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10	UNITED STATES DISTRICT COURT		
11	EASTERN DISTRICT OF CALIFORNIA		
12			
13	CLAUDIA MACIAS,	Case No. 1:17-at-00705	
14	Plaintiffs,		
15	VS.		
16	LISA FILIPPINI in her individual capacity; BILL MORONES, in his	FIRST AMENDED COMPLAINT	
17	individual capacity; and BRIAN	DEMAND FOR JURY TRIAL	
18	MILLER, in his individual capacity,		
19	Defendants.		
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23	INTRODUCTION		
24	1. This action seeks remedies for defendant school district officials' unlawful civil		
25	rights violations at Gustine Unified School District against Plaintiff Claudia Macias, who was the mother of a fourth grade student, M.S., at Romero Elementary School ("School") during the		
2627			
28	events alleged in this action.		
		1 FIRST AMENDED COMPLAINT	

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2. Defendants violated Plaintiff Macias's First Amendment rights by indefinitely			
banning her from the School because she engaged in protected speech. Plaintiff advocated for			
her son's access to his educational needs. Defendants deprived Plaintiff of her rights and			
protected interests in participating in her son's education through classroom visits, school			
meetings, and other activities at the School without sufficient procedural protections or legitimate			
justification. Defendants violated Plaintiff's right to due process by banning her from the School			
without appropriate procedural protections.			

Plaintiff brings claims against Defendants Lisa Filippini, Bill Morones, and Brian
 Miller, in their individual capacities, for money damages.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1343(a), and 1367, as well as under 42 U.S.C. § 1988. Under 28 U.S.C. § 1391(b), venue is proper because Defendants reside in the Eastern District of California and the events giving rise to the claims occurred in this district.

PARTIES

Plaintiff

5. Plaintiff CLAUDIA MACIAS ("Mother") is an individual who resides in the Eastern District of California, and is the mother of a minor student who was enrolled at Romero Elementary School ("School") during the events alleged in this action. Plaintiff is primarily a Spanish-speaker who is not proficient in the English language.

Defendants

6. Defendant LISA FILIPPINI, in her individual capacity, ("Principal Filippini") was the Principal of the School, which is a school in Gustine Unified School District ("District" or "GUSD"), during the events alleged in this action.

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- 7. Defendant BILL MORONES, in his individual capacity, ("Superintendent Morones") was the Superintendent of the District during the events alleged in this action. During the events alleged in this action, Superintendent Morones was charged with the duty of enforcing Plaintiff Mother's parental access rights and interests under federal and California laws and regulations, and District policies and regulations, including: CAL. EDU. CODE § 32211; GUSD BOARD POLICY §§1100, 1250, 1312.1, 1312.3, 2110-11, 2210, 3515.2; GUSD BOARD REGULATION §§ 1312.1, 1312.3, 3515.2.
- 8. Defendant BRIAN MILLER, in his individual capacity, was a Deputy for the Merced County Sheriff's Department and the School Resource Officer for the District, during the events alleged in this action.

FACTUAL ALLEGATIONS

- 9. On or around August 2015, Plaintiff and her husband asked Defendant Principal Filippini to transfer their fourth-grade son to a different classroom at the School, and communicated their concerns about their son's assigned classroom and the manner in which his teacher treated him. Plaintiff's son suffers from anxiety and the teacher's treatment of him exacerbated the anxiety.
- 10. Defendants refused Plaintiff Mother's repeated requests to remove her son from his assigned classroom.
- 11. Plaintiff went to the School to observe her son's classroom and advocate for Defendants to move him to a more suitable learning environment.
- 12. Plaintiff and her husband had meetings at the School with Defendant Principal Filippini and Defendant Superintendent Morones, as well as with the District's counselor.

 Initially, School officials encouraged Plaintiff and her husband to visit her son's classroom.

 However, Defendants refused to move Plaintiff's son to a different classroom.

- explanations of the School's policies regarding parent visitation.
- 14. On or around September 18, 2015, Defendant Principal Filippini indefinitely banned Plaintiff Mother from the School and falsely accused her of harassing teachers.
- 15. Plaintiff Mother and her husband had an appointment to visit their son's classroom on the day of the ban, but on the day of that appointment Defendant Principal denied them access to their son's classroom and said that they could not visit the School without prior approval. At that meeting, Defendant Miller arrived in Principal Filippini's office. Principal Filippini said that Plaintiff could no longer come to the School. Plaintiff Mother and her husband disagreed with the allegations that Plaintiff had harassed teachers.
- 16. Principal Filippini refused to allow Plaintiff or her husband to tell their side of the events that occurred.
- 17. Defendant Miller told Plaintiff that Principal Filippini had authority to ban her from the School and that he would arrest her if she ever returned to the School.
 - 18. Defendant Miller escorted Plaintiff Mother and her husband out of the School.
 - 19. Plaintiff objected to her ban.
- 20. Plaintiff eventually transferred her son to a school in a different town and district because the ban, and other conduct by Defendants, prevented her from participating in her son's education.
 - 21. Plaintiff Mother has suffered emotional distress as a result of Defendants' actions.
- 22. Defendant Superintendent had knowledge of the ban, ratified the ban, and did nothing to remedy the situation. Superintendent Morones knew, or should have known, of Principal Filippini's wrongful and intentional conduct in violation of Plaintiff's rights.

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Superintendent Morones banned Plaintiff consistent with the policy or custom of denying due process to parents.

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FIRST CAUSE OF ACTION

42 U.S.C. § 1983—First Amendment Retaliation Against Defendants Principal Filippini, and Brian Miller, in their individual capacities—for monetary damages

- 23. Plaintiff re-alleges and incorporates by reference the allegations set forth in all prior paragraphs of this Complaint.
- 24. Defendants violated Plaintiff's First Amendment rights when they retaliated against Plaintiff by indefinitely banning her from the School, and committing other adverse acts, because Plaintiff engaged in protected speech by communicating concerns regarding her son's education.
- 25. Plaintiff's speech regarding Defendants' treatment of her son, including during school meetings, was protected speech.
- 26. Defendants' indefinite ban of Plaintiff from the School and other adverse acts would dissuade parents of ordinary firmness from continuing to engage in protected speech.
- 27. Defendants deprived Plaintiff of her First Amendment rights and caused Plaintiff to suffer injury, damage, loss and harm.
- 28. The wrongful acts of Defendants subjected Plaintiff to cruel and unjust hardship in conscious disregard for her rights, were willful, malicious, fraudulent, and oppressive, were committed with the wrongful intent to injure Plaintiff and were so wretched that it would be looked down upon and despised by ordinary decent people.

SECOND CAUSE OF ACTION

42 U.S.C. § 1983—Violation of Procedural Due Process Rights Under the Fourteenth Amendment; Against Defendants Lisa Filippini, Bill Morones, and Brian Miller in their individual capacities—for money damages

- 29. Plaintiff re-alleges and incorporates by reference the allegations set forth in all prior paragraphs of this Complaint.
- 30. Defendants deprived Plaintiff of life, liberty or property without due process of law.
- 31. Plaintiff has parental participation rights and protected liberty and property interests in participating in her son's education.
- 32. Defendants banned Plaintiff from her son's school and took other adverse actions against her without due process.
- 33. Defendants' actions deprived Plaintiff of her parental participation rights and interests, and caused Plaintiff to suffer injury, damage, loss, or harm.
- 34. Defendants' wrongful acts subjected Plaintiff to cruel and unjust hardship in conscious disregard for her rights, were willful, malicious, fraudulent, and oppressive, were committed with the wrongful intent to injure Plaintiff and were so wretched that it would be looked down upon and despised by ordinary decent people.

JURY DEMAND

35. Plaintiffs demand a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief as follows:

36. For general damages, according to proof, on each cause of action for which such damages are available;

Case 1:17-at-00705 Document 2 Filed 09/18/17 Page 7 of 7 37. For punitive damages, according to proof, on each cause of action for which such damages are available; 38. For pre-judgment and post-judgment interest according to law; 39. For reasonable attorneys' fees incurred in this action on those causes of action for which such fees are recoverable under the law; 40. For costs of suit incurred in this action; and 41. For such other and further relief as the Court deems proper and just. Dated: September 18, 2017 MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND, INC. /s/ Victor Viramontes Attorney for Plaintiffs