effect whatsoever on the other terms  
5 and provisions of this Stipulation, including, by way of example but not of limitation,  
6 the releases set out herein.

7 **60. Further Cooperation.**

8 The Settling Parties and their respective counsel of record shall proceed diligently to  
9 prepare and execute all documents, to seek the necessary Court approvals, and to do all other  
10 things reasonably necessary to conclude this Settlement.

11 **61. Construction and Integration.**

12 This Stipulation and Settlement, including its exhibits, constitutes the entire agreement and  
13 understanding between the parties, and supersedes any previous agreements or understandings  
14 between the Settling Parties. No representations, warranties or inducements have been made to  
15 any party concerning the subject matter of this Stipulation or Settlement and/or exhibits other than  
16 the representations, warranties and covenants contained in such documents. This Stipulation and  
17 Settlement, and all related exhibits shall be construed each as a whole, and with reference to one  
18 another, according to their fair meaning and intent. The Settling Parties represent that their  
19 counsel have participated and cooperated in the drafting and preparation of this Stipulation and  
20 related exhibits; hence, in any construction to be made of this Stipulation and Settlement and/or  
21 exhibits, the same shall not be construed against any party on the basis that either party was the  
22 drafter.

23 **62. Attorneys' Fees, Costs and Expenses.**

24 Except as otherwise provided for herein, each party shall bear its/her own attorneys' fees,  
25 costs and expenses, taxable or otherwise, incurred by them in or arising out of the Action, and  
26 shall not seek reimbursement thereof from any other party to this Stipulation or Settlement.

27 **63. California Code of Civil Procedure Section 384 Does Not Apply.**

28 The Settling Parties agree that California Code of Civil Procedure section 384 does not



1 apply to this Stipulation. More specifically, the Settling Parties represent and agree that the  
2 Defendant has committed to make the necessary funds available to effectuate this Settlement.  
3 Accordingly, no obligation to pay any given member of the Settlement Class is created until the  
4 Effective Date occurs and that member of the Settlement Class has submitted a valid Claim Form.

5       **64. Calculation of Time.**

6       Any reference to "days" in this Stipulation refers to calendar days unless stated otherwise.  
7 When the last day to perform an act occurs on a weekend or court holiday, the act shall be timely  
8 if performed on the next court day.

9       **65. Continuing Jurisdiction.**

10       Except as otherwise specifically provided for herein, and pursuant to section 664.6 of the  
11 Code of Civil Procedure and the Court's inherent authority, the Superior Court of the State of  
12 California for the County of Los Angeles shall retain jurisdiction to construe, interpret and enforce  
13 this Stipulation and the Settlement, to supervise all notices, the administration of the Settlement  
14 and this Stipulation and distribution of the Settlement Fund, and to hear and adjudicate any dispute  
15 arising from or related to the Settlement and/or this Stipulation.

16       **66. Enforcement Actions.**

17       Before commencing any action or proceeding to enforce the terms of this Stipulation of  
18 Settlement, the parties shall meet and confer in good faith in effort to resolve the dispute.

19       **67. Binding on Assigns.**

20       This Stipulation of Settlement shall be binding upon and inure to the benefit of all of the  
21 parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

22       **68. Counterparts.**

23       This Stipulation may be executed in counterparts, and when each party has signed and  
24 delivered at least one such counterpart, each counterpart shall be deemed an original and, when  
25 taken together with other signed counterparts, shall constitute one Stipulation which shall be  
26 binding upon and effective as to all parties.

27       IN WITNESS WHEREOF, the undersigned Settling Parties and their duly authorized  
28 representatives accept and agree to the terms of this Stipulation and Settlement and execute it

1 voluntarily and with a full understanding of its consequences.

2

3 Date: \_\_\_\_\_

4

\_\_\_\_\_  
Gina De Baca

5

6 Date: \_\_\_\_\_

7

\_\_\_\_\_  
Vivian Mahl

8

9 Date: 10/4/19

10

\_\_\_\_\_  
Dr. Ben Drati on behalf of Santa Monica-  
Malibu Unified School District

11

12 Date: October 3, 2019

13

\_\_\_\_\_  


14

Mark Bresee, Attorney for Defendant

15

16 Date: \_\_\_\_\_

17

\_\_\_\_\_  
Kevin Shenkman, Attorney for Plaintiffs

18

19

20

21

22

23

24

25

26

27

28

1 voluntarily and with a full understanding of its consequences.

2  
3 Date: 10-8-19

Gina DeBaca  
Gina De Baca

4  
5 Date: 10/8/19

Vivian Mahl  
Vivian Mahl

6  
7  
8 Date: \_\_\_\_\_

\_\_\_\_\_  
Dr. Ben Drati on behalf of Santa Monica-  
Malibu Unified School District

9  
10  
11 Date: \_\_\_\_\_

\_\_\_\_\_  
Mark Bresee, Attorney for Defendant

12  
13  
14 Date: 10/8/19

[Signature]  
Kevin Shenkman, Attorney for Plaintiffs

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## EXHIBIT A



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

GINA DE BACA and VIVIAN MAHL, each  
individually and on behalf of Class Members,

Plaintiffs,

v.

SANTA MONICA MALIBU UNIFIED  
SCHOOL DISTRICT; and Does 1-100,  
inclusive,

Defendants.

Case No.: BC674932

Honorable Elihu M. Berle

**[PROPOSED] ORDER GRANTING  
PRELIMINARY APPROVAL OF  
SETTLEMENT AND SETTING FAIRNESS  
HEARING**

Date: October 25, 2019

Time: 1:30 p.m.

Dept.: SSC-6

(Spring Street Courthouse)

Complaint Filed: September 6, 2017

Jury Trial Date: None Set

1 Plaintiff's application for an Order Preliminarily Approving a Class Action Settlement and  
2 setting a settlement hearing was filed with the court on August 15, 2019. The Court has  
3 considered the Joint Stipulation of Class Action Settlement (and its exhibits) (the "Stipulation")  
4 and all other papers filed in this action.

5 NOW THEREFORE, IT IS HEREBY ORDERED:

6 1. All defined terms contained herein shall have the same meanings as set forth in the  
7 Stipulation;

8 2. The Class Representatives and Defendant, through their counsel of record in the  
9 Litigation, have reached an agreement to settle all claims in the Litigation on behalf of the Class as  
10 a whole;

11 3. The Court hereby conditionally certifies the following three (3) putative classes  
12 (collectively referred to herein as the "Class") for settlement purposes only:

13 (a) "All students, and their respective parents or legal guardians, who, on or  
14 after July 12, 2016, up to the date of preliminary approval of this Settlement  
15 Agreement, paid a fee to Defendants, or any one of them, or were required  
16 by Defendants or any one of them to purchase or rent any item, for  
17 participation in a curricular or extracurricular activity integral to education;

18 (b) All students, and their respective parents or legal guardians, who on or after  
19 July 12, 2016, up to the date of preliminary approval of this Settlement  
20 Agreement, paid a fee, not authorized by law, to Defendants or any of them;  
21 and

22 (c) All students, and their respective parents or legal guardians, who, on or after  
23 July 12, 2016, up to the date of preliminary approval of this Settlement  
24 Agreement, were required by Defendants, or any of them, to submit an  
25 application for a fee waiver financial aid or scholarship to purchase or rent  
26 any item required for participation in a curricular or extracurricular activity  
27 integral to education."  
28

1       Should for whatever reason the Stipulation and Judgment not become Final, the fact that  
2 the parties were willing to stipulate to certification of the Class as part of the Stipulation shall have  
3 no bearing on, or be admissible in connection with the issue of whether a class should be certified  
4 in a non-settlement context.

5       4.     The Court appoints and designates: (a) Plaintiffs Gina de Baca and Vivial Mahl as  
6 the Class Representatives and (b) Shenkman & Hughes as Class Counsel for the Class. Class  
7 Counsel is authorized to act on behalf of the Class with respect to all acts or consents required by,  
8 or which may be given, pursuant to the Stipulation, and such other acts reasonably necessary to  
9 finalize the Stipulation and its terms. Any Class Member may enter an appearance through his or  
10 her own counsel at such Class Member's own expense. Any Class Member who does not enter an  
11 appearance, or appear on his or her own behalf, will be represented by Class Counsel.

12       5.     The Court hereby approves the terms and conditions provided for in the Stipulation.

13       6.     The Court hereby preliminarily approves the requested attorneys' fees in the  
14 amount of \$560,000, costs in an amount not to exceed \$15,000, and preliminarily approves the  
15 Incentive Award to be paid to each of the Class Representatives for their services to the Class in  
16 the amount of \$5,000 respectively.

17       7.     The Court finds that on a preliminary basis the Stipulation appears to be within the  
18 range of reasonableness of a settlement, including Class Representative service award, Class  
19 Counsel fees and costs, and the allocation of payments to Class Members, that could ultimately be  
20 given final approval by this Court. It appears to the Court on a preliminary basis that the  
21 settlement is fair, adequate and reasonable as to all potential Class Members when balanced  
22 against the probable outcome of further litigation relating to liability and damages issues. It also  
23 appears that extensive and costly investigation, research and court proceedings have been  
24 conducted so that counsel for the Settling Parties are able to reasonably evaluate their respective  
25 positions. It appears to the Court that settlement at this time will avoid substantial additional costs  
26 by all Settling Parties, as well as avoid the delay and risks that would be presented by the further  
27 prosecution of the Litigation. It also appears that settlement has been reached as a result of



1 intensive, serious and non-collusive, arms-length negotiations.

2 8. A hearing (the "Settlement Fairness Hearing") shall be held before this Court on  
3 \_\_\_\_\_ at \_\_\_\_\_ at the Superior Court of the State of California, County of Los  
4 Angeles, Department SSC-6, to determine all necessary matters concerning the Stipulation,  
5 including whether the proposed settlement of the action on the terms and conditions provided for  
6 in the Stipulation is fair, adequate and reasonable and should be finally approved by the Court and  
7 whether a Judgment, as provided in the Stipulation, should be entered herein. At this same time,  
8 a hearing on Class Counsel's motion for attorneys' fees and reimbursement of litigation costs and  
9 the Class Representative's service award shall also be held.

10 9. The Court hereby approves, as to form and content, the Notice of Proposed Class  
11 Action Settlement and the accompanying Request for Exclusion Form, which are attached as  
12 exhibits to the Stipulation. The Court finds that distribution of the Class Notice and Request for  
13 Exclusion to Class Members substantially in the manner and form set forth in the Stipulation and  
14 this Order meet the requirements of due process and shall constitute due and sufficient notice to all  
15 parties entitled thereto.

16 10. Any Class Member may choose to opt out of and be excluded from the settlement  
17 as provided in the Stipulation by following the instructions for requesting exclusion in the Notice.  
18 Any person who timely and properly opts out of the settlement will not be bound by the  
19 Stipulation or have any right to object, appeal or comment thereon. Any Request for Exclusion  
20 must be signed by each such Class Member opting out and must otherwise comply with the  
21 requirements delineated in the Stipulation and Notice. Class Members who have not requested  
22 exclusion by submitting a valid and timely Request for Exclusion by the Opt Out Deadline shall  
23 be bound by all determinations of the Court, the Stipulation and Judgment.

24 11. Any Class Member may object to the Stipulation or express his or her views  
25 regarding the Stipulation, and may present evidence and file briefs or other papers that may be  
26 proper and relevant to the issues to be heard and determined by the Court as provided in the Class  
27 Notice.

1           12.    The Motion for Final Approval shall be filed by Class Representatives on or before  
2 \_\_\_\_\_.

3           13.    The Court reserves the right to adjourn or continue the date of the Settlement  
4 Fairness Hearing and all dates provided for in the Stipulation without further notice to the Class,  
5 and retains jurisdiction to consider all further applications arising out of or connected with the  
6 Stipulation.

7

8           IT IS SO ORDERED.

9

10          DATED: \_\_\_\_\_

11

Honorable Elihu M. Berle

12

Judge of the Superior Court

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

## EXHIBIT B



## **NOTICE OF CLASS ACTION SETTLEMENT**

**IF YOU WERE A STUDENT, OR PARENT OR GUARDIAN OF A STUDENT, AT ANY SCHOOL OPERATED BY SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT BETWEEN JULY 12, 2016 AND \_\_\_\_\_, YOU MAY BE ENTITLED TO MONEY FROM THIS SETTLEMENT.**

*A court authorized this Notice. You are not being sued. This is not a solicitation from a lawyer.*

On \_\_\_\_\_, 2019, the Court in this action granted preliminary approval of a proposed settlement as set forth in the Settlement Agreement and Release ("Settlement Agreement") concerning the lawsuit noted above ("the Lawsuit"). You are receiving this Notice because records show you were a student, or parent or guardian of a student, who attended a school operated by Santa Monica-Malibu Unified School District, between July 12, 2016 and \_\_\_\_\_ ("Class Period"), and you may be entitled to recover a portion of the funds to be made available for the proposed settlement of this class action.

You are not being sued. However, your rights may be affected by the legal proceedings in the Lawsuit. If the proposed settlement of this class action is granted final approval by the Court, you, as a Class Member, may have the right to be paid a share of the proposed settlement funds.

To receive any settlement funds, you must complete and submit a claim form.

**PLEASE READ THIS ENTIRE NOTICE CAREFULLY.  
YOUR RIGHTS MAY BE AFFECTED  
BY THE PROPOSED SETTLEMENT DESCRIBED IN THIS NOTICE**

You have received this Notice because Santa Monica-Malibu Unified School District's records indicate that you are a member of the Class. This notice is designed to inform you about your options in this Settlement, all of which are dependent on the Court's final approval of the Settlement.

### **YOUR OPTIONS**

1. **Submit a Claim:** You may receive money from the Settlement and you will release certain claims you may have against Santa Monica-Malibu Unified School District;
2. **Do Nothing:** You **WILL NOT** receive money from the Settlement and you will release certain claims you may have against Santa Monica-Malibu Unified School District;
3. **Opt Out of the Settlement:** You may exclude yourself from the Settlement, in which case you will receive nothing from the Settlement and you will retain any claims you may have against the Santa Monica-Malibu Unified School District; or
4. **Object to the Settlement:** You may express your objection to the Settlement to the Los Angeles Superior Court as detailed below.

## 1. What Is This Case About?

Gina de Baca and Vivian Mahl ("Named Plaintiffs") asserted causes of action for violation of the California Constitution's free school guarantee and equal protection clause. Principally, Named Plaintiffs alleged that Defendant Santa Monica-Malibu Unified School District ("SMMUSD") unlawfully charged students and their parents/guardians to participate in educational activities (including curricular and extra-curricular activities) and/or for items (e.g. materials, supplies, equipment, and/or uniforms) reasonably necessary to participate in such educational activities, and failed to provide instructional materials reasonably necessary for participation in such educational activities. SMMUSD has denied and continues to deny each and every material factual, procedural, and/or legal allegation and alleged claim asserted by the Named Plaintiffs.

On \_\_\_\_\_ the Court granted the Named Plaintiffs' motion for preliminary approval of class action settlement, conditionally certifying the following classes:

- (a) "All students, and their respective parents or legal guardians, who, on or after July 12, 2016, up to the date of preliminary approval of the Settlement Agreement, paid a fee to Defendants, or any one of them, or were required by Defendants or any one of them to purchase or rent any item, for participation in a curricular or extracurricular activity integral to education;
- (b) All students, and their respective parents or legal guardians, who on or after July 12, 2016, up to the date of preliminary approval of the Settlement Agreement, paid a fee, not authorized by law, to Defendants or any of them; and
- (c) All students, and their respective parents or legal guardians, who, on or after July 12, 2016, up to the date of preliminary approval of the Settlement Agreement, were required by Defendants, or any of them, to submit an application for a fee waiver financial aid or scholarship to purchase or rent any item required for participation in a curricular or extracurricular activity integral to education."

(collectively "the Class")

Based on SMMUSD's records, you may be a member of the Class and you may be entitled to receive money from the proposed settlement.

If the Court approves the proposed settlement at the Final Approval Hearing scheduled for \_\_\_\_\_ the proposed settlement will bind all members of the Class who do not previously file a valid and timely Request for Exclusion with the Claims Administrator, consistent with the Court's order certifying the Settlement Class. If the Court does not approve the proposed settlement, the Settlement Agreement will have no effect or precedential value in any subsequent proceedings in the Lawsuit or in any other litigation.

## 2. How Can I Receive Money From The Settlement?

In order to receive any money from the Settlement, you must submit a claim form. Claim forms can be submitted by mail, email or online. A claim form is included with this Notice, and may also be printed from SMMUSD's website at [www.smmusd.org/](http://www.smmusd.org/)\_\_\_\_\_. To be valid, claim forms must be completed, signed under penalty of perjury, and submitted on or before \_\_\_\_\_.

## 3. Will I Be Subject To Discipline or Retaliation If I Participate in the Settlement?

No.



#### **4. How Much is the Settlement?**

SMMUSD has agreed to fully comply with the Free School Guarantee of the California Constitution in all matters going forward. SMMUSD has also agreed to reimburse all amounts paid by the Class since July 12, 2016 for fees identified in the claim form included with this Notice. Additionally, Named Plaintiffs' Counsel will request up to \$560,000 in attorneys' fees and up to \$15,000 reimbursement of litigation expenses, and Named Plaintiffs will request an incentive award up to \$5,000 each.

#### **5. How Much Money Will I Receive?**

If the settlement is finally approved by the Court, and you submit a timely and complete claim form, you will receive a reimbursement of the amounts you paid and list on the claim form if SMMUSD does not dispute the claim. In the event that SMMUSD disputes your claim, it will submit its dispute to a neutral decision-maker who has been agreed upon – Brooks Allen, an attorney well-versed in the law concerning the free school guarantee in the California Constitution. In that event you would have the opportunity to provide information to the neutral decision-maker before a final decision on your claim is made.

#### **6. When Will I Receive the Money?**

If the Court grants final approval of the settlement, and you submit a timely claim form, Defendant will pay your claim within \_\_ days of the Effective Date of the Settlement.

#### **7. Can I Object To The Settlement?**

Yes. To do so, you must mail a signed, written statement of objection to the Class Counsel at the addresses listed below, including your full name, mailing address, telephone number, and the reason(s) for objecting to the settlement. Class Counsel will then forward your objection to the Court and to Defendant's counsel.

Your objection must be postmarked no later than \_\_\_\_\_.

If the Court rejects your objection, you will still be bound by the terms of the Settlement Agreement and the Release described below.

#### **8. What Happens If I Do Nothing?**

You will receive no money from this settlement and you will be bound by the Settlement Agreement and the Release described below. If you do not submit a claim form, and you do not exclude yourself from the Settlement, SMMUSD will regard all amounts you paid for educational activities and/or items reasonably necessary to participate in educational activities as a contribution to SMMUSD, and you will then be entitled to claim those amounts as charitable contributions for tax purposes.

#### **9. What Rights Am I Giving Up?**

Upon final approval by the Court, each member of the Class who does not submit a valid and timely Request for Exclusion, consistent with the Court's order certifying the Settlement Class, releases Defendant, including all persons acting by, through, under or in concert with them, or any of them ("Released Parties"), from any and all claims, debts, liabilities,



demands, obligations, penalties, guarantees, costs, expenses, attorneys' fees, damages, actions or causes of action of whatever kind or nature, which were alleged, or which could have been alleged arising from or related to the facts and claims alleged in the Action.

#### **10. Who Are The Class Representatives?**

The Court has appointed Gina de Baca and Vivian Mahl as the Class Representative to represent you in the Lawsuit.

#### **11. How Will The Attorneys' Fees For The Class Be Paid?**

You do not need to pay any portion of either Class Counsel's or SMMUSD's attorneys' fees and costs. All payment for Class Counsel's attorneys' fees and costs will be paid consistent with the Settlement Agreement. Class Counsel has actively litigated this case since September 2017, and worked on this matter even prior to filing a lawsuit. It is customary for courts to award to class counsel attorneys' fees to compensate counsel for their work, risk and expenses and in recognition of the benefit of a class. In this case, Class Counsel will request an award of fees in an amount up to \$560,000 and costs in an amount of up to \$15,000 for their work in prosecuting the Lawsuit. The Court may award less than these amounts. If the Court approves the Settlement, those fees and costs will be paid consistent with the Settlement Agreement.

#### **12. When and Where is the Final Approval Hearing?**

The Final Approval Hearing has been scheduled for \_\_\_\_\_ at \_\_\_\_\_ m. before the Honorable Elihu M. Berle in Department SSC-6 of the Los Angeles County Superior Court located at 312 N. Spring Street, Los Angeles, CA, at which time the Court will determine: (1) whether the proposed settlement should be approved as fair, reasonable and adequate to the Class; and (2) whether the proposed Final Approval Order and Judgment should be entered by the Court. The Final Approval Hearing date and time may change without further notice given to you. Please contact Class Counsel or SMMUSD's counsel at the address and telephone in Section \_\_\_ of the Notice to find out if there has been a change to the date and time of the Final Approval Hearing. You may also check the court's docket at [www.lacourt.org/casesummary/ui/index.aspx?casetype=civil](http://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil) by entering the case number BC674932

#### **You Are Not Required To Attend The Final Approval Hearing.**

You are welcome to attend the Final Fairness and Approval Hearing, at your own expense. You may hire your own attorney at your own expense to speak at the Final Approval Hearing, or you may speak at the Final Approval Hearing on your own behalf.

#### **13. How Do I Exclude Myself From the Settlement?**

If you wish to exclude yourself from the Settlement, you may complete and sign the enclosed "Opt-Out Form," and mail it to Class Counsel at the address listed below. To exclude yourself from the settlement, you must mail the completed Opt-Out Form by \_\_\_\_\_.

#### **14. Where Can I Get Additional Information?**

This Notice provides only a summary of the matters relating to the proposed settlement. For further information, you may contact the:

Defendant's counsel as follows:

Mark Bresee, Esq.

Atkinson Andelson Loya Ruud & Romo

12800 Center Court Drive, Suite 300

Cerritos, CA 90703

Telephone: (562) 653-3200

Class Counsel as follows:

Kevin I. Shenkman, Esq.

Mary R. Hughes, Esq.

Andrea Alarcon, Esq.

SHENKMAN & HUGHES

28905 Wight Road

Malibu, California 90265

Telephone: (310) 457-0970

**PLEASE DO NOT CALL OR CONTACT THE COURT WITH QUESTIONS ABOUT THE  
PROPOSED SETTLEMENT OR THE SETTLEMENT PROCESS.**

## EXHIBIT C



### CLAIM FORM

I am/was a student at a school operated by Santa Monica-Malibu Unified School District ("SMMUSD"), or I am the parent/guardian of one or more such students. Between July 12, 2016 and \_\_\_\_\_, 20\_\_\_\_, I spent the amounts listed below, in the listed categories, in connection with the educational activities of SMMUSD.

I understand that claims are available only for expenses within the categories below that were explicitly described as mandatory to participate in an educational activity, or which, based on the circumstances, I reasonably believed were mandatory to participate in an educational activity.

Category	Amount
(a) Basic school supplies, including but not limited to pens, pencils, colored pencils, highlighters, markers, notebooks, binders, dividers, folders, lined paper, graph paper, and poster boards	\$
(b) Calculators (for middle school and high school students)	\$
(c) Standardized physical education apparel that school staff required students to purchase from SMMUSD, school, or teacher	\$
(d) Swimwear (applicable only to middle school and high school students) that school staff required students to purchase from SMMUSD, school, or teacher	\$
(e) Field trips (not including social or recreational excursions), paid by a parent who lacked sufficient funds, after being told (verbally, in writing, or any other manner) by SMMUSD, school, or teacher that their child would be precluded from participating if the fee was not paid	\$
(f) Science camp fees paid by a parent after being told (verbally, in writing, or any other manner) by SMMUSD, school or teacher that their child would be precluded from participating if the fee was not paid	\$
(g) Athletics fee (applicable only for the 2016-2017 school year)	\$
(h) Uniforms and supplies for athletics, cheer, and band	\$
(i) Athletics spirit packs	\$
(j) Musical instrument rentals and purchases	\$
(k) Musical instrument accessories	\$
(k) Uniforms or standardized, specialized clothing for choir performances (e.g. tuxedos, school logo shirts, long black dresses purchased from SMMUSD or teacher)	\$
(l) Summer school fees paid to SMMUSD	\$
(m) Reminder/agenda/planner (not including the replacement of a reminder/agenda/planner which was lost by the student)	\$
<b>Total</b>	\$

[CONTINUED ON NEXT PAGE]

Please check/complete one:

\_\_\_\_\_ I am providing proof of payment (receipt, cancelled check, redacted credit card bill) with this Claim Form.

\_\_\_\_\_ Below is a brief explanation why proof of payment cannot be provided, and of how the amount paid was determined or estimated.

---

---

---

Additional information you wish to provide to assist in the assessment of your claim (e.g. teacher/coach, class/activity, semester, etc):

---

---

---

I declare under penalty of perjury that the foregoing and the information provided above is true and correct.

Executed on \_\_\_\_\_ (date), at \_\_\_\_\_ (city and state).

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed or Printed Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone Number, Including Area Code)

\_\_\_\_\_  
(City, State, Zip Code)

\_\_\_\_\_

## EXHIBIT D



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

GINA DE BACA and VIVIAN MAHL, each  
individually and on behalf of Class Members,

Plaintiffs,

v.

SANTA MONICA MALIBU UNIFIED  
SCHOOL DISTRICT; and Does 1-100,  
inclusive,

Defendants.

CASE NO. BC674932

**REQUEST FOR EXCLUSION FROM  
CLASS ACTION SETTLEMENT**

[Assigned for all purposes to the Honorable  
Elihu M. Berle, Department 006 (Spring Street  
Courthouse)]

1                    **REQUEST FOR EXCLUSION FROM CLASS ACTION SETTLEMENT**

2    **IF YOU WANT TO BE INCLUDED IN THIS CLASS ACTION SETTLEMENT, DO NOT**  
3                    **FILL OUT THIS FORM.**

4    **IF YOU DO NOT WANT TO BE INCLUDED IN THE CLASS ACTION SETTLEMENT,**  
5    **AND YOU ARE A MEMBER OF THE SETTLEMENT CLASS: COMPLETE THIS**  
6    **FORM IN ITS ENTIRETY, SIGN THE FORM UNDER PENALTY OF PERJURY, AND**  
7    **RETURN IT VIA FIRST CLASS MAIL TO THE ADDRESS BELOW NOT LATER THAN**  
8    **60 DAYS AFTER THE NOTICE OF SETTLEMENT AND THIS FORM WAS MAILED.**

9                    Shenkman & Hughes

10                   28905 Wight Rd.

11                   Malibu, CA 90265

12                   I, \_\_\_\_\_, wish to be excluded from the Settlement Class  
13    described in the Class Notice in the case entitled *Gina de Baca and Vivian Mahl v. Santa Monica-*  
14    *Malibu Unified School District*, Los Angeles Superior Court Case No. BC674932, and I do not  
15    want to participate in the proposed settlement described therein.

16    \_\_\_\_\_  
17    (Signature)

18    \_\_\_\_\_  
19    (Typed or Printed Name)

20    \_\_\_\_\_  
21    (Address)

22    \_\_\_\_\_  
23    (Telephone Number, Including Area Code)

24    \_\_\_\_\_  
25    (City, State, Zip Code)

**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 28905 Wight Rd., Malibu, California 90265.

On October 18, 2021, I served true copies of the following document(s) described as  
**PROPOSED JUDGMENT AND ORDER GRANTING FINAL APPROVAL OF SETTLEMENT**  
on the interested parties in this action as follows:

Mark Bresee  
Scott Danforth  
ATKINSON ANDELSON LOYA RUUD & ROMO  
4275 Executive Square  
Suite 700  
La Jolla, CA 92037

**BY ELECTRONIC SERVICE:** Pursuant to the Court's order regarding electronic service in this case, I posted the foregoing document using the CaseAnywhere service with instructions that it be sent to the above-identified counsel.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 18, 2021 at Malibu, California.

/s/ Kevin Shenkman  
Kevin Shenkman