

Nos. 19-267 & 19-348

In the Supreme Court of the United States

OUR LADY OF GUADALUPE SCHOOL, *Petitioner*,

v.

AGNES MORRISSEY-BERRU, *Respondent*.

ST. JAMES SCHOOL, *Petitioner*,

v.

DARRYL BIEL, AS PERSONAL REPRESENTATIVE OF THE
ESTATE OF KRISTEN BIEL, *Respondent*.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

JOINT APPENDIX

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Our Lady of Guadalupe School v. Morrissey-Berru,
No. 19-267

Petition for Writ of Certiorari Filed Aug. 28, 2019

Petition for Writ of Certiorari Granted Dec. 18, 2019

St. James School v. Biel, No. 19-348

Petition for Writ of Certiorari Filed Sept. 16, 2019

Petition for Writ of Certiorari Granted Dec. 18, 2019

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The following opinions, decisions, judgments, orders and other materials have been omitted in printing this joint appendix because they appear on the following pages in the appendix to the Petition for Certiorari:

Our Lady of Guadalupe School v. Morrissey-Berru, No. 19-267

Opinion, *Morrissey-Berru v. Our Lady of Guadalupe Sch.*, No. 17-56624 (9th Cir. Apr. 30, 2019), ECF No. 38-1. 1a

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The following has been omitted in printing this joint appendix because it appeared on the following pages in the appendix to the Respondent’s Brief in Opposition to Petition for a Writ of Certiorari:

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The following opinions, decisions, judgments, orders and other materials have been omitted in printing this joint appendix because they appear on the following pages in the appendix to the Petition for Certiorari:

St. James School v. Biel, No. 19-348

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JA 1

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

No. 17-56624

Agnes Morrissey-Berru,
Plaintiff-Appellant,

v.

Our Lady of Guadalupe School
Defendant-Appellee.

RELEVANT DOCKET ENTRIES

Date Filed	#	Docket Text
10/25/2017	1	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. SEND MQ: Yes. The schedule is set as follows: Mediation Questionnaire due on 11/01/2017. Appellant Agnes Deirdre Morrissey-Berru opening brief due 12/26/2017. Appellee Our Lady of Guadalupe School answering brief due 01/23/2018. Appellant's optional reply brief is due 21 days after service of the answering brief. [10631572] (WL) [Entered: 10/25/2017 03:27 PM]
* * *		

Date Filed	#	Docket Text
03/12/2018	7	Submitted (ECF) excerpts of record. Submitted by Appellant Agnes Deirdre Morrissey-Berru. Date of service: 03/12/2018. [10795350] [17-56624] (Lovretovich, Joseph) [Entered: 03/12/2018 04:33 PM]
03/12/2018	8	Submitted (ECF) Opening Brief for review. Submitted by Appellant Agnes Deirdre Morrissey-Berru. Date of service: 03/12/2018. [10795523] [17-56624] (Lovretovich, Joseph) [Entered: 03/12/2018 09:21 PM]
* * *		
05/25/2018	17	Submitted (ECF) Answering Brief for review. Submitted by Appellee Our Lady of Guadalupe School. Date of service: 05/25/2018. [10885930] [17-56624]--[COURT UPDATE: Attached corrected brief. 05/30/2018 by SLM] (Kantor, Stephanie) [Entered: 05/25/2018 11:38 AM]
* * *		

Date Filed	#	Docket Text
07/16/2018	23	Submitted (ECF) Reply Brief for review. Submitted by Appellant Agnes Deirdre Morrissey-Berru. Date of service: 07/16/2018. [10944450] [17-56624]--[COURT UPDATE: Attached corrected PDF of brief. 07/17/2018 by RY] (Lovretovich, Joseph) [Entered: 07/16/2018 09:28 PM]
* * *		
12/18/2018	29	Filed (ECF) Appellant Agnes Deirdre Morrissey-Berru citation of supplemental authorities. Date of service: 12/18/2018. [11125285] [17-56624]--[COURT UPDATE: Attached searchable version of letter. 12/19/2018 by RY] (Lovretovich, Joseph) [Entered: 12/18/2018 05:09 PM]
* * *		
04/11/2019	36	ARGUED AND SUBMITTED TO JOHNNIE B. RAWLINSON, MARY H. MURGUIA and JAMES RODNEY GILSTRAP. [11260842] (DLM) [Entered: 04/11/2019 12:43 PM]

Date Filed	#	Docket Text
04/19/2019	37	Filed Audio recording of oral argument. Note: Video recordings of public argument calendars are available on the Court's website, at http://www.ca9.uscourts.gov/media/ [11270708] (DLM) [Entered: 04/19/2019 03:08 PM]
04/30/2019	38	FILED MEMORANDUM DISPOSITION (JOHNNIE B. RAWLINSON, MARY H. MURGUIA and JAMES RODNEY GILSTRAP) REVERSED. FILED AND ENTERED JUDGMENT. [11281598] (MM) [Entered: 04/30/2019 09:59 AM]
* * *		
07/11/2019	40	MANDATE ISSUED.(JBR, MHM and JRG) Costs taxed against Appellee in the amount of \$541.44. [11361039] (RR) [Entered: 07/11/2019 03:05 PM]
08/30/2019	41	Supreme Court Case Info Case number: 19-267 Filed on: 08/28/2019 Cert Petition Action 1: Pending [11416662] (RR) [Entered: 08/30/2019 11:30 AM]

JA 5

Date Filed	#	Docket Text
12/18/2019	42	Supreme Court Case Info Case number: 19-267 Filed on: 08/28/2019 Cert Petition Ac- tion 1: Granted, 12/18/2019 [11537620] (RR) [Entered: 12/18/2019 03:43 PM]

JA 6

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

No. 16-cv-9353

Agnes Morrissey-Berru,

Plaintiff,

v.

Our Lady of Guadalupe School, et al.

Defendants.

RELEVANT DOCKET ENTRIES

Date Filed	#	Docket Text
12/19/2016	1	COMPLAINT Receipt No: 0973-19076448 - Fee: \$400, filed by plaintiff Agnes Deirdre Morrissey-Berru. (Attorney Joseph M Lovretovich added to party Agnes Deirdre Morrissey-Berru (pty:pla)) (Lovretovich, Joseph) (Entered: 12/19/2016)
* * *		
02/13/2017	16	ANSWER to Complaint (Attorney Civil Case Opening) 1 filed by Defendant Our Lady of Guadalupe School.(Kantor, Stephanie) (Entered: 02/13/2017)
* * *		

Date Filed	#	Docket Text
03/13/2017	20	MINUTES OF NEW CASE STATUS CONFERENCE held before Judge Stephen V. Wilson. The Court sets the following dates: Jury Trial set for 8/15/2017 at 09:00 AM before Judge Stephen V. Wilson. Pre-trial Conference set for 8/7/2017 at 03:00 PM before Judge Stephen V. Wilson. Defendant is granted leave to file an amended answer. Court Reporter: N/A. (mrgo) (Entered: 03/15/2017)
03/17/2017	21	AMENDED ANSWER to Complaint (Attorney Civil Case Opening) 1 filed by Defendant Our Lady of Guadalupe School. (Kantor, Stephanie) (Entered: 03/17/2017)
* * *		
08/18/2017	27	NOTICE OF MOTION AND MOTION for Summary Judgment as to Complaint filed by Defendant Our Lady of Guadalupe School. Motion set for hearing on 9/18/2017 at 01:30 PM before Judge Stephen V. Wilson. (Kantor, Stephanie) (Entered: 08/18/2017)

Date Filed	#	Docket Text
08/18/2017	28	NOTICE OF LODGING filed of <i>Proposed Statement on Uncontroverted Facts</i> re NOTICE OF MOTION AND MOTION for Summary Judgment as to Complaint 27 (Attachments: # 1 [Proposed] Statement of Uncontroverted Facts)(Kantor, Stephanie) (Entered: 08/18/2017)
08/18/2017	29	REQUEST FOR JUDICIAL NOTICE re NOTICE OF MOTION AND MOTION for Summary Judgment as to Complaint 27 filed by Defendant Our Lady of Guadalupe School. (Kantor, Stephanie) (Entered: 08/18/2017)
* * *		
08/18/2017	31	APPENDIX filed by Defendant Our Lady of Guadalupe School. Re: NOTICE OF MOTION AND MOTION for Summary Judgment as to Complaint 27 (Attachments: # 1 Exhibit A in support of motion for summary judgment)(Kantor, Stephanie) (Entered: 08/18/2017)

Date Filed	#	Docket Text
08/18/2017	32	APPENDIX filed by Defendant Our Lady of Guadalupe School. Re: Appendix 31 <i>Exhibit B in support of Motion for Summary Judgment</i> (Kantor, Stephanie) (Entered: 08/18/2017)
08/18/2017	33	APPENDIX filed by Defendant Our Lady of Guadalupe School. Re: Appendix 32, Appendix 31 <i>Exhibits C-G in support of Motion for Summary Judgment</i> (Kantor, Stephanie) (Entered: 08/18/2017)
08/18/2017	34	APPENDIX filed by Defendant Our Lady of Guadalupe School. Re: Appendix 32, Appendix 33, Appendix 31 <i>Exhibits 1-14 in support of Motion for summary judgment</i> (Kantor, Stephanie) (Entered: 08/18/2017)
08/18/2017	35	APPENDIX filed by Defendant Our Lady of Guadalupe School. Re: Appendix 32, Appendix 34, Appendix 33, Appendix 31 <i>Exhibits 15-30 in support of Motion for Summary Judgment</i> (Kantor, Stephanie) (Entered: 08/18/2017)
* * *		

Date Filed	#	Docket Text
08/28/2017	38	MEMORANDUM in Opposition to NOTICE OF MOTION AND MOTION for Summary Judgment as to Complaint 27 filed by Plaintiff Agnes Deirdre Morrissey-Berru. (Lovretovich, Joseph) (Entered: 08/28/2017)
08/28/2017	39	Plaintiff's Separate Statement In Opposition to Motion For Summary Judgment Opposition re: NOTICE OF MOTION AND MOTION for Summary Judgment as to Complaint 27 filed by Plaintiff Agnes Deirdre Morrissey-Berru. (Lovretovich, Joseph) (Entered: 08/28/2017)
08/28/2017	40	Plaintiff's Request for Judicial Notice in Support of Opposition Opposition re: NOTICE OF MOTION AND MOTION for Summary Judgment as to Complaint 27 filed by Plaintiff Agnes Deirdre Morrissey-Berru. (Lovretovich, Joseph) (Entered: 08/28/2017)

Date Filed	#	Docket Text
08/28/2017	41	Plaintiff's Compendium of Evidence - Volume 1 of 2 Opposition re: NOTICE OF MOTION AND MOTION for Summary Judgment as to Complaint 27 filed by Plaintiff Agnes Deirdre Morrissey-Berru. (Lovretovich, Joseph) (Entered: 08/28/2017)
08/28/2017	42	Plaintiff's Compendium of Evidence - Volume 2 of 2 Opposition re: NOTICE OF MOTION AND MOTION for Summary Judgment as to Complaint 27 filed by Plaintiff Agnes Deirdre Morrissey-Berru. (Lovretovich, Joseph) (Entered: 08/28/2017)
09/01/2017	43	REPLY in support of NOTICE OF MOTION AND MOTION for Summary Judgment as to Complaint 27 filed by Defendant Our Lady of Guadalupe School. (Kantor, Stephanie) (Entered: 09/01/2017)

Date Filed	#	Docket Text
09/01/2017	44	STATEMENT of Reply Statement of Controverted and Uncontroverted Facts NOTICE OF MOTION AND MOTION for Summary Judgment as to Complaint 27 filed by Defendant Our Lady of Guadalupe School. (Kantor, Stephanie) (Entered: 09/01/2017)
09/01/2017	45	NOTICE OF LODGING filed <i>Objections to Plaintiff's Evidence</i> re Reply (Motion related) 43 (Attachments: # 1 Objections to Plaintiff's Evidence)(Kantor, Stephanie) (Entered: 09/01/2017)
09/01/2017	46	DECLARATION of Stephanie B. Kantor in support of Defendant's Reply NOTICE OF MOTION AND MOTION for Summary Judgment as to Complaint 27 filed by Defendant Our Lady of Guadalupe School. (Kantor, Stephanie) (Entered: 09/01/2017)
09/06/2017	47	NOTICE of Voluntary Dismissal filed by plaintiff Agnes Deirdre Morrissey-Berru. Dismissal is with prejudice. (Loretovich, Joseph) (Entered: 09/06/2017)

Date Filed	#	Docket Text
09/08/2017	48	IN CHAMBERS ONLY-TEXT ONLY ENTRY by Judge Stephen V. Wilson: The Court orders that Defendant Our Lady of Guadalupe School clarify the scope of the Motion for Summary Judgment 27, in light of the recent dismissal of claims. The defendant shall file a supplemental memorandum no later than Wednesday, September 13, 2017. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (pc) TEXT ONLY ENTRY (Entered: 09/08/2017)
09/11/2017	49	MEMORANDUM of CONTENTIONS of FACT and LAW filed by Defendant Our Lady of Guadalupe School. (Kantor, Stephanie) (Entered: 09/11/2017)
* * *		
09/11/2017	51	MEMORANDUM of CONTENTIONS of FACT and LAW filed by plaintiff Agnes Deirdre Morrissey-Berru. (Lovretovich, Joseph) (Entered: 09/11/2017)
* * *		

Date Filed	#	Docket Text
09/12/2017	55	SUPPLEMENT to NOTICE OF MOTION AND MOTION for Summary Judgment as to Complaint 27 <i>Memorandum Clarifying Scope of Motion</i> filed by Defendant Our Lady of Guadalupe School. (Kantor, Stephanie) (Entered: 09/12/2017)
09/15/2017	56	IN CHAMBERS ONLY-TEXT ONLY ENTRY by Judge Stephen V. Wilson: The Motion for Summary Judgment as to Complaint filed by Defendant 27 is suitable to a determination without oral argument. Fed. R. Civ. P. 78(b); Local Rule 7-15. The hearing scheduled for 09/18/2017 at 1:30 p.m. is VACATED and OFF-CALENDAR. Order to issue. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (pc) TEXT ONLY ENTRY (Entered: 09/15/2017)
* * *		

Date Filed	#	Docket Text
09/27/2017	58	MINUTES (IN CHAMBERS) ORDER GRANTING SUMMARY JUDGMENT by Judge Stephen V. Wilson re: 27 for Summary Judgment. The prevailing shall submit a proposed judgment consistent with this order. All previously set dates are vacated. (See document for details) (mrgo) (Entered: 09/27/2017)
* * *		
10/25/2017	60	NOTICE OF APPEAL to the 9th Circuit Court of Appeals filed by plaintiff Agnes Deirdre Morrissey-Berru. Appeal of Order on Motion for Summary Judgment, 58 . (Appeal Fee - \$505 Fee Paid, Receipt No. 0973-20719823.) (Lovretovich, Joseph) (Entered: 10/25/2017)
* * *		

Date Filed	#	Docket Text
12/06/2017	63	JUDGMENT by Judge Stephen V. Wilson. IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows: Plaintiff shall take nothing on her Complaint; 2. Defendant OUR LADY OF GUADALUPE SCHOOL's Motion for Summary Judgment 27 58 is GRANTED in its entirety. (MD JS-6, Case Terminated). (lom) (Entered: 12/07/2017)
* * *		
04/30/2019	75	MEMORANDUM from Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals 60 filed by Agnes Deirdre Morrissey-Berru. CCA # 17-56624. The decision of the district court is REVERSED. (mrgo) (Entered: 05/02/2019)

Date Filed	#	Docket Text
07/11/2019	76	MANDATE of Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals 60, CCA # 17-56624. The judgment of this Court, entered April 30, 2019, takes effect this date. This constitutes the formal mandate of this Court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure. Costs are taxed against the appellee in the amount of \$541.44. [See USCA Memorandum 75 We have jurisdiction under 28 U.S.C. § 1291, and we reverse.](mat) (Entered: 07/12/2019)
* * *		

Date Filed	#	Docket Text
08/06/2019	81	MINUTE ORDER (IN CHAMBERS) GRANTING DEFENDANT'S UNOPPOSED MOTION TO STAY 78 by Judge Stephen V. Wilson. The Court hereby issues a stay of the matter, pending resolution of Defendant's Petition for Writ of Certiorari to the Supreme Court. The case is moved to the Court's inactive calendar. The parties shall notify the Court, in writing, when the case should be returned to the active calendar. The parties are instructed to notify the Court within 10 days of the Supreme Court's resolution of the Defendant's Petition for Writ of Certiorari. (MD JS-6. Case Terminated) (mrgo) (Entered: 08/07/2019)

**EXCERPTS FROM
DEFENDANT'S REPLY TO PLAINTIFF'S
STATEMENT OF CONTROVERTED AND
UNCONTROVERTED MATERIAL FACTS AND
CONCLUSIONS OF LAW RE: MOTION OF
DEFENDANT FOR SUMMARY JUDGMENT,
ECF NO. 44**

[ER 57]

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Attorneys for Defendant
OUR LADY OF GUADALUPE SCHOOL

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

AGNES DEIRDRE
MORRISSEY-BERRU,
an individual

Plaintiff,

vs.

OUR LADY OF
GUADALUPE
SCHOOL, a California
non-profit corporation

CASE NO. 2:16-CV-
09353-SVW-AFM

*[Assigned to Hon
Stephen V. Wilson]*

DEFENDANT'S
REPLY TO
PLAINTIFF'S
STATEMENT OF
CONTROVERTED
AND
UNCONTROVERTED

and DOES 1 through
50, inclusive
Defendants.

MATERIAL FACTS
AND CONCLUSIONS
OF LAW RE: MOTION
OF DEFENDANT FOR
SUMMARY
JUDGMENT
[Fed. R. Civ. P. 56]

Date: September 18,
2017

Time: 1:30 p.m.

Ctrm: 10A

(Filed concurrently
with Objections to
Plaintiffs Evidence;
Kantor Reply
Declaration; Reply
MPA; Notice of
Lodgment of Objection
to Evidence)

Action Filed:
December 19, 2016

* * *

[ER 61]

[I. Statement of Uncontroverted Facts]

[Defendant's Uncontroverted Facts]

* * *

[DEFENDANT'S] REPLY: Plaintiff raises no genuine, material dispute. Instead she concedes that "the faculty and staff are committed to faith-based education." Plaintiff's purported dispute presents only argumentative, irrelevant surplusage which is non-

responsive to the fact proffered. There is no genuine issue with respect to this fact, and it should be deemed uncontroverted.

6. Plaintiff began working full time at the School as a teacher in 1999, at the age of 48.

Supporting Evidence:

Plaintiff Depo. 12:19-20, 19:4-21

Plaintiff's Response and Supporting Evidence
UNCONTROVERTED

7. The teachers at the School all work on one-year fixed term contracts. Teacher contracts are only for one year at a time, and renewal is determined on a year to year basis.

Supporting Evidence:

Beuder Decl. ¶6; Plaintiff Dep. 20:19-

Plaintiff's Response and Supporting Evidence
UNCONTROVERTED

[ER 121]

* * *

II. PLAINTIFF'S STATEMENT OF FURTHER UNCONTROVERTED FACTS

Plaintiff's Uncontroverted Facts and Supporting Evidence

90. Agnes Deirdre Morrissey-Berru ("Morrissey-Berru") attended two colleges to receive her Bachelor of Arts in English language arts and a minor in secondary education. [Deposition of Agnes Morrissey-Berru 17:14-18:4]

Defendant's Response and Supporting Evidence

This raises no genuine, material issue.

Plaintiff's Uncontroverted Facts and Supporting Evidence

91. In 2007, after teaching full-time at Our Lady of Guadalupe for eight years, Morrissey-Berru received her California teaching credential from Chapman University. [Deposition of Morrissey-Berru 18:5-18:17; 19:4-19:15]

Defendant's Response and Supporting Evidence

This raises no genuine, material issue.

92. Before Morrissey-Berru taught at Our Lady of Guadalupe, she worked at the Los Angeles Times for 20 years as a [ER122] copywriter and advertising salesperson. [Deposition of Morrissey-Berru 18:18-19:2] [Declaration of Morrissey-Berru 11]

Defendant's Response and Supporting Evidence

This raises no genuine, material issue.

93. In 1998, Morrissey-Berru began working at Our Lady of Guadalupe as a substitute teacher. [Deposition of Agnes Morrissey-Berru 19:4-19:10]

Defendant's Response and Supporting Evidence

This raises no genuine, material issue.

94. When she began working for the school, Morrissey-Berru was forty-seven years old. [Deposition of Agnes Morrissey-Berru 12:19-12:20; 19:4-19:10]

Defendant's Response and Supporting Evidence

This raises no genuine, material issue.

95. In the fall of 1999, Morrissey-Berru was offered a full-time 6th grade position. [Deposition of Agnes Morrissey-Berru 19:11-23]

Defendant's Response and Supporting Evidence

This raises no genuine, material issue.

96. This position was self-contained – Morrissey-Berru taught reading, writing grammar, vocabulary, science, social studies, and religion. [Deposition of Agnes Morrissey-Berru 19:16-19:21]

Defendant's Response and Supporting Evidence

This raises no genuine, material issue.

[ER 123]

97. This position lasted for 10 years until Morrissey-Berru moved to 5th grade. [Deposition of Agnes Morrissey-Berru 19:24-20:6]

Defendant's Response and Supporting Evidence

This raises no genuine, material issue.

98. The 5th grade position was also self-contained. [Deposition of Agnes Morrissey-Berru 19:24-20:6]

Defendant's Response and Supporting Evidence

This raises no genuine, material issue.

99. Upon being hired, Morrissey-Berru testified that she did not feel her position at Our Lady of Guadalupe was “called” or believe that she was accepting a formal

call to ministry. [Declaration of Agnes Morrissey-Berru ¶8]

Defendant's Response and Supporting Evidence

This raises no genuine, material issue. This fact is irrelevant given that Plaintiff's admissions include the following:

- Our Lady of Guadalupe School is a Catholic parish school under the jurisdiction of the Archdiocese of Los Angeles (UF 1);
- "the mission of the School is to provide its students with a Catholic education" (Plaintiff's response to UF 10, 11);
- "*Morrissey-Berru admitted that she was responsible for introducing her students to Catholicism and providing the groundwork for their religious doctrine*" (Plaintiff's response to UF 15);
- "Morrissey-Berru admitted that she was committed to faith-based

[ER 127]

103. Ms. Beuder was the only individual who completed Elementary School Classroom Observation Reports regarding the teachers at Our Lady of Guadalupe. [Deposition of April Beuder 193:9-193:20]

Defendant's Response and Supporting Evidence

This raises no genuine, material issue.

104. To complete these forms, Ms. Beuder would observe the teacher as she teaches the students. [Deposition of April Beuder 189:10-193:8, Exhibit 9]

Defendant's Response and Supporting Evidence

This raises no genuine, material issue.

105. In November 2012, Principal April Beuder performed a classroom observation of Morrissey-Berru's teaching. [Deposition of April Beuder 189:10-193:20, Exhibit 9]

Defendant's Response and Supporting Evidence

This raises no genuine, material issue. This fact is irrelevant as it involves a review of a *science* class.

106. On the review, Ms. Beuder marked either "Innovating" or "Implementing" to describe various categories of Morrissey-Berru's performance. [Deposition of April Beuder 189:10-190:1; Exhibit 9]

Defendant's Response and Supporting Evidence

This raises no genuine, material issue. This fact is irrelevant as it involves a review of a *science* class.

[ER 128]

107. "Innovating" is defined as "Adjusts and creates new strategies for unique student needs and situations during the lesson." Exhibit 5 – Defendant's Document Production [OLG 0170]

Defendant's Response and Supporting Evidence

This raises no genuine, material issue.

108. “Implementing” is defined as “Uses strategies at appropriate time, in the appropriate matter.” Exhibit 5 – Defendant’s Document Production [OLG 0170]

Defendant’s Response and Supporting Evidence

This raises no genuine, material issue.

109. Additionally, Ms. Beuder wrote positive comments about Morrissey-Berru’s teaching, including “Ms. Morrissey has an excellent rapport with her students. This was an interactive lesson that engaged multiple mobilities, visual auditory, kinesthetic. Highly effective use of technology.” [Deposition of April Beuder 189:10-190:1; Exhibit 9 – OLG 0156]

Defendant’s Response and Supporting Evidence

This raises no genuine, material issue. This fact is irrelevant as it involves a review of a *science* class.

110. Ms. Beuder would conduct similar reviews in March 2013 and November 2014 and mark either “Innovating” or “Implementing” to describe various aspects of Morrissey-Berru’s performance.

Defendant’s Response and Supporting Evidence

Vague and ambiguous as to “similar” reviews and to the extent that Plaintiff has not captured the entire reviews. For example, Plaintiff’s fact conceals that Mrs. Beuder also marked “emerging” to describe aspects of Plaintiff’s

[ER 131]

118. Our Lady of Guadalupe hired Andrea Ruma-Harrington who was thirty-nine years old to teach language arts for that year. [Deposition of Agnes

Morrissey-Berru 138:11-138:22] [Deposition of April Beuder, Volume 2, 261:5-262:4]

Defendant's Response and Supporting Evidence

This raises no genuine, material issue.

119. Morrissey-Berru's part-time contract lasted one year. [Deposition of Agnes Morrissey-Berru 146:1-146:7] [Deposition of April Beuder, Volume 2, 268:23-269:1]

Defendant's Response and Supporting Evidence

This raises no genuine, material issue.

120. Teachers are not required to be Catholic in order to teach at Our Lady of Guadalupe [Deposition of April Beuder 54:11-58:13]

Defendant's Response and Supporting Evidence

The materials cited do not support Plaintiff's "fact": "Q. Is it a requirement that a teacher be Catholic in order to teach at OLG School? Yes or no? A. Yes.". (Beuder Depo. 58:5-8) This raises no genuine, material issue.

121. All of the teachers at Our Lady of Guadalupe are governed by one-year renewable contracts. [Deposition of Agnes Morrissey-Berru 21:25-22:8]

Defendant's Response and Supporting Evidence

This raises no genuine, material issue.

122. Morrissey-Berru is considered a *teacher* under her Faculty Employment Agreement – Elementary with Our Lady of Guadalupe Catholic School.

Defendant's Response and Supporting Evidence

This raises no genuine, material issue. This fact is duplicative of PUMF 100 and therefore is calculated to vex, harass and annoy. This fact is also irrelevant given

[ER 162]

* * *

162. On the review, Ms. Beuder marked either “Innovating” or “Implementing” to describe various aspects of Morrissey-Berru’s performance. Exhibit 5 – Defendant’s Document Production [OLG 0146-0148]

Defendant's Response and Supporting Evidence

This raises no genuine, material issue. This fact is irrelevant as it involves a review of a *math* class.

163. Additionally, Ms. Beuder noted that Morrissey-Berru has an “[e]xcellent use of technology” and stated that “Ms. Morrissey-Berru demonstrated calm under pressure when she had to switch gears due to technical

difficulties!” Exhibit 5 – Defendant’s Document Production [OLG 0146-0148]

Defendant’s Response and Supporting Evidence

This raises no genuine, material issue. This fact is irrelevant as it involves a review of a *math* class.

164. In November 2014, Principle April Beuder performed a classroom observation of Morrissey-Berru’s teaching. Exhibit 5 – Defendant’s Document Production [OLG 0170-0172]

Defendant’s Response and Supporting Evidence

This raises no genuine, material issue.

165. On the review, Ms. Beuder marked either “Innovating or “Implementing” to describe various aspects of Morrissey-Berru’s performance. Exhibit 5 – Defendant’s Document Production [OLG 0170-0172]

Defendant’s Response and Supporting Evidence

This raises no genuine, material issue. Irrelevant because on the same review, Ms. Beuder also marked “emerging” to describe aspects of Plaintiff’s performance. This is also irrelevant because it is a review from November

**Excerpts from Transcript of Deposition of
April L. Beuder**

[ER 192]

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

AGNES DEIDRE
MORRISSEY-BERRU,
an individual,

Plaintiff,

vs.

OUR LADY OF
GUADALUPE
CATHOLIC SCHOOL, a
California non-profit
corporation; and DOES
1-50, inclusive,
Defendants.

Case No. 2:16-cv-09353-
SVW-AFM

Volume II

VIDEOTAPED DEPOSITION OF APRIL L.
BEUDER, taken on behalf of the Plaintiff, before
Damaris Martinez, a Certified Shorthand Reporter,
Number 12925, for the State of California;
commencing at 11:04 a.m., on Thursday, May 11,
2017, at 21052 Oxnard Street, Woodland Hills,
California.

* * *

[ER 199]

BY MS. FUND:

Q: Okay. Did you ever consider, I believe his name is
Mr. Hazen. Do you know who I'm referring to, Jimmy
Hazen?

A: Yes, I know who Jimmy Hazen is.

Q: Did you ever consider him to teach the fifth grade class for the 2014, 2015 school year?

A: I don't recall him specifically. I don't recall him specifically. Overall, there was – I looked at everyone to see if it was possible to move people around.

Q: Did you ever –

A: And it wasn't.

Q: Sorry. Did you ever tell Mr. Hazen that you wanted him to take on the fifth grade teaching job?

A: No.

Q: Do you know how old Mr. Hazen is?

A: No.

Q: What's your best estimate?

MS. KANTOR: Don't guess.

THE WITNESS: 30s.

MS. KANTOR: It's been almost an hour. Can we take a break sometime soon?

MS. FUND: Sure. We can take one right

* * *

[ER 200]

* * *

MS. KANTOR: You can answer.

THE WITNESS: No.

BY MS. FUND:

Q: Okay. Who ultimately was selected to teach the majority of classes for fifth grade for 2014, 2015?

MS. KANTOR: Vague as to “majority of classes.”
Argumentative. Lacks foundation.

THE WITNESS: In late July 2014. Ms. Andrea Ruma
was hired to teach fifth and sixth grade language arts.

BY MS. FUND:

Q: Are those the only classes that she was teaching?

A: She was part-time.

Q: And again my question is, are those the only classes
she was teaching?

A: Yes.

Q: Only language arts for fifth and sixth grade?

MS. KANTOR: Asked and answered.

THE WITNESS: And fifth grade math.

BY MS. FUND:

Q: Who taught – I’ll strike that. **[ER 201]** Is reading
and writing included in language arts?

A: Language arts is reading, writing, spelling,
grammar, phonics, yes.

Q: Who was teaching science to the fifth grade
students during the 2014 to 2015 school year? The fifth
grade students?

A: I believe it was Ms. Katy Dovey.

Q: Did you know Ms. Ruma before she started at OLG
school?

A: I worked with her once.

Q: And where did you work with her?

A: I worked with her at American Martyrs Catholic School.

Q: And how long did you work with her there at American Martyrs?

A: I believe our time there overlapped by three years, three to four years.

Q: Did you ever ask Ms. Morrissey-Berru to help Ms. Ruma with the reading and writing program?

MS. KANTOR: Lacks foundation.

THE WITNESS: Only to give her all the books and resources that she had in her possession.

* * *

[ER 202]

* * *

BY MS. FUND:

Q: Did you have any complaints about Ms. Morrissey-Berru's teaching during the 2014 to 2015 school year?

MS. KANTOR: Overbroad. Lacks foundation. Calls for speculation. Calls for a narrative.

THE WITNESS: Yes.

BY MS. FUND:

Q: Okay. What are those concerns?

A: Classroom management, lack of rigor in social studies.

THE REPORTER: Lack of?

THE WITNESS: Rigor. Academic rigor. Coloring. Too much coloring. Concerns about sweets being brought

into and provided for the students despite school-wide policy against sweets.

BY MS. FUND:

Q: At any time did you consider renewing her part-time contract or offering her another part-time contract for the 2015, 2016 school year?

[ER 203]

A: No.

Q: And why is that?

A: I created a part-time position explicitly for one year for Ms. Morrissey-Berru and found a way to make it work in our budget but it was not a sustainable model for a number of reasons.

Q: And tell me about what those reasons are.

A: It's an additional part-time position that wasn't there before. We have very limited resources and the – having someone in teaching social studies, who is not able to collaborate and integrate the principles of reading and writing instruction that are probably throughout the school is problematic and not in the students' best interest.

Q: Ultimately, then, why did you decide to offer her the position, the part-time position for 2014, 2015?

MS. KANTOR: Asked and answered.

THE WITNESS: I was doing my best to preserve her dignity and treat her with compassion.

BY MS. FUND:

Q: Do you know what a employee counseling notice is?

**Excerpts from Transcript of Deposition of
Silvia Bosch**

[ER 206]

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

AGNES DEIDRE
MORRISSEY-BERRU, AN
INDIVIDUAL,

PLAINTIFF,

VS.

OUR LADY OF
GUADALUPE SCHOOL, A
CALIFORNIA NON-
PROFIT CORPORATION;
AND DOES 1-50,
INCLUSIVE,

DEFENDANTS.

Case No. 2:16-cv-
09353-SVW-AFM

DEPOSITION OF SILVIA BOSCH
THURSDAY, JULY 20, 2017

JOB NO. 105779
REPORTED BY Izumi Kono, CSR No. 14156

* * *

[ER 212]

* * *

A: I believe I did.

Q: How soon afterwards?

A: That I don't recall.

Q: Was it during that same month, or was it sometime late, like, months later? I mean, how close in time?

A: I don't recall.

Q: Do you know how you would have communicated these two incidents to Mrs. Morrissey-Berru?

A: Probably, to the best of my knowledge—we had—she had a few children who had difficulties in the playground, so I probably went up to her classroom if I had bench—or time-out, back then we called it, a time-out, something like that—so I would let her know something happened. And that's probably when I would have told her something.

Q: Okay. So you had referenced an employee named Lana. What was her first name, to your recollection?

A: Lana. Labor—Labeard—Labeertay. Something like that.

Q: What was your understanding of—well, let's start with this. How long did you work with Lana Laliberte?

[ER 213]

A: To the best of my knowledge, 2011.

Q: And when did your conversation with Mrs. Beuder about Lana take place?

A: I want to say after Christmas.

Q: And the year?

A: To the best of my knowledge, 2013.

Q: In 2013, how old was Lana, to your knowledge?

MS. FUND: Calls for speculation.

THE WITNESS: 60s?

BY MS. KANTOR:

Q: Do you know how old she was?

A: No.

Q: This is just based on your guess?

A: I knew she was in her 60s. That's all I know.

Q: And what was her role when you were working with her?

A: She assisted with watching the children, homework, the lunch program, monitoring the children during lunch, serving snacks, cutting snacks, cleaning, making sure parents sign in and out.

Q: Were you her direct supervisor?

A: Was I her supervisor? Yes.

Q: And were you her supervisor during this entire time period from 2011?

A: Yes.

[ER 214]

Q: And what was your relationship with her like?

MS. FUND: I object. Vague and ambiguous, and overbroad as to time and scope.

THE WITNESS: Overall?

BY MS. KANTOR:

Q: Yes.

A: At first, when I first hired her, it was fine. She—she was good. She did everything I asked her to do. As time went by, she started to get sloppy. And I knew that she was babysitting students, and I noticed that

she didn't want to listen to me, so it became a bit rough.

Q: Did you have any other issues managing her?

A: Yes.

Q: What were they?

A: Everything. She—just her whole performance. It was hard.

Q: Other than not listening to you, what other issues did you have?

A: She was volatile. She had—she was very confrontational, very rude, she didn't want to follow the rules—certain things you can't do 'cause they're children, she didn't—yeah.

Q: How was she confrontational?

[ER 215]

A: If I said something and she didn't like it, she would yell at me. Sometimes she would use profanity in front of the children. She would just—she would go bananas.

Q: At you?

A: At me. Uh-huh.

Q: And how was she volatile?

A: Volatile—one minute she's happy, and then other minute she's not.

Q: And how was she—Did you feel she wasn't a good fit for the school?

A: Yes. I think—yes.

Q: And how come?

A: She wasn't following directions. She was very—again, she was insubordinate. She was—I didn't think—I didn't think I had to deal with someone's personality. And her preference with children.

Q: What do you mean?

A: She was very sweet and kind to the children she babysat, but then again sometimes she wouldn't want to help another child if they needed help. She wasn't—you have to be neutral.

Q: So you felt there was favoritism?

[ER 216]

A: Definitely.

Q: So you wanted to terminate her?

A: I did.

Q: Had you done anything in the way of counseling?

A: Yes.

Q: What had you done?

A: Verbal counseling.

Q: Anything else?

A: I did—I did the verbal counseling at first. And then—believe in April I did a written warning.

Q: In April?

A: I believe, yeah.

Q: Of 2013?

A: I believe so.

Q: Anything else?

A: No.

Q: How many conversations did you have with Mrs. Beuder about Lana?

A: Almost—a lot. A lot.

Q: Can you give me an estimate?

A: Over ten.

Q: When did these conversations start?

A: When they got really bad. And I want to say it was after Christmas.

Q: That was your first conversation with

* * *

[ER 217]

Q: Did you take notes of the conversations?

A: No.

Q: Okay. So the conversation you documented in your Declaration, was that the first conversation with Mrs. Beuder?

A: No.

Q: Of the over ten conversations, which one do you think this was?

MS. FUND: Calls for speculation.

THE WITNESS: That would—could have been the one in the month of March.

BY MS. KANTOR:

Q: Did you start seeing Mrs. Beuder because you wanted to terminate Lana?

A: Did I start to see Ms.—I—Can you clarify that?

Q: Why did you start seeing Mrs. Beuder in Christmas of 2012? What was your intention?

MS. FUND: Asked and answered. Go ahead.

THE WITNESS: To inform her of the difficulties I was having.

BY MS. KANTOR:

Q: Okay. And how did Ms. Beuder respond to your initial conversation?

[ER 218]

A: At first she listens—she would listen. To the best of my knowledge, she first listened to me. I don't really recall the beginnings of the conversation.

Q: At what point in time did you decide that you wanted to terminate Lana?

A: Believe it was March—beginning of March.

Q: And what had happened that made you want to terminate her?

A: Lana—her aggression became worse, very aggressive.

Q: Verbally?

A: Verbally. And she—I felt that she was—her next level was physical.

Q: So in your conversations with Mrs. Beuder between Christmas of 2012 to March of 2013, you conveyed your concerns about Lana?

A: Can you clarify that?

Q: I want to understand what those earlier conversations with Mrs. Beuder were about.

A: They—at first, it was—she's not—Lana's not listening. I come in, and it wasn't cleaned. I would let her know I'm having—she's not—I was looking for coaching to help me try to deal with Lana at first.

Q: And did Mrs. Beuder provide you with any advice?

[ER 219]

A: Believe she did.

Q: Do you remember what it was?

A: No. I don't.

Q: Was she trying to help you through the situation?

MS. FUND: Calls for speculation.

THE WITNESS: I felt that it was—it was more my responsibility. She wanted me to handle it.

BY MS. KANTOR:

Q: Okay. So how many conversations do you think you had with Mrs. Beuder before March of 2013 about Lana?

A: I don't recall.

Q: Was it—how many conversations did you have with Mrs. Beuder after March of 2013 about Lana?

A: I don't recall.

Q: Okay. So what was the purpose of your March 2013 conversation with Mrs. Beuder about Lana?

A: I went into her office to let her know my intentions of terminating Lana.

Q: So at that time you wanted to terminate Lana?

A: Yes.

Q: And was Mrs. Beuder reluctant to have you terminate her?

A: Yes.

Q: Where did this conversation take place?

[ER 220]

A: In her office.

Q: Was anybody else there?

A: No.

Q: How long was the conversation?

A: I don't recall.

Q: Approximately?

A: I don't recall.

Q: Did you take any notes?

A: No.

Q: And the purpose of the conversation you said is you wanted to terminate Lana?

Q: Okay. Can you imagine—if I was a fly on the wall, can you tell me, you know, what she said and then what you said in order as best as you remember?

A: Best of my knowledge, I went in, and I told her my intentions of terminating her. I told her—I told her, “I’m planning on terminating Lana.” And she said—she said, you can’t just—“You can’t simply terminate her. You can’t”—“it’s not that simple to terminate her because that would be a lawsuit in the making.” And she kind of—what’s the word—I don’t know—she—“It’s not that simple to terminate her; it’s a lawsuit in the making.” That’s what she said. **[ER 221]** I said, “Why?” She said because of her—“Because she’s an

older person.” And I said, “But I’ve given her plenty of verbal warnings.” And she said, “That’s not how you terminate older people. Let me tell you how you terminate older people.” And then she’s like, “You don’t want to get sued?” “No.” “Then let me tell you how you terminate older people.” I said, “Okay.” She said, “First, you’re going to reduce. Every time you do a schedule, you reduce her hours and duties—document it—little by little. Employees become”—what was the word—frustrated or miserable, “that they eventually”—“they quit.” And they leave in their own terms. So then I said, “Well, what happens if she doesn’t leave?” And she said, “Then you don’t renew her contract. We are”—what did she say—“private schools are at will, and you don’t need to renew her [ER 222] contract at the end of the year.” So I said, “Okay.” And that’s what I did. Not much—because when I first did it, she went bananas on me—so I was afraid of Lana going bananas. So I just did it slowly, and I reduced her duties.

Q: Was anything else said during her conversation with Mrs. Beuder?

A: To—regards?

Q: During that conversation you just described to me. Anything else like—at all. Was anything else said at all?

A: Of what we discussed?

Q: Have you told me everything that was said in your conversation with Mrs. Beuder in March of 2013?

A: To the best of my knowledge, yes.

Q: You said that—in response to all of that, you said okay. Did you say anything else?

MS. FUND: Asked and answered.

THE WITNESS: Did I say anything else? I told her she was going to go bananas on me if I reduced her hours. And she did say, "Just tell her you don't have that much hours to offer." And then I said, "I really don't want to deal with Lana." **[ER 223]** She told me, "Just tell her to come see me then." And I did. That's all I can remember.

Q: From that conversation?

A: From that conversation, yes.

Q: Did you have any awareness of how old Mrs. Beuder was during that conversation?

MS. FUND: Calls for speculation.

BY MS. KANTOR:

Q: Do you know if she was in her 50s? In her 60s? 40s?

A: No.

Q: How many people did you have working for you that time?

A: Maybe four, five—that I can remember.

Q: And what were Lana's hours before this conversation?

A: Oh, I believe it was from 11:30 to 6:00.

Q: Did everyone have the same hours?

A: No. Oh, actually—no. 11:30 to 6:00. Two other people had—oh, no. No. And one other person had those hours.

Q: One other person had those hours, and other people had less hours?

* * *

[ER 224]

Q: March 2013.

A: Oh, 2013. Sorry. I don't recall.

Q: So the conversation that you just told me about in detail you don't know if that was your last conversation with Mrs. Beuder about Lana?

MS. FUND: Asked and answered. It's harassing.

THE WITNESS: You're confusing me.

BY MS. KANTOR:

Q: I'm sorry. I'm confused, I think. You had this conversation with Mrs. Beuder that you wrote about in your Declaration, the one we just talked about.

A: Oh. Uh-huh.

Q: I wanted to know if there were any conversations with Mrs. Beuder about Lana after that?

A: Yes.

Q: How many?

A: I don't recall.

Q: What were those conversations about?

A: Lana harassing me, being confrontational to me.

Q: And how would Mrs. Beuder respond?

A: Keep reducing her hours.

Q: What was the first conversation you had with Mrs. Beuder after the March 2013? Or when was the next conversation?

[ER 225]

A: I don't recall.

Q: How many conversations did you have with Mrs. Beuder wherein she allegedly said something about reducing her hours?

A: How many I had after that—

Q: Yes.

A:—that particular?

Q: Yes.

A: I don't recall.

Q: Can you give me your best estimate?

A: I don't recall.

Q: How many times did Mrs. Beuder allegedly tell you to reduce Lana's hours?

MS. FUND: Asked and answered.

THE WITNESS: I don't recall.

BY MS. KANTOR:

Q: So there was at least one conversation with Mrs. Beuder after the March 2013 conversation wherein you complained about Lana. Were you still trying to terminate her? In those conversations, did you say you wanted to terminate her?

A: After the?

Q: After the March 2013.

A: Yes.

* * *

[ER 226]

* * *

A: To the best of my knowledge, no.

Q: Did Mrs. Beuder ever say anything to you about Mrs. Morrisey-Berru?

A: Anything—for example? Can you be specific?

Q: Did you and Mrs. Beuder ever discuss Mrs. Morrisey-Berru?

A: In any way at any time?

Q: Yes. That's correct.

MS. FUND: I'll object to the extent it's extremely overbroad. Vague and ambiguous. Harassing. Go ahead.

THE WITNESS: We did.

BY MS. KANTOR:

Q: You have had conversations with Mrs. Beuder about Mrs. Morrisey-Berru?

A: Yes.

Q: How many conversations do you think you've had?

A: I don't recall.

Q: Well, you said something in your Declaration about Mrs. Beuder having made underhanded comments about plaintiff. Can you tell me more about that?

MS. FUND: When she says "plaintiff," she's referring to Mrs. Morrisey-Berru.

[ER 227]

THE WITNESS: Oh. The one that I remember—semi-remember was my daughter got into a math summer program, and—trying to remember. She got into a summer program. I don't recall why I was in her office.

I'm sure we were talking about—don't recall why I was in her office, but anyways I was in her office. And she said, "Congratulations. I heard (redacted)"—oops, I gave her name. "I heard" my daughter's name "got into the"—it was a pre-algebra. Pre-algebra. And I said, "Oh, thank you." And then she said—she said, laughing, she said, "I want to tell you that"—trying to think how she said—"I want to tell you that Mrs. Morrissey thinks she had something to do with that." And then she made a sarcastic comment, "we all know she doesn't"—"she had nothing do with it, especially math." And she rolled her eyes—the way she said it. That was one. That's the one I remember the most.

Q: When did that comment take place?

A: I don't recall.

Q: Well, when did your daughter get into this math program?

A: I don't recall. I don't recall.

Q: Was this before or after—**[ER 228]** Oh, would this have been after your daughter had Mrs. Morrissey-Berru as her 5th grade teacher or?

A: Believe—I believe—I believe it was her entering 6th grade.

Q: And do you remember what year that would have been?

A: No.

Q: Where did this conversation take place?

A: In her office.

Q: Was anybody else present?

A: No.

Q: Do you remember why you were in her office?

MS. FUND: Asked and answered.

THE WITNESS: No.

BY MS. KANTOR:

Q: How long was the conversation?

A: I don't recall.

Q: Was anything else said in the conversation?

A: I don't recall.

Q: Why did you think—why did you think the comment was underhanded?

A: Her mannerism, expression, her tone.

Q: Is your daughter gifted at math?

A: I don't want to say she is, you know. I

Q: You just prefer not to discuss your daughter?

[ER 229]

A: I prefer not to discuss my daughter.

Q: Is it possible that the comment could have been a commendation of your daughter's math abilities?

A: No.

Q: Saying that she was able to get into the program because of her giftedness? On her own merits?

MS. FUND: Calls for speculation.

THE WITNESS: I don't—I don't understand what you're trying to ask.

BY MS. KANTOR:

Q: Well, the way—my understanding is what you said is the comment was some sort of comment, you know, somebody trying to take credit, but, you know, your daughter did this on her own, or she was able to do it. I was just asking if it was some sort of credit to your daughter.

MS. FUND: Calls for speculation.

THE WITNESS: Well, no. Credit to my daughter. We all—my kids, every summer, they go to summer school, period. Math and English is what we always focus on.

BY MS. KANTOR:

Q: So they're hard workers?

A: Uh-huh.

Q: Okay. So how many underhanded comments did you [ER 230] hear Mrs. Morrissey-Berru make about plaintiff?

MS. FUND: Hold on. Do you want to—why don't you re-ask that—

BY MS. KANTOR:

Q:—did you hear Mrs. Beuder make about Mrs. Morrissey-Berru.

A: Just one I remember is—I think they had some Saints Day. I just remember her rolling her eyes, just let her handle it. Something like that.

Q: Handle what?

A: I think she handled the whole—I don't know. It was some kind of saints.

Q: When was this conversation?

A: I don't recall.

Q: It could have been at any point in time while Mrs. Beuder was the principal?

A: Yes.

Q: And what was the context?

A: Believe I was asking if we were going to do it, if it was—there was a lot of changes, so I didn't know if that was something taking place.

Q: What?

A: The saints—saints play, I believe. Something like that.

Q: You were asking if sort of saints-related **[ER 231]** activity was going to happen?

A: Yeah. And she said—Oh. And I asked, "Who's going to do it?" And she made a—"Mrs. Morrissey do it."

Q: Did she say anything else?

A: That I recall, no.

Q: Did you say anything else?

A: No. As I recall, no.

Q: Were there any other underhanded comments that you heard Mrs. Beuder make about Mrs. Morrissey-Berru?

A: That I recall, no. I do know that if you mention her name, she had a habit of rolling her eyes.

Q: How many times did you see Mrs. Beuder roll her eyes about Mrs. Morrissey-Berru?

A: Few times. I don't recall any—I just knew every time you mentioned her name, she would roll her eyes. You had the feeling she didn't like her.

Q: Based on?

A: I don't know.

Q: You just had a feeling, but you don't know what it was based on?

A: Yes.

Q: And when you said you don't know how many times she rolled her eyes, can you give your best estimate?

[ER 232]

A: I can't.

Q: Can you describe the eye roll?

A: Just rolling her eyes back in her head.

Q: Did you ever see her roll her eyes with regard to any other employees?

A: I don't recall. No.

Q: Did she ever roll her eyes with regard to Dr. Mitchell?

MS. FUND: Calls for speculation.

BY MS. KANTOR:

Q: That you've seen?

A: That I recall, no.

Q: And where—where would these eye rolls occur?

A: Generally in her office.

Q: When it was just the two of you?

A: For the most part, yes.

Q: Did you ever ask about the eye roll?

A: No.

Q: Did you ever complain about it?

A: Oh, no.

Q: Did you ever take any notes about it?

A: No.

Q: Were there any witnesses to it?

A: To my knowledge, no.

Q: Okay. You said something in your Declaration **[ER 233]** about parents approaching you and saying, “I don’t think Mrs. Beuder likes Mrs. Morrissey-Berru”; is that correct?

A: Correct.

Q: How many conversations like that did you have?

A: To my knowledge, two. Maybe three.

Q: When was the first conversation?

A: I don’t recall.

Q: Was it during your last year of employment at Our Lady of Guadalupe?

A: I believe so.

Q: And why do you think that?

A: Because it involved Mr. Hazen, and I believe—well, that’s why.

Q: Tell me about the first conversation.

A: A mom came up to me and said, what’s going “Do you know what’s going on with Mrs. Morrissey?” And I said, “No.” And I asked why. And she said she had just

gone up—I believe she said she went up—she had spoken to Mrs. Beuder and spoke highly of Mrs. Morrissey. And she said that she felt that Mrs. Beuder was not welcoming to what she had to say. And I said, “I don’t know anything.” And then she said, “I don’t think she likes her,” and asked, “do you know if she’s coming back?” **[ER 234]** I said, “I don’t know.”

Q: Was anything else said during this conversation?

A: To the best of my knowledge, no.

Q: Did this parent say what she had said to Mrs. Beuder about Mrs. Morrissey-Berru?

A: Just she spoke highly of her.

Q: Did she say what Mrs. Beuder said or did to indicate that she was not welcoming of that?

A: No.

Q: Do you know when this parent’s conversation with Mrs. Beuder took place?

A: I don’t.

Q: And you’re not certain what year it took place?

A: A lot happened. To the best of my knowledge, a lot of the parents were coming to me the last year that I was there.

Q: The last school year or the last—

A: The last school year that I was there. So could have been, I think, 2014.

Q: How long was your conversation with this parent?

A: Not too long.

Q: And where did it take place?

A: Inside of the hall, which is the daycare.

Q: Was anybody else present for this conversation?

A: No.

[ER 235]

Q: And do you know why the parent said—spoke to you about this?

A: No.

Q: When was the second conversation in relation to that one?

A: It was close to the end of the year.

Q: And where did that conversation take place?

A: In the hall.

Q: Same hall?

A: Same hall.

Q: And was anybody else there?

A: No.

Q: And how long was the conversation?

A: Not that long.

Q: And so what was said?

A: They asked—they asked what's going on with Mrs. Morrisey. I said, I don't know. Why? She says, "I heard"—no, maybe not "heard" "Mr. Hazen is teaching English, and how is that possible"—they were upset about that "and he doesn't have any credentials." I said, "Well, you need to speak to the principal about that." She said, "Is she not coming back?" **[ER 236]** "I don't know." And that—I believe that was it.

Q: Any other conversations with parents about Principal Beuder and Mrs. Morrissey-Berru?

A: That I recall, no.

Q: Had you heard anything before about Mr. Hazen or was there anything—Was that the first time you heard anything about Mr. Hazen teaching English?

A: Teaching English, to the best of my knowledge, yes.

Q: And do you know if—if he proceeded to teach English that next year?

A: I don't—I don't recall, but I will say—

MS. FUND: Just respond to her question.

THE WITNESS: Oh.

MS. FUND: And it's whether you know if Mr. Hazen taught English the next year.

THE WITNESS: I don't recall.

BY MS. KANTOR:

Q: I want to mark as Exhibit 3 the Declaration of Silvia Bosch. It's Bates stamped MORRISSEY-BERRU1068 to 1070.

* * *

[ER 237]

A: Yes.

Q: Did you have to get permission from the principal to hire Lana?

A: No.

Q: Did you personally interview Lana?

A: Yes.

Q: Okay. In order to terminate Lana's employment, did you need to receive authority from the principal, Ms. Beuder?

A: No.

Q: And I don't think we put it on the record earlier, but Ms. Beuder is actually sitting across from you at the table today; is that correct?

A: Correct.

Q: Mrs. Morrissey-Berru is not in this room; correct?

A: Correct.

Q: Have you been offered any type of compensation for your testimony from Mrs. Morrissey-Berru?

A: No.

Q: But, in fact, you did receive a check for your deposition today from counsel for Our Lady of Guadalupe; correct?

A: Yes.

Q: Okay. Have you been made—strike that.

[ER 242]**Archdiocese of Los Angeles****Elementary School Classroom Observation Report**

Teacher: Mrs. Morrissey-Berru

School: Our Lady of Guadalupe School

Principal: Mrs. April Beuder

City: Hermosa Beach

Grade: 5th

School Year: 2014-15

Subject: Social Studies

Date: 11.6.14 T1

Innovating	Implementing
Adjusts and creates new strategies for unique student needs and situations during the lesson.	Uses strategies at appropriate time, in the appropriate manner.
Emerging	Not Exhibiting
Attempts to use strategy but uses it incorrectly or at the wrong time.	Strategy was called for but not exhibited.

WCEA (*Catholic Identity Factors*) Check if observed☐ Innovating☒ Implementing☐ Emerging☐ Not Exhibiting

☒ There is visible evidence of signs, sacramental, traditions of the Roman Catholic Church in the classroom.

☐ Curriculum includes Catholic values infused through all subject areas.

☐ Integrates Schoolwide Learning Expectations.

Observation Comments: _____

Objective to be Observed: *California Standards for the Teaching Profession*

For the following 5 standards, check if observed

Standard 1: Engaging and Supporting All Students in Learning

- | | |
|--|---|
| ☒ Innovating 1.4 | ☐ Implementing |
| ☐ Emerging | ☐ Not Exhibiting |

☐ **1.1** Using knowledge of students to engage them in learning

☐ **1.2** Connecting learning to students' prior knowledge, backgrounds, life experiences, and interests

☐ **1.3** Connecting subject matter to meaningful, real-life contexts

☒ **1.4** Using a variety of instructional strategies, resources, and technologies to meet students' diverse learning needs

☐ **1.5** Promoting critical thinking through inquiry, problem solving, and reflection

☐ **1.6** Monitoring student learning and adjusting instruction while teaching

Observation Comments: Great use of technology!

Standard 2: Creating and Maintaining Effective Environments for Student Learning

- | | |
|-------------------------------------|--|
| ☐ Innovating | ☒ Implementing |
| ☐ Emerging | ☐ Not Exhibiting |

☒ **2.1** Promoting social development and responsibility within a caring community where each student is treated fairly and respectfully

☐ **2.2** Creating physical or virtual learning environments that promote student learning, reflect

diversity, and encourage constructive and productive interactions among students

☒ **2.3** Establishing and maintaining learning environments that are physically, intellectually, and emotionally safe

☐ **2.4** Creating a rigorous learning environment with high expectations and appropriate support for all students

☐ **2.5** Developing, communicating, and maintaining high standards for individual and group behavior

☐ **2.6** Employing classroom routines, procedures, norms, and supports for positive behavior to ensure a climate in which all students can learn

[ER 243]

☐ **2.7** Using instructional time to optimize learning

Observation Comments: _____

Standard 3: Understanding and Organizing Subject Matter for Student Learning

☒ Innovating 3.1, 3.4, 3.5

☐ Implementing

☒ Emerging 3.6

☐ Not Exhibiting

☒ **3.1** Demonstrating knowledge of subject matter, academic content standards, and curriculum frameworks

☐ **3.2** Applying knowledge of student development and proficiencies to ensure student understanding of subject matter

☐ **3.3** Organizing curriculum to facilitate student understanding of the subject matter

☒ **3.4** Utilizing instructional strategies that are appropriate to the subject matter

☒ **3.5** Using and adapting resources, technologies, and standards-aligned instructional materials, including adopted materials, to make subject matter accessible to all students

☒ **3.6** Addressing the needs of English learners and students with special needs to provide equitable access to the content

Observation Comments: Support for students w/ STEP/MAPS?

Standard 4: Planning Instruction and Designing Learning Experiences for All Students

- | | |
|--|---|
| ☒ Innovating | ☐ Implementing |
| ☐ Emerging | ☐ Not Exhibiting |

☐ **4.1** Using knowledge of students' academic readiness, language proficiency, cultural background, and individual development to plan instruction

☐ **4.2** Establishing and articulating goals for student learning

☒ **4.3** Developing and sequencing long-term and short-term instructional plans to support student learning

☐ **4.4** Planning instruction that incorporates appropriate strategies to meet the learning needs of all students

☐ **4.5** Adapting instructional plans and curricular materials to meet the assessed learning needs of all students

Observation Comments: _____

Standard 5: Assessing Students for Learning

N/A [handwritten comment]

- | | |
|-------------------------------------|---|
| ☐ Innovating | ☐ Implementing |
| ☐ Emerging | ☐ Not Exhibiting |

- **5.1** Applying knowledge of the purposes, characteristics, and uses of different types of assessments
- **5.2** Collecting and analyzing assessment data from a variety of sources to inform instruction
- **5.3** Reviewing data, both individually and with colleagues, to monitor student learning
- **5.4** Using assessment data to establish learning goals and to plan, differentiate, and modify instruction
- **5.5** Involving all students in self-assessment, goal setting, and monitoring progress
- **5.6** Using available technologies to assist in assessment, analysis, and communication of student learning
- **5.7** Using assessment information to share timely and comprehensible feedback with students and their families

Observation Comments: Mrs. Morrissey-Berru designed a social studies lesson on the Mayflower Compact with a “close” reading activity and worksheet with text-dependent questions.

Commendations: Mrs. Morrissey-Berru did an excellent job incorporating technology into her lesson. She was well-prepared with all materials and knowledgeable regarding the subject.

Recommendations: Differentiate assignments and assessments?

[ER 244]

I submit this report in accordance with the schedule and procedures established by the Department of Catholic Schools as described in the *Administrative Handbook*.

JA 64

Principal Signatures: /s/ April Beuder

Date: 11/6/14

I have read this report and discussed it with the principal. My signature does not necessarily imply agreement this observation report. I understand that I am free to attach to this observation report any written reactions I may have within one week of today's date.

Teacher Signature: /s/ Deirdre Morrissey-Berru

Date: November

**This observation form is used in conjunction with the California Standards for the Teaching Profession

[ER 250]

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State Bar No. 293766

Attorneys for Plaintiff

Agnes Deirdre Morrissey-Berru

**UNITED STATES DISTRICT COURT
FOR THE COUNTY OF CENTRAL DISTRICT OF
CALIFORNIA**

**AGNES DEIRDRE
MORRISSEY-BERRU,**
an individual,
Plaintiff,

vs.

**OUR LADY OF
GUADALUPE
CATHOLIC SCHOOL,**
a California non-profit
corporation; and **DOES**
1-50, inclusive,
Defendants.

Case No.: 2:16-cv-09353-
SVW-AFM
(Assigned for all purposes
to Hon. Stephen Wilson)

**DECLARATION OF
SILVIA BOSCH**

Complaint Filed:
December 12, 2016

[ER 251]

DECLARATION OF SILVIA BOSCH

I, Silvia Bosch, do hereby declare that if called upon as a witness, I could and would testify truthfully to the following matters of which I have personal knowledge.

1. I am an individual and resident of Hawthorne, California.

2. I was employed by Our Lady of Guadalupe Catholic School from approximately 2009 to 2014 as Director of the After School Program.

3. While Director of the After School Program, I struggled managing an employee named Lana, in her 60's, that I felt was aggressive, confrontational, and not a good fit for the school.

4. As a result, I met with Principal April Beuder, in her office, to inform Principal Beuder of my intentions to terminate Lana's employment.

5. During the meeting in her office, Principal Beuder told me that I could not just get rid of Lana and that simply terminating her employment was "a lawsuit in the making."

6. Principal Beuder then stated, "Let me tell you how you get rid of older people. First, you need to reduce their hours." She explained that I should reduce Lana's hours by a couple of hours and duties each time that I made the schedule. She then told me employees "become so miserable that eventually they leave."

7. Throughout my employment, I heard Principal Beuder make several underhanded comments about Agnes Deirdre Morrissey-Berru. Principal Beuder

would also roll her eyes when Mrs. Morrissey-Berru's name was brought up.

8. Throughout my employment, several parents approached me and stated "I don't think Principal Beuder likes Ms. Morrissey-Berru."

[ER 252]

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

Executed this 6 day of June, 2017, in Hawthorne, California.

/s/ Silvia Bosch
Silvia Bosch

[ER 254]

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Agnes Deirdre Morrissey-Berru

**UNITED STATES DISTRICT COURT
FOR THE COUNTY OF CENTRAL DISTRICT OF
CALIFORNIA**

**AGNES DEIRDRE
MORRISSEY-BERRU,**
an individual,
Plaintiff,

vs.

**OUR LADY OF
GUADALUPE
CATHOLIC SCHOOL,**
a California non-profit
corporation; and **DOES**
1-50, inclusive,
Defendants.

Case No.: 2:16-cv-09353-
SVW-AFM
(Assigned for all purposes
to Hon. Stephen Wilson)

**DECLARATION OF
BEATRIZ BOTHA**

Complaint Filed:
December 12, 2016
Trial Date:
October 10, 2017

[ER 255]

DECLARATION OF BEATRIZ BOTHA

I, Beatriz Botha, do hereby declare that if called upon as a witness, I could and would testify truthfully to the following matters of which I have personal knowledge.

1. I am an individual and resident of Redondo Beach, California. I am in the process of moving to New Harmony, Utah.

2. My children attended Our Lady of Guadalupe Catholic School from kindergarten to 6th grade.

3. During the spring of 2014, Jimi Hazen, the music teacher at Our Lady of Guadalupe, came to my home to provide guitar lessons to one of my sons. Mr. Hazen and I would often speak after the guitar lessons.

4. During our conversations, Mr. Hazen informed me that he was in the process of obtaining his Master's degree. He also informed me on two separate occasions that Principal April Beuder offered to have him teach English for 5th grade the following school year and that he was very excited about the opportunity.

5. After my conversation with Mr. Hazen, I reached out to Mrs. Morrissey-Berru about her future with Our Lady of Guadalupe. Mrs. Morrissey-Berru was shocked when I told her what I learned from Mr. Hazen.

6. April Beuder, Principal at Our Lady of Guadalupe, is notorious for retaliating against parents of students and employees.

JA 70

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

Executed this 20 day of August, 2017, in Redondo Beach, California.

/s/ Beatriz Botha
Beatriz Botha

**Excerpts from Transcript of Deposition of
Agnes Deirdre Morrissey-Berru**

[ER 263]

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

AGNES DEIDRE
MORRISSEY-BERRU, AN
INDIVIDUAL,
PLAINTIFF,
VS.
OUR LADY OF
GUADALUPE SCHOOL, A
CALIFORNIA NON-
PROFIT CORPORATION;
AND DOES 1-50,
INCLUSIVE,
DEFENDANTS.

CASE NO. 2:16-cv-
09353-SVW-AFM

VIDEOTAPED DEPOSITION OF
AGNES DEIRDRE MORRISSEY-BERRU,
WEDNESDAY, APRIL 26, 2017

JOB NO. 98169

REPORTED BY: Monica T. Corley, CSR No. 8803

* * *

[ER 268]

A: Yes.

Q: Okay. All right. Out of the way. Have you ever sued
any other employer?

A: No.

Q: Have you ever been a party to any litigation?

A: No.

Q: Have you ever been part of a bankruptcy?

A: No.

Q: Have you ever filed any administrative charges, that's a charge with the government?

A: No.

Q: Have you ever filed for Workers' Compensation benefits?

A: No.

Q: Have you ever filed for unemployment benefits?

A: No.

Q: What is your date of birth?

A: February 12, 1951.

Q: And where were you born?

A: Hartford, Connecticut.

Q: And I'm going to ask this, if you prefer to give it off the record that's fine, your Social Security number?

* * *

[ER 269]

* * *

A: No.

Q: How about e-mails or texts with current or former employees of Our Lady of Guadalupe?

A: To the best of my knowledge, no.

Q: How about before you filed the lawsuit, did you tell any current or former employees of Our Lady of Guadalupe that you intended to file a lawsuit?

A: No.

Q: How about current or former parents of students at Our Lady of Guadalupe?

A: To the best of my knowledge, no.

Q: I want to go through a little bit of your educational history. Do you have a high school degree?

A: Yes.

Q: From where?

A: Mount St. Joseph Academy in West Hartford, Connecticut.

Q: How about college?

A: Cardinal Cushing College in Boston and Emmanuel College in Boston, Massachusetts.

Q: And what degree did you come out with?

A: I came out with a Bachelor of Arts in **[ER 270]** English language arts and a minor in secondary education.

Q: And what year was that?

A: 1973.

Q: And did you have any further education?

A: I had a California credential education, which was about a year and a half, at Chapman University in Manhattan Beach, California.

Q: And the date of that?

A: Approximately 2006. Finished in 2007.

Q: Any—

A: Approximately.

Q: Sorry. Any other licenses, certifications, special training?

A: CPR training for the school.

Q: Anything else?

A: Not to my knowledge.

Q: All right. And just in brief, what was the last job that you had before you began at Our Lady of Guadalupe?

A: I worked for the Los Angeles Times for 20 years.

Q: And your role?

A: I was a copywriter and advertising salesperson.

[ER 271]

Q: Okay.

A: For major accounts.

Q: Sorry, I keep doing that. And then what year did you start at Our Lady of Guadalupe?

A: I started subbing in 1998 sporadically and in 1999 was offered a maternity leave position for approximately eight weeks.

Q: You said that was in '99?

A: Yes.

Q: All right. And then what came next?

A: In the fall of 1999 I was offered a 6th grade position.

Q: Full time?

A: Yes.

Q: And I know we're going way back here, but what did that position entail? What subjects did you teach?

A: I was a 6th grade teacher, self-contained. I taught reading, writing, grammar, vocabulary, science, social studies, religion.

Q: And how long did you hold that role?

A: Approximately 10 years.

Q: Okay. And then what was your next role?

A: My next role, I was the 5th grade teacher.

[ER 272]

Q: So are we looking at around 2009 here?

A: Approximately.

Q: Okay. And what did that role entail?

A: The 5th grade role entailed teaching math, science, social studies, reading, writing, grammar, vocabulary, and religion.

Q: I'm sorry if you already said this: When you were teaching the 6th grade role, were you teaching religion as well?

A: Yes.

Q: So your entire time at Our Lady of Guadalupe, from start to finish, you taught religion?

A: Yes.

Q: Okay. And so you held this 5th grade teacher role from 2009 until what date?

A: 2015, at a part-time capacity for that last year.

Q: Okay. So I'm going to mark as Exhibit 2 a document entitled "Teacher Employment Agreement-Elementary," academic year 2014 to 2015, and this document is Bates stamped OLG 1 through 6.

(Whereupon, Deposition Exhibit 2 was marked for identification by the Court Reporter.)

* * *

[ER 275]

Q: And did you undergo any religious training in order to teach religion?

A: Yes.

Q: Can you describe that to me.

A: It was the history of the Catholic Church.

Q: And where did you learn about this?

A: It was at St. Catherine Laboure Church—

Q: So you—

A: —in Torrance.

Q: Sorry. So you had to like go to a special separate class training on the history of the Catholic Church?

A: Yes.

Q: And how many courses did you take?

A: It was one course.

Q: And when did you take it?

A: I took it approximately in the year 2012.

Q: Any other years?

A: I'm not sure.

Q: Okay. So I'm going to mark as Exhibit 4 a document Bates stamped OLG 117 to 122.

(Whereupon, Deposition Exhibit 4 was marked for identification by the Court Reporter.)

[ER 276]

BY MS. KANTOR:

Q: Please take a look at this, and let me know if you recognize these documents.

A: Yes.

Q: Okay. Let's start with the first page Bates stamped OLG 117. What is this document?

A: This certified that I took the course.

Q: And is this the course you were just telling me about?

A: Yes.

Q: Sorry, like—excuse my lack of knowledge about this, but what is—what does a Catechist Certification mean?

A: Catechist? It means that I am knowledgeable in the Catholic religion.

Q: All right. And then if you look at the third page, it's Bates stamped OLG 119, what is this document?

A: This document is the VIRTUS training for Abuse—

Q: Okay.

A: —of children.

Q: And then if you look at the next page Bates stamped OLG 120, what is this document?

A: This is the same course at a different

* * *

[ER 277]

Q: How about for Reconciliation?

A: Yes.

Q: Stations of the cross?

A: Yes.

Q: Lenten services?

A: Yes.

Q: Am I forgetting any?

A: Christmas maybe.

Q: That's a big one. Okay. Did you ever personally lead school-wide religious service?

A: Not that I recall.

Q: When you were responsible for mass or your class was, did you have any input into selecting the hymns?

A: No.

Q: Did you ever personally deliver a message during the service?

A: Not that I recall.

Q: Did your students?

A: Not that I recall.

Q: Did you have to prepare your students to altar serve during weekly mass?

A: No.

Q: How about to read during weekly mass?

[ER 278]

A: Yes.

Q: And also for the school mass?

A: Yes.

Q: Did you lead your students in any devotional exercises?

A: Not that I can recall.

Q: Were you expected to provide students with an opportunity to prayerfully reflect on their faith and spiritual growth?

MS. FUND: I'm just going to object to the extent it's vague and ambiguous.

THE WITNESS: Not that I recall.

BY MS. KANTOR:

Q: So devotional exercises weren't part of your teaching?

A: I don't understand what that means.

Q: Okay. That's fine. Did you as a religion teacher, did you conduct daily religion—religion instruction?

A: Yes.

Q: All right. And what was the textbook you were responsible for using?

A: I believe it was "Blest Are We."

Q: Okay. So I'm going to mark as Exhibits 5 a document Bates stamped OLG 577 through 596.

[ER 279]

(Whereupon, Deposition Exhibit 5 was marked for identification by the Court Reporter.)

BY MS. KANTOR:

Q: And, Ms. Morrissey-Berru, I would just ask you to take a look at this and tell me if it looks familiar to you.

A: Yes.

Q: Can you tell me what this—I mean, I know it's a xerox, but can you tell me what this is?

A: This is our religion book, "Blest Are We."

Q: So the textbook you were responsible for using; is that correct?

A: Yes.

Q: Okay. And I'll represent that in this exhibit it's the table of contents of the book. And how did you use this textbook in your religion course?

A: We would read the book every day.

Q: And so what kind of lessons were you teaching? Let's just focus on your last year at Our Lady of Guadalupe in your religion class. What were some of the lessons you were responsible for teaching students?

* * *

[ER 282]

A: That I was losing my job and getting moved on.

Q: Uh-huh. And with regard to this you being old, what was supposedly said or do you not know what was said?

A: I do not know what was said.

Q: Okay. And then they said something about you losing your job; is that right?

A: Yes.

Q: Or we don't know if that's right—

A: Something to that effect.

Q: -- that's what Ms. Bosch told you was supposedly said. And being given to a 30-year-old music teacher. Was your job ever given to a 30-year-old musical—music teacher?

A: Originally the music teacher would be taking my job of reading and writing, but it didn't happen. Another teacher had to be hired to teach reading and writing.

Q: Who told you that your job would be given to that teacher?

A: I received a call in March from a parent who said the music teacher told her I was being moved along and losing my job.

* * *

[ER 290]

A: Yes.

Q: All right. And now I'd like to mark as Exhibit 12 a document I'm going to Bates stamp—sorry, a document Bates stamped OLG 8 through 12.

MS. FUND: I was wondering what kind of device you had over there that Bates stamped.

MS. KANTOR: What do you mean?

MS. FUND: You said you were—never mind. You said “I'm going to Bates stamp this.”

MS. KANTOR: I misspoke.

MS. FUND: Okay.

MS. KANTOR: Marking as Exhibit 12 this document
Bates stamped, not doing my own Bates stamping—

MS. FUND: I was impressed.

(Whereupon, Deposition Exhibit 12 was marked for
identification by the Court Reporter.)

BY MS. KANTOR:

Q: All right. Please just take a look at it and tell me if
you recognize it.

A: Yes.

Q: What is this document?

A: Teacher Employment Agreement.

Q: Is this your agreement for term date—

[ER 291]

A: Yes.

Q: —2013 to 2014?

A: Yes.

Q: July 2013 to June 2014?

A: Yes.

Q: Sorry. Okay. And if you look at the last page, Bates
stamped OLG 12—

A: Uh-huh.

Q: —is that your signature?

A: Yes.

Q: On June 4, 2013?

A: Yes.

Q: All right. And then go to the page before, Bates stamped OLG 11. At the bottom, section 18 where it talks about "Education and Professional Growth Requirements," it says under "Other Requirements," "Fully implement Readers/Writers Workshop."

A: Uh-huh.

Q: Mrs. Morrissey-Berru, is it your understanding that it was part of your contract and employment agreement for the year 2013-2014 that you were to implement the Readers and Writers Workshop?

[ER 292]

A: Yes, within three years.

Q: Can you go back to the previous exhibit, Exhibit 11, second page at the bottom where it said a goal for 2013-14 is full implementation of Readers/Writers Workshop?

A: Yes.

Q: Did you not understand that it was your goal to implement it in 2013-14?

A: Well, the program hadn't ended yet. It was a three-year program.

Q: Okay. So it was—

A: It was only the second year.

Q: You did not think you were responsible for implementing it; is that what you're saying?

MS. FUND: It misstates her testimony.

BY MS. KANTOR:

Q: Mrs. Morrissey-Berru --

A: Yes.

Q: —did you believe that you were responsible for fully implementing Readers and Writers Workshop in 2013-14 calendar year?

A: Yes.

Q: You—you thought you were responsible for full implementation?

A: Yes, but the program hadn't finished yet.

* * *

[ER 295]

Q: Did she seem upset about it?

A: I'm not sure.

Q: And how many weeks in advance of this evaluation had you been provided with notice of the date it would occur on?

A: I think a month.

Q: Possibly more?

A: It's possible. I'm not sure.

Q: Okay. And then at some point after this conversation, did you have another conversation with Mrs. Beuder about your not implementing Readers and Writers Workshop?

A: I'm not sure.

Q: In May of 2014 did you—or April or May, towards the end of the school year 2014, did you meet with Mrs. Beuder about what would be happening the following year?

A: Yes.

Q: Do you remember when this conversation was?

A: Mid-May 2014.

Q: Okay. And what happened in this conversation?

A: Mrs. Beuder asked if I wanted to retire, and I said no.

[ER 296]

Q: What else happened in this conversation?

A: She said I didn't do it like everybody else and that she—

MS. FUND: Didn't do what?

THE WITNESS: Do reading and writing, I'm assuming, and that she didn't have a full-time position for me for next year.

BY MS. KANTOR:

Q: Did Mrs. Beuder say that you were not implementing Readers and Writers Workshop?

A: She said—I'm not sure. I can't remember.

Q: Did she say anything about your reading and writing instruction?

A: She said I didn't do it right.

Q: Your reading and writing instruction?

A: Yes.

Q: Anything else about your reading and writing instruction?

A: Not that I recall.

Q: What did you say in response to that?

A: I said "Well, I'll accept the part-time job."

Q: What did you say in response to what Mrs. Beuder said about your failing to implement **[ER 297]** reading—reading and—I don't want to put words in your mouth.

A: Uh-huh.

Q: What did you say in response to her comment about your reading and writing instruction?

A: Well, I said I thought I was implementing it.

Q: And what did she say in response to that?

A: She said I didn't do it like the others.

Q: And did you say anything in response to that?

A: I knew the other person had my job anyway, so I just accepted it.

Q: What other person?

A: Mr. Hazen.

Q: At the time you thought it --

A: Yes. At the time he did, until the parents complained.

Q: Mrs. Morrissey-Berru --

A: Yes.

Q: —I don't know why I keep wanting to argue with you about this, but I believe—I'm going to ask the question and just going to say for the record I believe it's been established that nobody from the administration and leadership of **[ER 298]** the school ever said that Mr. Hazen would have this role and in fact he never did. I'm going to move on.

A: Okay. All right.

Q: That was—that was argumentative by me.

Sorry. Sorry. Okay. So did you—before Mrs. Beuder offered you a part-time position, did you advocate for your job in any way?

MS. FUND: I'm just going to object to the extent it's vague and ambiguous.

BY MS. KANTOR:

Q: If you understand my question. I can ask you a better one.

A: She didn't offer me anything else but part-time.

Q: Did you say anything to Mrs. Beuder to the effect that you just wanted one more year?

A: No.

Q: At any point did you ever tell Mrs. Beuder that you just wanted one more year?

A: I never want to retire. I told her that.

Q: Did you tell anybody at the school that you wanted one more year?

A: Never.

[ER 299]

Q: And you understand you're under oath?

A: Yes.

Q: So you never said anything about wanting one more year?

MS. FUND: Asked and answered. You can answer it again.

THE WITNESS: No.

BY MS. KANTOR:

Q: Okay. And was it explained to you why you would be getting a part-time position?

A: Yes.

Q: What was explained?

A: Because she said I didn't do Readers and Writers like the others.

Q: So your part-time position would not include reading and writing?

A: Yes.

Q: Okay. And so what courses were you to teach in the part-time position?

A: Religion to 5th grade, social studies to 5th grade, social studies to 6th grade, social studies to 7th grade.

Q: When Mrs. Beuder offered you the part-time position, did you express that you were grateful for the position?

[ER 300]

A: Yes, because I thought I wouldn't have a job.

Q: And why did you think that?

A: Because I thought I was going to be terminated.

Q: Why did you think that?

A: Because the parent called up—called me up and said that somebody else got my job.

Q: Any other reason?

A: That I was being moved along. I thought I was fired.

Q: Because of that rumor that had been reported to you?

A: Yes.

Q: Before you had this conversation with Mrs. Beuder in mid-May of 2014, did you apply for any other jobs?

A: Yes.

Q: Where did you apply?

A: I applied to visit—oh, I'm sorry.

MS. FUND: No, you're fine.

THE WITNESS: Okay.

MS. FUND: Sorry, can you just repeat the time period you're asking for, that you asked.

(Record read Lines 15-17.)

* * *

[ER 301]

position teaching the courses you just described, had anybody else held that position?

A: No.

Q: Was it an entirely new position?

A: Yes.

Q: Do you understand that the position was created just for you?

A: Apparently.

Q: Why do you say that?

A: Because it had never been before.

Q: Okay. And then who is your understanding taught 5th grade reading and writing the next year?

A: Mrs. Beuder hired Mrs. Ruma.

Q: All right. And her full name?

A: Mrs. Andrea Ruma-Harrington.

Q: All right. And do you know how old Mrs. Harrington was at the time?

A: Thirty-nine years old.

Q: At the time she was hired?

A: Yes.

Q: And how do you know that?

A: Because I asked her.

Q: And do you know what her experience was before coming to OLG?

A: She was a teacher.

[ER 342]

**TEACHER EMPLOYMENT AGREEMENT –
ELEMENTARY**

**Exempt
Department of Catholic Schools
Archdiocese of Los Angeles**

Name of School: Our Lady of Guadalupe School

Name of Teacher: Deirdre Morrissey-Berru

Start Date: July 1, 2013 End Date: June 30, 2014

1. Term. The School (“School”) and you (the “Teacher”) make this Employment Agreement (“Agreement”), effective on the date below, for the period shown above (the “Term”), for you to serve as a member of our faculty.

2. Philosophy. The mission of the School is to develop and promote a Catholic School Faith Community within the philosophy of the Catholic education as implemented at the School, and the doctrines, laws and norms of the Roman Catholic Church. All your duties and responsibilities as a Teacher shall be performed within this overriding commitment. If you are Roman Catholic you must be in good standing with the Church.

3. Duties. Your position will be that of a Teacher. You shall use your best professional efforts and skills to perform your duties in a diligent, energetic, competent, and ethical manner, consistent with the School’s established policies, directives and expected practices. You acknowledge that the School operates within the philosophy of Catholic education and retains the right to employ individuals who

demonstrate an ability to teach in accordance with this philosophy. You understand and accept that the values of Christian charity, temperance and tolerance apply to your interactions with your supervisors, colleagues, students, parents, staff and all others with whom you come in contact at or on behalf of the School. In both your professional and private life you are expected to model and promote behavior in conformity with the teaching of the Roman Catholic Church in matters of faith and morals. Your duties shall include careful preparation and planning for each class consistent with School and departmental curriculum; diligent review and evaluation of student work and related communication to students and parents; and, as needed, conferring with students, the administration, and parents regarding each student's progress and development. You also shall attend faculty/staff meetings and conferences, including those prior to and following the School's regular academic year, participate in School activities including School liturgical activities, as requested, and complete other duties as assigned. You agree to maintain the levels of competency in subject matter, teaching methods, classroom management, and student supervision required by the School whether on your own initiative or at the direction of the School. Your duties and job assignment may be revised during the Term to meet the School's needs. In the event the School's operations are extended by reason of fire, disaster, act of God, act of public authority or any other necessity or emergency cause, your services may be suspended for the time period and rescheduled as needed to complete the full School year.

4. Policies. You shall be familiar with, and comply with the School's personnel policies and procedures as

they may be adopted or amended from time-to-time, including policies in the faculty handbook. You should refer to such documents for information relating to your employment, duties, and benefits. You shall be familiar with, abide by, and assist and cooperate with School administration in enforcing the School's policies for students and families whether outlined in our handbook(s), our School **[ER 343]** policies, or other directives and expected practices (together "Policies"). You acknowledge that a copy of the faculty handbook has been made available to you. You understand and acknowledge that the policies do not constitute a contractual agreement with you.

5. Introductory Period. The first six (6) months of your employment as a new teacher at this School are considered your Introductory Period. You may be terminated at any point, with or without notice, with or without reason, during the Introductory Period. The Principal shall complete a performance appraisal at the end of your Introductory Period. The Principal shall complete a performance appraisal at the end of your Introductory Period. Upon satisfactory completion of the Introductory Period, your employment will be continued through the Term of this Agreement except as noted under "Termination."

6. Termination. Your employment, and this Agreement, may be terminated during the Term without payment of salary or benefits beyond such date of termination, for any of the following reasons:

I. The School may terminate for "cause," without any prior notice. Such "cause" shall be determined by the School within its reasonable judgment and shall include but not be limited to:

- a) Failure to meet any of your duties as described in Paragraphs 3 and 4 above.
- b) Inappropriate physical or social contact with students during school or otherwise.
- c) Unprofessional or unethical conduct, insubordination, unauthorized disclosure of confidential information, or habitual or unreasonable tardiness or absence from duties.
- d) Any criminal, immoral or unethical conduct that brings discredit upon the School or the Roman Catholic Church.
- e) Unauthorized possession, sale, or working under the influence of controlled substances (except prescription medication taken as prescribed), intoxicants, or alcohol.
- f) Threatening or causing bodily harm to others or other coercive and or intimidating acts, or any verbal or physical harassment.
- g) Having a diploma, credential, permit, license or certificate denied, revoked or suspended.
- h) Falsification of documents, false or misleading information on an application, resume, personnel record, professional or character reference, academic transcript, degree, or credential.
- i) Any other breach of the terms of this Agreement.

II. Either you or the School may terminate this Agreement without cause, for any reason within the sole discretion of the terminating party, upon 30 calendar days' prior written notice to the other party in a manner that is consistent with applicable law and on a time frame that is mutually agreeable to you and the Principal. However, you may not terminate employment under this Agreement if the termination is effective during the 30 days immediately prior to the beginning of the school year except by mutual agreement with the Principal. You acknowledge that a breach by you of this provision is a grave ethical violation, may harm the educational program for the students and may cause expenses and damages to the School.

III. The School may terminate your employment if you are unable to perform the essential functions of your position and reasonable accommodation is not available or required under applicable laws.

The School's failure to invoke its right of termination on one occasion for the occurrence of a matter constituting a basis for discharge shall not affect the right of the School to invoke discharge when the same or a different basis for termination arises at a later date.

[ER 344]

7. Renewal. Future employment will be determined on a year-to-year basis. You agree to give written notice to the School, on or before April 1, 2014, stating whether or not you wish to renew the Agreement. The School will give you written notice, on or before May

15, 2014, stating whether or not it intends to renew the Agreement for the following year or enter into any other type of employment relationship. In the absence of a notice by either party, this Agreement will lapse under its own terms. The Principal alone, with the approval of the Pastor, has the final and sole authority with respect to offering contracts. This Agreement is contingent upon sufficient School enrollment and the School's financial condition. If the enrollment or the School's financial condition does not justify the staffing, the Principal has discretionary power to make decisions regarding personnel reduction including, but not limited to, modification or cancellation of this Agreement. If the School closes for any reason, this Agreement will be considered terminated on the date of the closure. If this Agreement is cancelled due to lack of enrollment or the School's financial condition or is terminated because of School closure, you will be paid through the date of cancellation or closure; no further payments will be due to you. You understand that tenure is not granted by Archdiocesan Schools and upon expiration or termination of the Agreement for any reason you shall have no right to employment or preferential treatment regarding employment at any other Archdiocesan School. There is no implied duty by you or the School to renew this Agreement, and no cause whatsoever is required by either party for non-renewal. Any other arrangement with respect to renewal, extension or duration of employment is valid only if in writing, executed by you and the Principal, with the approval of the Pastor.

8. Severability. If, for any reason, any one or more of the provisions of this Agreement shall be held or deemed to be legally invalid or unenforceable, that

shall not have any effect on any of the other provisions of this Agreement, all of which shall remain in full force and effect.

9. Entire Agreement. This Agreement contains the complete and entire agreement between you and the School, and it supersedes all prior offers, agreements, commitments, understandings, whether oral or written. No changes to this Agreement may be made except by a document signed by you and the Principal, with approval of the Pastor.

10. Applicable Law. This Agreement is entered into under, and governed by, the laws of the State of California.

11. Dispute Resolution and Grievances. You and the School agree to attempt to resolve any disputes in good faith. Any unresolved dispute between you and the School arising out of or in any way related to your employment or termination, shall be subject to the Grievance Procedures promulgated by the Archdiocesan Department of Catholic Schools and no legal actions may be taken until all procedures have been fully discharged. This clause is intended to provide a speedy, economical and exclusive forum for resolving claims; its existence shall not imply any limitations upon the School's right to manage its affairs or terminate any employment.

12. Condition Precedent. You understand and agree that condition precedents of this Agreement are the receipt of the Criminal Record Summary report from the California Department of Justice and the Federal Bureau of Investigation, the completion of the I-9 Form from the Immigration and Naturalization

Service, and the completion of the other relevant health and document requirements of the School.

[ER 345]

13. School Day and Work Schedule

Full time Teacher

As a full time Teacher, you understand that a regular class day at the School requires approximately 8 hours of work. You will also devote additional time to other assigned school responsibilities and in preparation and assessment activities at hours not during the regular class day. The School's regular class day is from 7:30 a.m. to 3:30 p.m.

14. Base Compensation.

Base Salary: \$ 46,558

15. Additional Compensation For Designated Responsibility (If Any):

Note: Calculations and Additional Compensation for designated responsibility are based on anticipated time commitment and skills.

<u>Responsibility</u>	<u>Additional Compensation</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____
Total Additional Compensation: \$ _____	

16. Payment Schedule

Compensation for all teachers will be distributed on a
☒ semi-monthly ☐ bi-weekly schedule

Date of first payday: 8/30/13

Date of last payday: 6/30/14

17. Available Benefits.

**See Archdiocese of Los Angeles Lay
Employees Benefit Guide**

**Full-time Faculty sick days: 10 days per
school year.**

**18. Education And Professional Growth
Requirements:**

In accordance with the regulations for salary placement and professional growth requirements, you agree that you will complete the following requirements to be eligible to be offered an employment agreement for the next school year.

☐ Enroll in California Teaching Credential program.

☐ Complete at least ____ units toward a California Teaching Credential.

☐ California Teaching Credential program must be completed by July 1, 20__ for an Elementary School Faculty Employment Agreement to be offered for the 20__ - 20__ academic year.

☒ Other Requirements: Fully implement
Readers/Writers Workshop

[ER 346]

By: /s/ April Beuder
(Principal's Signature)

Date: 6/4/13

I accept a position as Teacher at O.L.G. School on each and all of the terms and conditions set forth in the above Agreement.

JA 100

By: /s/ A. Deirdre Morrissey-Berru
(Teacher's Signature)

Date: 6/4/13

Approval by Pastor required (this Agreement is not
binding until executed by Pastor)

Pastor's Signature: _____

Date: _____

[ER 353]

**Agnes Deirdre Morrissey-Berru
1602 Spreckels Lane,
Redondo Beach, CA 90278**

April 7, 2016

U.S. Equal Employment Opportunity Commission
Los Angeles District Office
255 E. Temple Street, 4th Floor
Los Angeles, CA 90012
Attn: Ms. Ramos

Re: Age Discrimination Demotion/Firing

Dear Ms. Ramos,

I am currently 65 years old, and contrary to Ms. Beuder's claim of receiving employment benefits, Catholic schools do not pay into employment insurance and I have never been eligible to collect, as she indicated in her letter to you. I was employed by Our Lady of Guadalupe School for 16 years as a stellar employee. I had no apparent troubles until Mrs. Beuder was named as the new principal of my school, at which time I was 61 years old. I questioned why she fired me at that time and made me re-apply for the job that I had for 13 years. I re-applied for my same job, and was rehired, most likely because I possessed a single-subject California credential to teach K-12 grades.

The implementation of the new reading/writing program was designed as a continuing learning process for teachers. All English Language Arts teachers were all learning the new teaching format at the same time. The year of the writing portion was not even concluded when the principal reprimanded me

because I talked for 30 minutes/student writing 10 minutes. Ms. Beuder told me I was supposed to talk for 10 minutes/students writing 30 minutes. When I asked Ms. Beuder to re-do the lesson to talk for 10 minutes/student writing 30 minutes, Ms. Beuder REFUSED and told me she was TOO BUSY. Since when do teachers get reprimanded because they talk for 30 minutes to students to explain a lesson, get demoted, and fired? At that time Ms. Beuder had already told the part time music teacher, Mr. Jimi Hazen, approx. 30 years old, unbeknownst to me, that he could have my job next year because Principal Beuder was “moving me along”. Mr. Hazen told Beuder he wanted to apply to Loyola to get a teaching credential, but because he was only part time, the school would not loan him the money. At that time, I believe Beuder hatched a plan to demote me, to make room for Mr. Hazen to become full time. Mr. Hazen, apparently excited about his new prospects of [ER 354] getting a teaching credential, inexplicably told parent Beatriz Botha about the principal’s new plan in March to “move me along” so he could become full time. Mr. Hazen should not have told a parent that I was getting moved along, as told by the principal, to a parent. The parent, Beatriz Botha called me and told me to sit down, that the principal was planning to move me along and give my job to Mr. Hazen. Concurrently in March, a fellow employee, After School Care Director, Silvia Bosch, notified me that she heard teachers in the teacher lounge talking about the reading/writing program and that I was getting “moved along.” At that point, I began to document inconsistencies in being treated unfairly by Ms. Beuder compared to the other, younger teachers, at my job. Apparently everyone but me, knew I was

getting moved along. This is perhaps why Principal Beuder refused to let me re-do the lesson: she had already planned to move me out and promised my reading/writing duties as teacher to Mr. Hazen.

The 3rd grade reading/writing teacher, Mrs. Erika Melendez (30-ish) and the 4th grade reading teacher Ms. Amy Hendry (30-ish) were also struggling to implement the writing program. In May, 2014, Erika and Amy both went to complaint to Ms. Beuder, that they could not implement the writing program because they did not have enough training, no resources, and no books. Mrs. Beuder accommodated Erika and Amy by purchasing new books and resources for them for the next school year. Erika and Amy did not get demoted, as did I, when they told the principal the writing program was not working out. This is unfair treatment. Why was I demoted when we were all having the same challenges? Several of the other teachers at Mary Star Catholic school, with whom we were trained at the same time, remarked that the new writing program was so inept, that they “did not know what they were doing, and at the end of the school year May, 2014, the teachers were “making it up as they went along”. Those teachers were not demoted either, most of whom were young, except for one 5th grade teacher, who was not demoted.

At contract signing in May, 2014, Mrs. Beuder brought up the fact about my retiring. I told her I did not want to retire then, maybe in the future, but certainly not now. I never brought up the idea of retirement – she was the one who mentioned it. Beuder told me she was not going to re-hire me as a full time employee next year. Asked why, Beuder complained that I did not perform two lessons in the right format. I argued my

viewpoint, and how hard I was working on this new format, verified by my husband who saw me reading 1200 pages of the new program each night, to no avail. Beuder only offered me a part time position for the next year. Gladly I accepted the demotion because I figured that some money coming in to the household was better than no money coming in to the household. I was relieved that I was not getting fired from my job. I immediately looked for a new job.

[ER 355]

I began applying for new teaching positions in the Southbay area, both public and Catholic schools. In August 2014, I applied for a 5th grade teaching position at St. James Catholic school two miles down the street. Principal Sister Margaret set up an interview. Sister Margaret called back and cancelled the interview. I asked her why. Principal Sr. Margaret said that when she asked about my abilities, that Principal Beuder said “good things about you but this was your last year because you were retiring”. Principal Sister Margaret cancelled my interview because she just hired someone else. Ms. Beuder had no business implying I was old and retiring. I told Principal Sister Margaret that I didn’t know it was my last year? How did she, Sister Margaret know it was my last year of teaching, if I didn’t (?) I never agreed with Ms. Beuder that it was my last year. I had hoped to continue part time unless I got a full time position. Later in August, upon complaining to Ms. Beuder about what she said to Principal Sister Margaret about this being my last year, Beuder said she was furious that I would be trying to get a full time job inasmuch as the new school year was beginning in two weeks. I told her she demoted me and I had every right to look for a new job.

In late August, Mrs. Beuder hired her friend, Andrea Ruma Harrington, to fulfill my reading/writing duties because in-coming 5th grade parents objected at the part time music teacher, Mr. Jimi Hazen, teaching reading/writing skills to their children. Beuder told the parents she would “fix it” and hired her friend. Ms. Beuder now had three people, including myself, assigned to the 5th grade.

At the end of school year 2015, I gave my intent to return next year, albeit part time, and I was told by Ms. Beuder that my job had been eliminated and I was not welcome back. I told Ms. Beuder that I had yard duty on the playground and excused myself. She marched down the stairs after me and threatened me on the playground in front of students and the 8th grade teacher, Mr. Jack Moore. Beuder was worried that a riot would ensue, at my being fired since I was a favorite teacher at the school. Beuder told me if I “couldn’t handle it, or if I told anyone that I was fired, that she would not give me a good recommendation for a new job elsewhere. I reminded Beuder I have never acted unprofessional. Beuder repeated the threat about never giving me a good job recommendation for another job. I immediately reported her to the downtown Catholic archdiocese personnel representative, Sister Jill. I waited for one week for Sister Jill to respond to my being threatened by a Catholic school principal, Beuder. Sister Jill said yes, indeed I had “issues” and to talk to the new pastor, Father Joe (30-ish). Father Joe said he knew about my situation because he discussed the next school year with Beuder during contract time. Father Joe told me (documented) he asked Beuder if she needed any more money for next year (?) and if she needed any more money for raises for the teachers next year (?)”. For

Principal Beuder to **[ER 356]** imply the school was short on money contradicts the pastor asking if she needed any more money.

I have two notebooks filled with evidence that I was implementing the writing program. I have a copy of the lesson in question, that supposedly I taught “wrong.” Beuder said it was a compelling lesson, but in the wrong format, and refused to let me re-do the lesson in the right format. What kind of a principal would not let her teacher re-do a lesson? I have taught over 3200 English reading/writing lessons in my career, and one lesson finished my career... when other younger teachers were learning the new format as well.

Allegations to investigate:

- 1) Erika Melendez, Amy Hendry, reading/writing teachers not demoted/fired. (email documentation to self)
- 2) A) Witness to conversation about my demotion: Part time music teacher, Mr. Jimi Hazen, who told about the new arrangement to parent, Beatiz Botha, that he was going to be getting my job next year.

B) Witness: Faculty member Silvia Bosch, who told me teachers in the teachers’ lounge, were talking about getting rid of me because of the reading/writing program, that I was being moved along. Why is Principal Beuder talking to other teachers about me getting moved along because I didn’t teach writing correctly? (email documentation to self.) This claim is preposterous considering the fact that I was employed for twenty years at the Los Angeles

JA 107

Times newspaper as a copy writer/ad sales
account executive.

- 3) Beuder thwarted me from getting a new full
time job at St. James Catholic school? (email
documentation to self)

Please advise.

Sincerely,

A. Deirdre Morrissey-Berru

**Excerpts from Transcript of Deposition of
April L. Beuder**

[ER 359]

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

AGNES DEIDRE
MORRISSEY-BERRU,
an individual,
Plaintiff,
vs.
OUR LADY OF
GUADALUPE
CATHOLIC SCHOOL, a
California non-profit
corporation; and DOES
1-50, inclusive,
Defendants.

Case No. 2:16-cv-09353-
SVW-AFM

Volume I

VIDEOTAPED DEPOSITION OF APRIL L.
BEUDER, taken on behalf of the Plaintiff, at 21052
Oxnard Street, Woodland Hills, California,
commencing at 10:16 a.m. and ending at 5:33 p.m., on
Thursday, May 4, 2017, before Alta Ponto, Certified
Shorthand Reporter Number 11046.

* * *

[ER 365]

of 2014. That is my estimate. There was an overlap
between the pastors.

Q: What is your understanding—the reason for that
overlap?

MS. KANTOR: Calls for speculation; lacks foundation; irrelevant and not reasonably likely to lead to admissible evidence.

THE WITNESS: I don't know.

BY MS. FUND:

Q: When you were hired in—officially July 1st, 2012, what position were you hired for?

A: Principal.

Q: Have you held any other position at OLG School?

A: No.

Q: Understanding that you are the principal at this school, do you have someone that you report to that is above you?

MS. KANTOR: Vague.

THE WITNESS: Yes.

BY MS. FUND:

Q: And who is that?

A: I am duly accountable to my pastor and to the department of Catholic schools.

Q: And what are your—just in the most

* * *

[ER 366]

Guadalupe School is to provide our families with opportunities to grow in their faith and to live their faith through service to others.

Q.: And how does the faith formation mission—how does that involve the teachers? In what way?

MS. KANTOR: Vague.

THE WITNESS: Each teacher is considered a catechist and responsible for the faith formation of the students in their charge each day.

BY MS. FUND:

Q: Is it a requirement that a teacher be Catholic in order to teach at the school?

A: The ideal candidate is an actively practicing Catholic.

Q: Is it a requirement?

MS. KANTOR: Vague.

THE WITNESS: It is preferred.

BY MS. FUND:

Q: My question is whether it's required.

MS. KANTOR: Argumentative; asked and answered.

THE WITNESS: If you—to teach religion at the school, you need to be a Catholic.

BY MS. FUND:

Q: My question is just whether you need to be **[ER 367]** Catholic in order to be a teacher at the school.

MS. KANTOR: Asked and answered.

THE WITNESS: It is acceptable to hire someone who is not a Catholic if they are actively practicing their Christian faith, Christian versus Catholic.

BY MS. FUND:

Q: They are not required to be Catholic; is that correct?

MS. KANTOR: Argumentative; misrepresents prior testimony.

THE WITNESS: In order to teach religion –

BY MS. FUND:

Q: I'm really just asking a "yes" or "no."

MS. KANTOR: You interrupted her answer, Counsel. And if she doesn't –

THE WITNESS: In order to be a teacher of religion and the specific faith formation of our students, you need to be an actively practicing Catholic and participate in catechetical formation. An exception could be made if a person is in the process of becoming a Catholic or a Christian.

BY MS. FUND:

Q: Any type of Christian?

A: Christianity. Yes.

[ER 368]

Q. Any different sect of Christianity?

MS. KANTOR: Vague; calls for speculation; lacks foundation; argumentative.

THE WITNESS: I don't understand the question.

BY MS. FUND:

Q: What other—can you give me an example of a Christian that is not Catholic?

MS. KANTOR: Argumentative.

MS. FUND: I couldn't be farther from being argumentative.

THE WITNESS: Lutheran.

BY MS. FUND:

Q: Okay.

A: That is an example.

Q: Can you give me one more example?

A: Methodist.

Q: So a Lutheran or a Methodist teacher, if they had the proper qualifications, could potentially be hired at the school? They are not barred from teaching at OLG for the sole reason that they are not Catholic; is that correct?

MS. KANTOR: Misrepresents prior testimony.

THE WITNESS: I do feel that misrepresents what I am trying to say.

[ER 369]

BY MS. FUND:

Q: Could a Lutheran work as a teacher at OLG School?

A: That would have to be determined on a case-by-case basis.

Q: If you could just answer my one question, I would be happy to move on. Is a teacher—your counsel can make—state her objections. I haven't gotten a clear answer yet. That's all I'm looking for so we can move on to the next set of questions. Is it a requirement that a teacher be Catholic in order to teach at OLG School? Yes or no?

MS. KANTOR: I'm going to object. First of all, that's not a yes-or-no question, and the witness does not have to answer "yes" or "no."

MS. FUND: Please state your objections. Coaching her is not proper.

MS. KANTOR: I'm stating my objections. Misrepresents prior testimony; asked and answered; vague; argumentative. You can take as much time as you need.

BY MS. FUND:

Q: Do you need the question read back?

[ER 370]

A: I heard several questions just now. So, yes, please, would you read the pending question. (The previous question was read back by the court reporter as follows: "QUESTION: Is it a requirement that a teacher be Catholic in order to teach at OLG School? Yes or no?")

THE WITNESS: Yes.

BY MS. FUND:

Q: It's a requirement?

MS. KANTOR: Asked and answered.

THE WITNESS: Exceptions can be made, as I previously stated.

BY MS. FUND:

Q: I just need to lay a little bit of a foundation; so my first question is going to be a little bit overbroad. If you don't understand my question, please just let me know. At the time of your hiring and you signed your contract in July of 2012, were you provided with any set of objectives from either the pastor or the Department of Catholic Schools that you were to accomplish as principal at the school?

A: Yes.

Q: Okay. And what were those objectives?

* * *

[ER 371]

A: We also were opening a preschool. So I was charged with making sure that that rollout was successful.

Q: Was that at the physical OLG School?

A: Yes.

Q: Any other objectives?

A: That's all I recall at this time, but I had quite a few.

Q: Were these objectives that were asked of you when you started or that you proposed to the school?

A: They were given to me by the pastor and accreditation team via the current principal.

Q: And who was the principal at the time you were—just before you were hired?

A: Sheryl Hunt, H-u-n-t.

Q: Are students required to be Catholic to attend the school?

A: No.

Q: Are the majority of the students that attend the school Catholic?

A: Yes.

Q: And presently what grades does OLG School teach?

A: Transitional kindergarten through 8th

* * *

[ER 372]

BY MS. FUND:

Q: Was she—to your knowledge, was she employed at the school prior to you starting in 2012?

A: Yes.

Q: Do you have any knowledge as to whether she had worked at the school for over ten years prior to you starting?

A: I don't recall exactly. I don't recall exactly. I would suspect around ten years.

Q: If I showed you an employment contract for Ms. Morrissey-Berru to begin September 1st, 1999, do you have any reason to believe that that would not be accurate?

MS. KANTOR: Lacks foundation; calls for speculation.

THE WITNESS: No. I would know it was accurate if I saw it.

MS. FUND: Sure. Let's mark this document Bates stamped OLG 0111 to OLG 0112 as Exhibit 3. (Plaintiff's Exhibit 3 was marked for identification by the court reporter and is attached hereto.)

BY MS. FUND:

Q: I want you to take a look at that document **[ER 373]** that was produced by your counsel on the school's behalf, and let me know if you have any reason to believe that document is not accurate.

MS. KANTOR: Counsel, do I get a copy?

MS. FUND: That's the only one I have. You can take a look, though.

THE WITNESS: I don't have any reason, no.

BY MS. FUND:

Q: What does that document represent?

MS. KANTOR: Calls for speculation; lacks foundation.

THE WITNESS: The title of this document is an employment agreement.

BY MS. FUND:

Q: For what period of time?

A: Between 19—September 1st, 1999, and June 30th, 2000.

Q: For what employee?

A: Deirdre Morrissey.

Q: Is that with OLG School?

A: Yes, it is.

Q: Okay. Thank you. At the time you started at OLG in July 2012, I understand that you interviewed beforehand, but your contract was signed July 1st,

* * *

[ER 374]

MS. FUND: Let's mark as Exhibit 4 the documents that are Bates stamped OLG 0013 through OLG 0018. (Plaintiff's Exhibit 4 was marked for identification by the court reporter and is attached hereto.)

BY MS. FUND:

Q: Can you let me know if you have ever seen this document before?

A: Yes.

Q: What is this document?

A: This is an employment agreement.

Q: Between who?

A: Between Deirdre Morrissey-Berru and Our Lady of Guadalupe School.

Q: For what period of time?

A: July 1, 2012, through June 30th, 2013.

Q: What was your role with this contract?

MS. KANTOR: Vague.

THE WITNESS: Can you be more specific?

BY MS. FUND:

Q: Sure. You testified previously that you played a role in this contract, and I just want to know what you meant by that.

[ER 375]

A: So I was the one who offered Mrs. Morrissey-Berru this contract.

Q: And what was—what position was this contract for?

A: The same position, Grade 5, self-contained.

Q: Teacher?

A: Teacher, yes.

Q: Can you please turn to what is marked OLG 0015. And is that your signature at the bottom of the page?

A: Yes.

Q: And can you read the line directly underneath your signature?

A: Yes. "I accept the position as elementary teacher at OLG School on each and all of the terms and conditions set forth in the above agreement in the attached compensation benefit supplement."

Q: Did you write in the word "elementary teacher"?

A: Uh-huh, yes.

Q: And "OLG"?

[ER 376]

A: Yes.

Q: And that's your understanding as to the position that you were offering to Ms. Morrissey-Berru?

MS. KANTOR: Vague.

THE WITNESS: Yes.

BY MS. FUND:

Q: Do you see—a little bit higher up in the page, Paragraph 9, which is entitled, "Entire agreement"?

A: Uh-huh.

Q: Yes?

A: Yes.

Q: Is it your understanding that this contract and the attached compensation and benefits supplement contain the entire agreement between OLG School and Ms. Morrissey-Berru for this time period?

MS. KANTOR: Objection to the extent it calls for a legal conclusion; vague.

THE WITNESS: This is the entire agreement that was offered to Ms. Morrissey-Berru.

BY MS. FUND:

Q: Okay. Can you please turn to OLG 0017. Is the handwriting—all of the handwriting on this page your handwriting?

* * *

[ER 377]

MS. KANTOR: Vague.

THE WITNESS: Not that I am aware of at this time.

MS. FUND: Let's mark this next exhibit as Exhibit 5. (Plaintiff's Exhibit 5 was marked for identification by the court reporter and is attached hereto.)

BY MS. FUND:

Q: I just want you to take a look and let me know if you have ever seen this document before.

A: Yes.

Q: What is this document?

A: This is an employee employment agreement between Mrs. Morrissey-Berru and Our Lady of Guadalupe School.

Q: For what term?

A: From July 1, 2013, through June 30th, 2014.

Q: Before I get into that exhibit, I just have a really quick question back on Exhibit 4. You signed your employment agreement on July 1, 2012; correct? Or effective—sorry. It was effective July 1st?

A: Yes.

Q: I'm just a little bit confused because this

* * *

[ER 378]

Mrs. Morrissey-Berru understood the expectations for the 2013/14 school year.

BY MS. FUND:

Q: Did you write that into any other teachers' employment contracts?

A: I don't recall at this time if it was necessary.

Q: So you don't recall one way or another whether you did?

A: I don't recall one way or the other.

Q: At the time, had Ms. Morrissey-Berru given you any reason to think that she didn't understand the expectations for the 2013/2014 school year?

A: No.

Clarification: At the time of the signing of this contract?

Q: Correct.

A: No. She was clear.

Q: Let's just turn to the last page, OLG 0012. In the middle of the page, it says, "I accept a position as teacher at OLG School"; correct?

A: Yes.

Q: Did you write in "OLG"?

A: That's not my writing.

Q: But, again, the position she was hired for **[ER 379]** was a teacher?

A: It was, yes.

Q: And did you provide this employment contract to the pastor at the time?

A: I—yes, I would have asked him to come and sign the contracts, please.

Q: Do you know why this contract isn't signed by a pastor?

MS. KANTOR: Calls for speculation; lacks foundation.

THE WITNESS: I don't know why Father Ray and/or Father Joe did not sign this particular piece of paper.

MS. FUND: We'll mark the next document— I can take that for you—as Exhibit No. 6. (Plaintiff's Exhibit 6 was marked for identification by the court reporter and is attached hereto.)

BY MS. FUND:

Q: Again, if you could take a look through this document and let me know if you have ever seen it before.

A: I've seen it, yes.

Q: Okay. And what is this document?

A: This is the employment agreement between **[ER 380]** Mrs. Morrissey-Berru and Our Lady of Guadalupe School for the 2014/15 school year.

Q: What position is it for?

A: It is a part-time position in the 5th grade classroom.

Q: As a teacher?

A: As a part-time teacher.

Q: Can you turn to Page OLG 0004 for me. You see how there's some lines and then there's typed up numbers throughout that page?

MS. KANTOR: Vague.

BY MS. FUND:

Q: Do you know what I am referring to?

MS. KANTOR: Vague.

THE WITNESS: Can you be more specific with the section?

BY MS. FUND:

Q: Sure. So, for example, where it says—the paragraph, the section that says “Part-time teacher”?

A: Yes.

Q: Do you see how there’s—looks like there’s four different dashes, and then there’s the zeros filled in on each of those lines?

A: Yes.

* * *

[ER 381]

BY MS. FUND:

Q: Did anyone else at the school complete evaluation reports for the teachers other than yourself?

MS. KANTOR: Vague and overbroad; lacks foundation.

THE WITNESS: Again, it’s not clear to me that we’re talking about the same type of form, what form we’re talking about.

MS. FUND: Sure. Let’s mark this next document as Exhibit No. 9. (Plaintiff’s Exhibit 9 was marked for identification by the court reporter and is attached hereto.)

BY MS. FUND:

Q: If you can take a look at that document, and let me know if you have ever seen it before.

A: Yes.

Q: What is this?

A: This is one type of feedback form used after a classroom visit.

Q: Why don't you give me the title of this document?

A: Elementary school classroom observation **[ER 382]** report.

Q: Did you personally fill out this report?

A: Yes, I did.

Q: Other than Ms. Morrissey-Berru's signature and the date written underneath her signature, is all of the handwriting on this document yours?

A: Yes, it is.

Q: And what is the date of this document?

A: November 6, 2012.

Q: Would that have been the date that you observed her class?

A: Yes.

Q: Now, on the last page—is that your signature on the last page?

A: Yes.

Q: It's dated November 14, 2012?

A: Yes.

Q: Now, would that reflect the date that you reviewed this report with Ms. Morrissey-Berru?

A: That would be our post-observation conference room time. Yes.

Q: Would you actually communicate about any of the information in this report on the day of the actual observation, or would you wait for this meeting that took place approximately a week later?

[ER 383]

MS. KANTOR: Overbroad.

THE WITNESS: It was—state that question again.

BY MS. FUND:

Q: Sure. Did you have a conversation about any of the contents of this observation report with Ms. Morrissey-Berru on the date of the observation, or did you wait to discuss the contents until your meeting on November 14th?

A: We discussed this during our conference time, and we completed it together.

Q: Again, the conference time is November 14th?

A: Yes.

Q: So you wouldn't have any conversation with her on the date of the observation about the contents?

A: I wouldn't interrupt her teaching.

Q: Okay. And it indicates "10:40," next to the date. Do you see that?

A: Yes.

Q: Is that—what does that number represent?

A: Most likely it represents the time on the [ER 384] lesson.

Q: That it started?

A: That it started.

Q: Would you stay for the entire lesson?

A: Yes.

Q: And, again, I see it's indicated on the top of this page that the subject was science?

A: Yes.

Q: And typically how long are each class?

A: So to understand the timing, the teachers choose the block of time; so—and they tell me: 30 minutes, 40 minutes, 50 minutes. So I don't know off the top of my head, but a typical lesson would be anywhere from 30 to 50 minutes at this grade.

Q: Is there anything else on this document that would reflect how long this specific class was?

A: No. It would have been on the sign-up sheet.

Q: Was this observation prescheduled?

A: Absolutely.

Q: And how much advance notice, generally, do you give teachers before an observation like this?

A: It's standard procedure that there is going to be an observation. I typically give them two to four weeks, sometimes longer, and they sign up at a [ER 385] time of their own choosing within a window. I give them blocks of time. And that is how we handle the post-observation conference times as well. They sign up for a time that suits their schedule.

Q: Would Ms. Morrissey-Berru have selected this November 6th, 2012, science class for you to observe?

A: Yes.

Q: So going back to my question a few minutes ago, would anyone else at the school have the responsibility of filling out an elementary school classroom observation report like this one we have in front of us marked as Exhibit 9?

A: In some cases, vice principals do; however, Mrs. Barns does not do that at our school site.

Q: At your school, no one else is responsible for filling out these forms other than yourself?

MS. KANTOR: Asked and answered.

THE WITNESS: Not this particular feedback form.

BY MS. FUND:

Q: How many different types of feedback forms do you have at the school?

A: The archdiocese provides us many different types of feedback forms, encouraging us to use them

[ER 395]

**ARCHDIOCESE OF LOS ANGELES
TEACHER EMPLOYMENT AGREEMENT
ELEMENTARY SCHOOLS**

THIS AGREEMENT, by and between Our Lady of Guadalupe Elementary School (hereinafter referred to as the School) and Deidre Morrissey (hereinafter referred to as the Teacher) is entered into as follows:

WITNESSETH

TERMS

1. The School hereby employs the Teacher for the school year beginning on Sept. 1, 1999 and ending on June 30, 2000. The School agrees to pay the Teacher for such services this yearly sum of \$24,500 subject to deductions required by law. The salary shall be divided into 20 equal installments paid on the 15th + 30th of each month.

RESPONSIBILITIES

2. The Teacher agrees to perform all duties faithfully and satisfactorily as described in the Teacher Evaluation Report published by the Archdiocesan Department of Catholic Schools; to comply with all rules and regulations promulgated by the School and the Archdiocese; to comply with and abide by all pertinent statutes of the State of California and the United States; and to attend all teacher meetings, inservice programs and other events as specified by the Archdiocesan Department of Catholic Schools.
3. The Teacher agrees to submit to the School evidence of degrees, credentials, and experience

claimed, as well as current documentation of freedom from active tuberculosis.

4. The School agrees that it will cause administrative personnel to be available at reasonable times during normal business hours to discuss with the Teacher school problems and other professional matters of particular or special interest to the Teacher.
5. A Teacher who regularly performs (30) or more paid hours of service per week shall be eligible for participation in the official Archdiocesan medical plan. After one year of employment, the teacher shall be eligible for participation in the Archdiocesan Retirement Plan if the Teacher is 25 years of age and has worked a minimum of 1,000 hours in a calendar year.
6. A Teacher shall maintain a professional relationship with students both on and off campus. A Teacher shall not associate or be present with students or be a party to activities where civil law and/or school rules are violated. A Teacher shall not date a student.
7. Performance of the Teacher's duties under this Agreement shall be subject to the supervision of the School over all phases of the work and subject to the advice and direction of its administrative personnel.

SCHEDULE

8. The Teacher agrees not to enter a contract or agreement with any school or district which will in any way conflict with this Agreement.
9. The Teacher agrees to devote his/her full time to performing the duties of teacher and to enter upon and perform such duties at the times, places and for the periods prescribed by the School. The hours of employment on class days shall be from thirty minutes before the start of the first class bell to thirty minutes after the last class bell.
10. Full-time Teachers are permitted ten days paid leave each year for personal illness. Absence in excess of this limit may, at the discretion of the principal, be a basis for proportionate reduction in the amount of compensation. Likewise, it is expected that the Teacher will assume financial responsibility for absences for reasons other than those stated above.
11. A Teacher may be entitled to or granted leaves as specified in Archdiocesan policies. The school retains the option to require the Teacher to resume his/her duties at the beginning of a Quarter.

RE-EMPLOYMENT

12. It is agreed that the Teacher will give written notice to the School on or before April 1 stating whether or not he/she wishes to renew the Agreement, and that the School will give written notice to the Teacher on or before May 1 whether or not it intends to renew the Agreement for the following year.

[ER 396]

13. It is agreed that the Teacher has no tenure rights or other property rights in employment at the school. It is further agreed that the School has no obligation, expressed or implied, to extend or renew this contract, to re-employ the Teacher or to continue to operate beyond the terms of the Agreement.
14. It is agreed that, upon expiration or termination of this Agreement for any reason, the Teacher shall have no right to employment or preferential treatment regarding employment at any other school located in the Archdiocese of Los Angeles, or any other Catholic school. It is further agreed that, if the School closes for any reason, this Agreement will be considered terminated for cause on the official date of closure.

TERMINATION

15. The Teacher shall be subject to discharge for just cause, including, but not limited to, the following:
 - a. Immorality relating to duties or impairing his/her effectiveness as a Teacher.
 - b. Conviction of a felony or any crime involving moral turpitude.
 - c. Incompetency or inadequacy in carrying out the responsibilities of a Teacher.
 - d. Lack of daily preparation.
 - e. Lack of classroom discipline consistent with the philosophy of the school.

- f. Failure to implement school disciplinary regulations as they apply either to teachers or students.
 - g. Noted inability to deal amicably with students, parents, faculty, and administrators.
 - h. Serious violations of professional ethics.
 - i. Failure to respond to correction and admonition as given by the School.
 - j. Habitual or excessive tardiness or absence from work or from the work area.
 - k. Insubordination to superiors.
 - l. Maintaining by word or action a position contrary to the teaching of the Roman Catholic Church as interpreted by the Archdiocese of Los Angeles.
 - m. Dishonesty or personal conduct constituting bad example to pupils according to standards of the Roman Catholic Church as interpreted by the Archdiocese of Los Angeles.
 - n. Breach of the terms of this Agreement, including refusal to discharge responsibilities or voluntary abandonment of responsibilities.
 - o. Falsification of documents, such as providing false or misleading information on a teaching application, personnel record, professional or character reference, academic transcript, degrees, or credentials.
16. Failure by the School to Invoke discharge on one occasion for the commission of an offense constituting a cause for discharge shall not affect

the right of the School to invoke discharge for a later or different commission of the same offense.

17. The Teacher may not terminate employment during the term of this Agreement and for a period of thirty (30) days prior to the beginning of the school year except by mutual agreement of the Principal and the Teacher. Teacher acknowledges that a breach by the Teacher of this provision will cause expenses and damages to the School. If Teacher breaches this provision, Teacher agrees to pay to School all costs, expenses and damages incurred by School by reason of Teacher's breach, including but not limited to costs and expenses incurred by School to obtain the services of a substitute teacher until a new full time teacher is hired, in an amount not to exceed \$5,000.00. Said sums are due and payable by Teacher to School within thirty (30) days of the date said sums are incurred by School, unless other arrangements are made between Teacher and Principal.

CLAIMS

18. It is agreed that a condition of this agreement is the receipt of the Criminal Records Summary Clearance from the Department of Justice, if such a clearance is required, and the completion of the I-9 Form from the Immigration and Naturalization Service.
19. It is agreed that the Teacher shall have no claim or right of action for breach of this Agreement unless all rights for administrative relief provided in the Grievance Procedure promulgated by the Archdiocesan Department of Catholic Schools have been fully pursued.

ADDITIONAL TERMS (as discussed prior to School's
"intent to renew")

IN WITNESS WHEREOF, the parties have hereunto
executed this Agreement on August 23, 1999, at
Hermosa Beach, California.

/s/ A. Deirdre Morrissey
(Teacher)

Our Lady of Guadalupe
Elementary School

by /s/ Cheryl L. Hunt
Principal

[ER 397]

**FACULTY EMPLOYMENT AGREEMENT –
ELEMENTARY**

**Exempt Full Time
Department of Catholic Schools
Archdiocese of Los Angeles**

Name of School: Our Lady of Guadalupe Catholic School

Name of Teacher: Deirdre Morrissey-Berru

Start Date: July 1, 2012

End Date: June 30, 2013

1. Term. The School (“School”) and you (the “Teacher”) make this Employment Agreement (“Agreement”), effective on the date below, for the work period shown above (the “Term”), for you to serve as a member of our faculty.

2. Philosophy. It is understood that the mission of the School is to develop and promote a Catholic School Faith Community within the philosophy of the Catholic education as implemented at the School, and the doctrines, laws and norms of the Catholic Church. All duties and responsibilities of the Teacher shall be performed within this overriding commitment.

3. Duties. Your duties shall be those of a full-time or part-time faculty member as specified in the Compensation and Benefits Supplement which is an integral part of this Agreement. You shall use your best professional efforts and skills to perform your duties in a diligent, energetic, competent, and ethical manner, consistent with the School’s established philosophy and its policies, directives, and expected practices. You acknowledge and agree that the School

retains the right to operate within the philosophy of Catholic education and to retain teachers who demonstrate an ability to develop and maintain a Catholic School Faith Community. You understand and accept that the values of Christian charity, temperance and tolerance apply to your interactions with your supervisors, colleagues, students, parents, staff and all others with whom you come in contact at or on behalf of the School. Accordingly, you are expected to model, teach, and promote behavior in conformity to the teaching of the Roman Catholic Church. Your duties shall include careful preparation and planning for each class consistent with School and departmental curriculum; diligent review and evaluation of student work and related communication to students and parents; and conferring with students, the administration, and parents as needed regarding each student's progress and development. You also shall attend faculty/staff meetings and conferences, including those prior to and following the School's regular academic year, participate in School activities including School liturgical activities, as requested, and complete other duties as assigned. You agree to maintain the levels of competency in subject matter, teaching methods, classroom management, and student supervision required by the School whether on your own initiative or at the direction of the School. Your duties and job assignment may be revised during the Term to meet the School's needs. In the event the School's operations are extended by reason of fire, disaster, act of God, act of public authority or any other necessity or emergency cause, your services may be suspended for the time period and rescheduled as needed to complete the full School year.

4. Policies. You shall be familiar with, and comply with the School's personnel policies and procedures as they may be adopted or amended from time-to-time, including policies in the faculty handbook. You should refer to such documents for information relating to your employment, duties, and benefits. You shall be familiar with, abide by, and assist and cooperate with School administration in enforcing, the School's policies for students and families whether outlined in our handbook(s), our School policies, or other directives and expected practices (together "Policies"). You acknowledge that a copy of the faculty handbook has been made available to you. You understand and acknowledge that the policies do not constitute a contractual agreement with you.

[ER 398]

5. Introductory Period. There is an introductory period for a newly hired or transferred teacher. The introductory period is a minimum of 90 calendar days, and may be extended, in writing, for up to another 90 calendar days at the discretion of the principal. During the introductory period this Agreement is at will; therefore, it can be terminated at any time, for any reason, without any notice. The Principal shall complete a performance appraisal at the end of the introductory period. Upon satisfactory completion of the introductory period, employment will be continued through any remaining term of this Agreement except as noted under "Termination."

6. Termination. Your employment, and this Agreement, may be terminated during the Term without payment of salary or benefits beyond such date of termination, for any of the following reasons:

I. The School may terminate for “cause,” without any prior notice. Such “cause” shall be determined by the School within its reasonable judgment and shall include but not be limited to:

- a) Failure to meet any of your duties as described in Paragraphs 3 and 4 above.
- b) Inappropriate physical or social contact with students during school or otherwise.
- c) Unprofessional or unethical conduct, insubordination, unauthorized disclosure of confidential information, or habitual or unreasonable tardiness or absence from duties.
- d) Any criminal, immoral or unethical conduct that relates to your duties as a teacher or brings discredit upon the school or the Roman Catholic Church.
- e) Unauthorized possession of, or working under the influence of, illegal drugs, intoxicants, or alcohol.
- f) Threatening or causing bodily harm to others or other coercive and or intimidating acts, or any verbal or physical harassment.
- g) Having a diploma, credential, permit, license or certificate denied, revoked or suspended.
- h) Falsification of documents, false or misleading information on an application, resume, personnel record, professional or

character reference, academic transcript, degree, or credential.

- i) Any other breach of the terms of this Agreement

II. Either you or the School may terminate this Agreement without cause, for any reason within the sole discretion of the terminating party, upon 30 calendar days' prior written notice to the other party in a manner that is consistent with applicable law and on a time frame that is mutually agreeable to you and the Principal. However, you may not terminate employment under this Agreement if the termination is effective during the 30 days immediately prior to the beginning of the school year except by mutual agreement with the Principal. You acknowledge that a breach by you of this provision is a grave ethical violation, may harm the educational program for the students and may cause expenses and damages to the School.

III. The School may terminate your employment if you are unable to perform the essential functions of your position and reasonable accommodation is not available or required under applicable laws.

The School's failure to invoke its right of termination on one occasion for the occurrence of a matter constituting a basis for discharge shall not affect the right of the School to invoke discharge when the same or a different basis for termination arises at a later date.

7. Renewal. Future employment will be determined on a year-to-year basis. It is agreed that you will give

written notice to the School, on or before April 1, 2013, stating whether or not you wish to renew the Agreement. The School will give you written notice, on or before May 15, 2013, stating whether or not it **[ER 399]** intends to renew the Agreement for the following year. In the absence of a notice by either party, this agreement will lapse under its own terms. The Principal alone, with the approval of the Pastor, has the final and sole authority with respect to offering contracts. This Agreement is contingent upon sufficient School enrollment and the School's financial condition. If the enrollment or the School's financial condition does not justify the staffing, the Principal has discretionary power to make decisions regarding personnel reduction including, but not limited to, modification or cancellation of this Agreement. Notwithstanding this, if the School closes for any reason, this Agreement will be considered terminated on the date of the closure. You understand that tenure is not granted by Archdiocesan Schools and upon expiration or termination of the Agreement for any reason you shall have no right to employment or preferential treatment regarding employment at any other Archdiocesan School. There is no implied duty by you or the School to renew this Agreement, and no cause whatsoever is required by either party for non-renewal. Any other arrangement with respect to renewal, extension or duration of employment is valid only if in writing, executed by you and the Principal, with the approval of the Pastor.

8. Severability. If, for any reason, any one or more of the provisions of this Agreement shall be held or deemed to be legally invalid or unenforceable, that shall not have any effect on any of the other provisions

of this Agreement, all of which shall remain in full force and effect.

9. Entire Agreement. This Agreement and the attached Compensation and Benefits Supplement contain the complete and entire agreement between you and the School, and it supersedes all prior offers, agreements, commitments, understandings, whether oral or written. No changes to this Agreement may be made except by a document signed by you and the Principal, with approval of the Pastor.

10. Applicable Law. This Agreement is entered into under, and governed by, the laws of the State of California.

11. Dispute Resolution and Grievances. You and the School agree to attempt to resolve any disputes in good faith. Any unresolved dispute between you and the School arising out of or in any way related to your employment or the termination thereof, shall be subject to the Grievance Procedures promulgated by the Archdiocesan Department of Catholic Schools and no legal actions may be taken until all procedures have been fully discharged. This clause is intended to provide a speedy, economical and exclusive forum for resolving claims; its existence shall not imply any limitations upon the School's right to manage its affairs or terminate any employment.

12. Condition Precedent. It is agreed that a condition precedent of this Agreement is the receipt of the Criminal Record Summary report from the California Department of Justice and the Federal Bureau of Investigation, the completion of the I-9 Form from the Immigration and Naturalization

Service, and the completion of the other relevant health and document requirements of the school.

By: /s/ April Beuder
(Principal's Signature)

Date: 5/21/12

I accept a position as Elementary Teacher at OLG School on each and all of the terms and conditions set forth in the above Agreement and the attached Compensation and Benefits Supplement.

By: /s/ A. Deirdre Morrissey-Berru
(Teacher's Signature)

Date: 5/21/12

Approval by Pastor required: /s/ F.R. (illegible)

[ER 400]

Pastor's Signature

Print Name

Date

[ER 401]

**FACULTY COMPENSATION AND BENEFITS
SUPPLEMENT**

**Elementary – Exempt Full Time
Department of Catholic Schools
Archdiocese of Los Angeles**

13. School Day and Work Schedule

Full Time Faculty

As a full time teacher, you understand that there will be approximately 8 hours of work at the School each regular class day. You will also devote additional time

to other assigned school responsibilities and in preparation and assessment activities at hours not during the regular class day. The School's regular class day is from 7:30 a.m. to 3:30 p.m.

14. Base Compensation

Base Salary: \$ 45,858

15. Additional Compensation For Designated Responsibility (If Any):

Note: Calculations and Additional Compensation for designated responsibility are based on anticipated time commitment and skills.

Responsibility	Additional Compensation
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

Total Additional Compensation: \$ _____

16. Payment Schedule.

Compensation for all faculty will be distributed on a ☐ semi-monthly ☒ bi-weekly schedule beginning August 1, 2012 and ending June 30, 2013.

17. Education And Professional Growth Requirements:

In accordance with the regulations for salary placement and professional growth requirements, you agree that you will complete the following requirements to be eligible to be offered an employment agreement for the next school year.

☐ _____

- ☐ Enroll in California Teaching Credential program.
- ☐ Complete at least ____ units toward a California Teaching Credential.
- ☐ California Teaching Credential program must be completed by July 1, 20____ for an Elementary School Faculty Employment Agreement to be offered for the 20____ - 20____ academic year.

[ER 402]

18. Available Benefits.

See Department of Catholic Schools Lay Employees Benefit Guide

Sick Days: Full-time Faculty: 10 days per school year.

By: /s/ April Beuder
(Principal's Signature)

Date: 5/21/12

By: /s/ A. Deirdre Morrissey-Berru
(Teacher's Signature)

Date: 5/21/12

Approval by Pastor required: /s/ F.R. (illegible)

[ER 403]

**TEACHER EMPLOYMENT AGREEMENT –
ELEMENTARY**

**Exempt
Department of Catholic Schools
Archdiocese of Los Angeles**

Name of School: Our Lady of Guadalupe School

Name of Teacher: Deirdre Morrissey-Berru

Start Date: July 1, 2013

End Date: June 30, 2014

1. Term. The School (“School”) and you (the “Teacher”) make this Employment Agreement (“Agreement”), effective on the date below, for the work period shown above (the “Term”), for you to serve as a member of our faculty.

2. Philosophy. The mission of the School is to develop and promote a Catholic School Faith Community within the philosophy of Catholic education as implemented at the School, and the doctrines, laws and norms of the Roman Catholic Church. All your duties and responsibilities as a Teacher shall be performed within this overriding commitment. If you are Roman Catholic you must be in good standing with the Church.

3. Duties. Your position will be that of a Teacher. You shall use your best professional efforts and skills to perform your duties in a diligent, energetic, competent, and ethical manner, consistent with the School’s established policies, directives and expected practices. You acknowledge that the School operates within the philosophy of Catholic education and retains the right to employ individuals who

demonstrate an ability to teach in accordance with the philosophy. You understand and accept that the values of Christian charity, temperance and tolerance apply to your interactions with your supervisors, colleagues, students, parents, staff and all others with whom you come in contact at or on behalf of the School. In both your professional and private life you are expected to model and promote behavior in conformity to the teaching of the Roman Catholic Church in matters of faith and morals. Your duties shall include careful preparation and planning for each class consistent with School and departmental curriculum; diligent review and evaluation of student work and related communication to students and parents; and, as needed, conferring with students, the administration, and parents regarding each student's progress and development. You also shall attend faculty/staff meetings and conferences, including those prior to and following the School's regular academic year, participate in School activities including School liturgical activities, as requested, and complete other duties as assigned. You agree to maintain the levels of competency in subject matter, teaching methods, classroom management, and student supervision required by the School whether on your own initiative or at the direction of the School. Your duties and job assignment may be revised during the Term to meet the School's needs. In the event the School's operations are extended by reason of fire, disaster, act of God, act of public authority or any other necessity or emergency cause, your service may be suspended for the time period and rescheduled as needed to complete the full School year.

4. Policies. You shall be familiar with, and comply with the School's personnel policies and procedures as

they may be adopted or amended from time-to-time, including policies in the faculty handbook. You should refer to such documents for information relating to your employment, duties, and benefits. You shall be familiar with, abide by, and assist and cooperate with School administration in enforcing the School's policies for students and families whether outlined in our handbooks(s), our School **[ER 404]** policies, or other directives and expected practices (together "Policies"). You acknowledge that a copy of the faculty handbook has been made available to you. You understand and acknowledge that the policies do not constitute a contractual agreement with you.

5. Introductory Period. The first six (6) months of your employment as a new teacher at this School are considered your Introductory Period. You may be terminated at any point, with or without notice, with or without reason, during the Introductory Period. The Principal shall complete a performance appraisal at the end of your Introductory Period. Upon satisfactory completion of the Introductory Period, your employment will be continued through the Term of this Agreement except as noted under "Termination."

6. Termination. Your employment, and this Agreement, may be terminated during the Term without payment of salary or benefits beyond such date of termination, for any of the following reasons:

- I. The School may terminate for "cause," without any prior notice. Such "cause" shall be determined by the School within its reasonable judgment and shall include but not be limited to:

- a) Failure to meet any of your duties as described in Paragraphs 3 and 4 above.
- b) Inappropriate physical or social contact with students during school or otherwise.
- c) Unprofessional or unethical conduct, insubordination, unauthorized disclosure of confidential information, or habitual or unreasonable tardiness or absence from duties.
- d) Any criminal, immoral or unethical conduct that relates to your duties as a teacher or brings discredit upon the school or the Roman Catholic Church.
- e) Unauthorized possession, sale, or working under the influences of controlled substances (except prescription medications taken as prescribed), intoxicants, or alcohol.
- f) Threatening or causing bodily harm to others or other coercive or intimidating acts, or any verbal or physical harassment.
- g) Having a diploma, credential, permit, license or certificate denied, revoked or suspended.
- h) Falsification of documents, false or misleading information on an application, resume, personnel record, professional or character reference, academic transcript, degree, or credential.
- i) Any other breach of the terms of this Agreement

II. Either you or the School may terminate this Agreement without cause, for any reason within the sole discretion of the terminating party, upon 30 calendar days' prior written notice to the other party in a manner that is consistent with applicable law and on a time frame that is mutually agreeable to you and the Principal. However, you may not terminate employment under this Agreement if the termination is effective during the 30 days immediately prior to the beginning of the school year except by mutual agreement with the Principal. You acknowledge that a breach by you of this provision is a grave ethical violation, may harm the educational program for the students and may cause expenses and damages to the School.

III. The School may terminate your employment if you are unable to perform the essential functions of your position and reasonable accommodation is not available or required under applicable laws.

The School's failure to invoke its right of termination on one occasion for the occurrence of a matter constituting a basis for discharge shall not affect the right of the School to invoke discharge when the same or a different basis for termination arises at a later date.

[ER 405]

7. Renewal. Future employment will be determined on a year-to-year basis. You agree to give written notice to the School, on or before April 1, 2014, stating whether or not you wish to renew the Agreement. The School will give you written notice, on or before May

15, 2014, stating whether or not it intends to renew the Agreement for the following year or enter into any other type of employment relationship. In the absence of a notice by either party, this agreement will lapse under its own terms. The Principal alone, with the approval of the Pastor, has the final and sole authority with respect to offering contracts. This Agreement is contingent upon sufficient School enrollment and the School's financial condition. If the enrollment or the School's financial condition does not justify the staffing, the Principal has discretionary power to make decisions regarding personnel reduction including, but not limited to, modification or cancellation of this Agreement. If the School closes for any reason, this Agreement will be considered terminated on the date of the closure. If this Agreement is cancelled due to lack of enrollment or the School's financial condition or is terminated because of School closure, you will be paid through the date of cancellation or closure; no further payments will be due to you. You understand that tenure is not granted by Archdiocesan Schools and upon expiration or termination of the Agreement for any reason you shall have no right to employment or preferential treatment regarding employment at any other Archdiocesan School. There is no implied duty by you or the School to renew this Agreement, and no cause whatsoever is required by either party for non-renewal. Any other arrangement with respect to renewal, extension or duration of employment is valid only if in writing, executed by you and the Principal, with the approval of the Pastor.

8. Severability. If, for any reason, any one or more of the provisions of this Agreement shall be held or deemed to be legally invalid or unenforceable, that

shall not have any effect on any of the other provisions of this Agreement, all of which shall remain in full force and effect.

9. Entire Agreement. This Agreement contains the complete and entire agreement between you and the School, and it supersedes all prior offers, agreements, commitments, understandings, whether oral or written. No changes to this Agreement may be made except by a document signed by you and the Principal, with approval of the Pastor.

10. Applicable Law. This Agreement is entered into under, and governed by, the laws of the State of California.

11. Dispute Resolution and Grievances. You and the School agree to attempt to resolve any disputes in good faith. Any unresolved dispute between you and the School arising out of or in any way related to your employment or termination, shall be subject to the Grievance Procedures promulgated by the Archdiocesan Department of Catholic Schools and no legal actions may be taken until all procedures have been fully discharged. This clause is intended to provide a speedy, economical and exclusive forum for resolving claims; its existence shall not imply any limitations upon the School's right to manage its affairs or terminate any employment.

12. Condition Precedent. You understand and agree that condition precedents of this Agreement are the receipt of the Criminal Record Summary report from the California Department of Justice and the Federal Bureau of Investigation, the completion of the I-9 Form from the Immigration and Naturalization

Service, and the completion of the other relevant health and document requirements of the School.

[ER 406]

13. School Day and Work Schedule

Full Time Teacher

As a full time Teacher, you understand that a regular class day at the School requires approximately 8 hours of work. You will also devote additional time to other assigned school responsibilities and in preparation and assessment activities at hours not during the regular class day. The School's regular class day is from 7:30 a.m. to 3:30 p.m.

14. Base Compensation

Base Salary: \$ 46,558

15. Additional Compensation For Designated Responsibility (If Any):

Note: Calculations and Additional Compensation for designated responsibility are based on anticipated time commitment and skills.

Responsibility	Additional Compensation
_____	\$ _____
_____	\$ _____
_____	\$ _____

Total Additional Compensation: \$ _____

16. Payment Schedule.

Compensation for all teachers will be distributed on a ☒ semi-monthly ☐ bi-weekly schedule beginning 8/30/13 and ending 6/30/14.

17. Available Benefits.

See Archdiocese of Los Angeles Lay Employee Benefit Guide

Full-time Faculty sick days: 10 days per school year.

18. Education And Professional Growth Requirements:

In accordance with the regulations for salary placement and professional growth requirements, you agree that you will complete the following requirements to be eligible to be offered an employment agreement for the next school year.

☐ Enroll in California Teaching Credential program.

☐ Complete at least ____ units toward a California Teaching Credential.

☐ California Teaching Credential program must be completed by July 1, 20____ for an Elementary School Faculty Employment Agreement to be offered for the 20____ - 20____ academic year.

☐ Other Requirements: Fully implement Readers/Writers Workshop

[ER 407]

By: /s/ April Beuder
(Principal's Signature)

April Beuder
Print Name

Date: 6/14/13

I accept a position as Teacher at O.L.G. School on each and all of the terms and conditions set forth in the above Agreement.

JA 153

By: /s/ A. Deirdre Morrissey-Berru
(Teacher's Signature)

A. Deirdre Morrissey-Berru
Print Name

Date: 6/4/13

Approval by Pastor required (this Agreement is not
binding until executed by Pastor)

By: [Blank]
(Pastor's Signature)

[Blank]
Print Name

Date: [Blank]

[ER 408]

**TEACHER EMPLOYMENT AGREEMENT –
ELEMENTARY**

**Non-Exempt
Department of Catholic Schools
Archdiocese of Los Angeles**

Name of School: Our Lady of Guadalupe School

Name of Teacher: Deirdre Morrissey-Berru

Academic Year: 2014-2015

Term. The School (“School”) and you (the “Teacher”) make this Employment Agreement (“Agreement”), effective on the date below, for the period shown above (the “Term”), for you to serve as a member of our faculty.

Philosophy. The mission of the School is to develop and promote a Catholic School Faith Community within the philosophy of Catholic education as implemented at the School, and the doctrines, laws and norms of the Roman Catholic Church. All your duties and responsibilities as a Teachers shall be performed within this overriding commitment. If you are Roman Catholic you must be in good standing with the Church.

Duties. Your position will be that of a Teacher. You shall use your best professional efforts and skills to perform your duties in a diligent, energetic, competent, and ethical manner, consistent with the School’s established policies, directives and expected practices. You acknowledge that the School operates within the philosophy of Catholic education and retains the right to employ individuals who demonstrate an ability to teach in accordance with this

philosophy. You understand and accept that the values of Christian charity, temperance and tolerance apply to your interactions with your supervisors, colleagues, students, parents, staff and all others with whom you come in contact at or on behalf of the School. In both your professional and private life you are expected to model and promote behavior in conformity to the teaching of the Roman Catholic Church in matters of faith and morals. Your duties shall include careful preparation and planning for each class consistent with School and departmental curriculum; diligent review and evaluation of student work and related communication to students and parents; and, as needed, conferring with students, the administration, and parents regarding each student's progress and development. You also shall attend faculty/staff meetings and conferences, including those prior to and following the School's regular academic year, participate in School activities including School liturgical activities, as requested, and complete other duties as assigned. You agree to maintain the levels of competency in subject matter, teaching methods, classroom management, and student supervision required by the School whether on your own initiative or at the direction of the School. Your duties and job assignment may be revised during the Term to meet the School's needs. In the event the School's operations are extended by reason of fire, disaster, act of God, act of public authority or any other necessity or emergency cause, your service may be suspended for the time period and rescheduled as needed to complete the full School year.

Policies. You shall be familiar with, and comply with the School's personnel policies and procedures as they may be adopted or amended from time-to-time,

including policies in the faculty handbook. You should refer to such documents for information relating to your employment, duties, and benefits. You shall be familiar with, abide by, and assist and cooperate with School administration in enforcing, the School's policies for students and families whether outlined in our handbook(s), our School policies, or other directives and expected practices (together "Policies"). You acknowledge that a copy of the faculty handbook has been made available to you. You understand and acknowledge that the policies do not constitute a contractual agreement with you.

[ER 409]

Introductory Period. The first six (6) months of your employment as a new teacher at this School are considered your Introductory Period. You may be terminated at any point, with or without notice, with or without reason, during the Introductory Period. The Principal shall complete a performance appraisal at the end of your Introductory Period. Upon satisfactory completion of the Introductory Period, your employment will be continued through the Term of this Agreement except as noted under "Termination."

Termination. Your employment, and this Agreement, may be terminated during the Term without payment of salary or benefits beyond such date of termination, for any of the following reasons:

- I. The School may terminate for "cause," without any prior notice. Such "cause" shall be determined by the School within its reasonable judgment and shall include but not be limited to:

- a) Failure to meet any of your duties as described in Paragraphs 3 and 4 above.
- b) Inappropriate physical or social contact with students during school or otherwise.
- c) Unprofessional or unethical conduct, insubordination, unauthorized disclosure of confidential information, or habitual or unreasonable tardiness or absence from duties.
- d) Any criminal, immoral or unethical conduct that brings discredit upon the School or the Roman Catholic Church.
- e) Unauthorized possession, sale, or working under the influences of controlled substances (except prescription medications take as prescribed), intoxicants, or alcohol.
- f) Threatening or causing bodily harm to others or other coercive or intimidating acts, or any verbal or physical harassment.
- g) Having a diploma, credential, permit, license or certificate denied, revoked or suspended.
- h) Falsification of documents, false or misleading information on an application, resume, personnel record, professional or character reference, academic transcript, degree, or credential.
- i) Any other breach of the terms of this Agreement

II. Either you or the School may terminate this Agreement without cause, for any reason within the sole discretion of the terminating party, upon 30 calendar days' prior written notice to the other party in a manner that is consistent with applicable law and on a time frame that is mutually agreeable to you and the Principal. However, you may not terminate employment under this Agreement if the termination is effective during the 30 days immediately prior to the beginning of the school year except by mutual agreement with the Principal. You acknowledge that a breach by you of this provision is a grave ethical violation, may harm the educational program for the students and may cause expenses and damages to the School.

III. The School may terminate your employment if you are unable to perform the essential functions of your position and reasonable accommodation is not available or required under applicable laws.

[ER 410]

The School's failure to invoke its right of termination on one occasion for the occurrence of a matter constituting a basis for discharge shall not affect the right of the School to invoke discharge when the same or a different basis for termination arises at a later date.

Renewal. Future employment will be determined on a year-to-year basis. You agree to give written notice to the School, on or before April 1, 2015, stating whether or not you wish to renew the Agreement. The School will give you written notice, on or before May

15, 2015, stating whether or not it intends to renew the Agreement for the following year or enter into any other type of employment relationship. In the absence of a notice by either party, this agreement will lapse under its own terms. The Principal alone, with the approval of the Pastor, has the final and sole authority with respect to offering agreements. This Agreement is contingent upon sufficient School enrollment and the School's financial condition. If the enrollment or the School's financial condition does not justify the staffing, the Principal has discretionary power to make decisions regarding personnel reduction including, but not limited to, modification or cancellation of this Agreement. If the School closes for any reason, this Agreement will be considered terminated on the date of the closure. If this Agreement is cancelled due to lack of enrollment or the School's financial condition or is terminated because of School closure, you will be paid through the date of cancellation or closure; no further payments will be due to you. You understand that tenure is not granted by Archdiocesan Schools and upon expiration or termination of the Agreement for any reason you shall have no right to employment or preferential treatment regarding employment at any other Archdiocesan School. There is no implied duty by you or the School to renew this Agreement, and no cause whatsoever is required by either party for non-renewal. Any other arrangement with respect to renewal, extension or duration of employment is valid only if in writing, executed by you and the Principal, with the approval of the Pastor.

Severability. If, for any reason, any one or more of the provisions of this Agreement shall be held or deemed to be legally invalid or unenforceable, that

shall not have any effect on any of the other provisions of this Agreement, all of which shall remain in full force and effect.

Entire Agreement. This Agreement contains the complete and entire agreement between you and the School, and supersedes all prior offers, agreements, commitments, understandings, whether oral or written. No changes to this Agreement may be made except by a document signed by you and the Principal, with approval of the Pastor.

Applicable Law. This Agreement is entered into under, and governed by, the laws of the State of California.

Dispute Resolution and Grievances. You and the School agree to attempt to resolve any disputes in good faith. Any unresolved dispute between you and the School arising out of or in any way related to your employment or the termination, shall be subject to the Grievance Procedures promulgated by the Archdiocesan Department of Catholic Schools and no legal actions may be taken until all procedures have been fully discharged. This clause is intended to provide a speedy, economical and exclusive forum for resolving claims; its existence shall not imply any limitations upon the School's right to manage its affairs or terminate any employment.

Condition Precedent. You understand and agree that condition precedents of this Agreement are the receipt of the Criminal Record Summary report from the California Department of Justice and the Federal Bureau of Investigation, the completion of the I-9 Form from the Immigration and Naturalization

Service, and the completion of the other relevant health and document requirements of the School.

[ER 411]

School Day and Work Schedule

Full Time Teacher

As a full time Teacher, you understand that your duties consist of work during the regular class day which includes instructional and non-instructional time, other assigned school responsibilities, and preparation and assessment activities outside the classroom. The School's regular instructional time is from _____ a.m. to _____ p.m. You will be informed of required non-instructional duties according to schedules provided to you by the principal. The Academic Year consists of _____ class days, _____ paid holidays, and _____ hours worked.

The School understands that you may need to devote a reasonable amount of time to other school responsibilities in preparation and assessment activities at hours not during the regular class day ("Additional Hours Worked"). The School will compensate you for the Additional Hours Worked if they exceed 8 in a day or 40 in a week. You hereby agree to comply with all the School's policies and procedures for permission to work beyond 8 hours in any day or 40 hours in any week.

Part Time Teacher

As a part-time teacher, you understand that your hours of work will be provided to you as scheduled. ("Regular Days Worked").

The School understands that you may need to devote a reasonable amount of time to other school

responsibilities and in preparation and assessment activities at hours not during the regular class day (Additional Hours Worked"). The School will compensate you for the Additional Hours Worked up to 0 hours in a day and 0 hours worked in a week. You hereby agree to comply with all the School's policies and procedures for permission to work beyond 0 hours in any day or 0 hours in any week.

Base Compensation

Total Compensation for Regular Hours Worked (not including compensation for Additional Hours Worked): \$28,000.00 annually (based on 25 total number of Regular Hours Worked in the Term, at the rate of \$ n/a per hour).

Full Time Teacher

Total budgeted (but not guaranteed) compensation for Additional Hours Worked: \$ _____ (actual amount will vary depending on actual hours worked over 8 in a day or 40 in a week).

Part time Teacher

Total budgeted (but not guaranteed) compensation for Additional Hours Worked: \$ 0 (actual amount will vary depending on actual hours worked over 0 in a day 0 or in a week).

[ER 412]

Additional Compensation For Designated Responsibility (If Any):

In addition, for this Term only, you will assume the additional assignment(s) listed below. Your hours of work for the additional assignment(s) are as stated on the attached schedule. To compensate you for the

additional assignment(s), your compensation for this Term will be increased for this Term only. The School does not guarantee that you will receive this or any other additional assignment(s) at any future time; therefore your total compensation for this Term should not be considered a promise that any future compensation will be for a similar amount.

Note: Calculations and Additional Compensation for Designated Responsibility are based on anticipated time commitment and skills.

Responsibility	Additional Compensation
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

Total Additional Compensation: \$ _____

Payment Schedule.

Compensation for all teachers will be distributed on a ☒ semi-monthly ☐ bi-weekly schedule beginning 8/30/14 and ending 6/30/15

Available Benefits

See Archdiocese of Los Angeles Lay Employees Benefit Guide

Sick Days: Number of days per school year (if any):
5

Education And Professional Growth Requirements:

In accordance with the regulations for salary placement and professional growth requirements, you

agree that you will complete the following requirements to be eligible to be offered an employment agreement for the next school year.

- ☐ Enroll in California Teaching Credential program.
- ☐ Complete at least ____ units toward a California Teaching Credential.
- ☐ California Teaching Credential program must be completed by July 1, 20____ for an Elementary School Faculty Employment Agreement to be offered for the 20____ - 20____ academic year.
- ☐ Other Requirements: assist with Liturgy Planning for school masses

[ER 413]

By: /s/ April Beuder
(Principal's Signature)

Date: 5/19/14

I accept a position as Gr5 Homerm/Rel/SocStudies and Gr6-7 SocStudies at OLG School on each and all of the terms and conditions set forth in the above Agreement.

By: /s/ A. Deirdre Morrissey-Berru
(Teacher's Signature)

Approval by Pastor required: F.R. (illegible)

JML LAW
A Professional Law Corporation
21052 Oxnard Street
Woodland Hills, California 91367
Tel: (818) 610-8800
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jared@jmlaw.com

Attorneys for Plaintiff

AGNES DEIRDRE MORRISSEY-BERRU [sic]

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

AGNES DEIRDRE
MORRISSEY-BERRU,
an individual,
Plaintiff,

vs.

OUR LADY OF
GUADALUPE
SCHOOL, a California
non-profit corporation;
and DOES 1-50,
inclusive,
Defendants.

Case No.:

COMPLAINT FOR:

**1.DISCRIMINATION
ON THE BASIS OF
AGE;
2. RETALIATION IN
VIOLATION OF THE
ADEA;
3. WRONGFUL
TERMINATION IN
VIOLATION OF
PUBLIC POLICY.**

**DEMAND FOR
JURY TRIAL**

Plaintiff, AGNES DEIRDRE MORRISSEY-BERRU, hereby brings her employment complaint against the above-named Defendants and states and alleges as follows:

JURISDICTION AND VENUE

1. This is an employment lawsuit, brought pursuant to 29 U.S.C. § 621 et. seq. to remedy violations of the Age Discrimination in Employment Act (“ADEA”).
2. This Court has original federal question jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Plaintiff alleges violations of the laws of the United States of America.
3. The venue is appropriate since the actions giving rise to this lawsuit occurred in Los Angeles County, California, which is located within this district.

THE PARTIES

4. At all times mentioned herein, Plaintiff AGNES DEIRDRE MORRISSEY-BERRU, age 65, was a resident of the State of California.
5. At all times mentioned herein, Defendant OUR LADY OF GUADALUPE SCHOOL was a California non-profit corporation that operated a private school, located at 340 Massey Street, Hermosa Beach, CA 90254.
6. The true names and capacities, whether individual, corporate, associate or otherwise of DOES 1 through 50 are unknown to Plaintiff who therefore sues these

defendants under said fictitious names. Plaintiff is informed and believes that each of the defendants named as Doe defendant is legally responsible in some manner for the events referred to in this Complaint, is either negligently, willfully, wantonly, recklessly, tortuously, strictly liable, statutorily liable or otherwise, for the injuries and damages described below to this Plaintiff. Plaintiff will in the future seek leave of this court to show the true names and capacities of these Doe defendants when it has been ascertained.

7. Plaintiff is informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent to this action as the agent of the other defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendants.

8. Hereinafter in the Complaint, unless otherwise specified, reference to a Defendant or Defendants shall refer to all Defendants, and each of them.

ALLEGATIONS

9. Plaintiff commenced employment with Defendant OUR LADY OF GUADALUPE SCHOOL as a full-time teacher in or around September 1999.

10. In the spring semester of 2014, Ms. Morrissey-Berru was told that she was not implementing the new reading and writing program correctly.

11. In or around August 2014, Plaintiff was demoted from a full-time teacher to a part time teacher. In or around May 2014, Ms. Morrissey's supervisor, Principal Beuder, falsely accused Plaintiff of wanting

to retire and stated that “because she wanted to retire and because she wasn’t correctly implementing the reading and writing program”, Plaintiff was going to be demoted to part-time.

12. Plaintiff never stated she wanted to retire.

13. In August 2014, Principal Beuder replaced Plaintiff with a teacher who had no English/ Writing experience and who was much younger.

14. On or around August 2014, Plaintiff applied for a full-time teaching position at St. James Catholic School in Torrance. The principal of St. James spoke to Principal Beuder and then told Plaintiff that “Ms. Beuder said good things about you, but she remarked that this was your last year of teaching.” Plaintiff’s job interview with St. James Catholic School was cancelled, and she was told that they had hired someone else.

15. In May 2015, Plaintiff turned in her letter of intent to work the next school year. However, on May 13, 2015, Principal Beuder called Plaintiff into the Principal’s office and told her that she would not be asked to return due to budget cutbacks. Principal Beuder during this conversation again falsely accused Plaintiff of agreeing to retire at the end of the school year. Plaintiff denied ever agreeing to retiring and told Principal Beuder that she needed to work. After Plaintiff left Principal Beuder’s office, Ms. Beuder followed her out to the playground and threatened to give Plaintiff a bad recommendation if she told anyone she had been fired. Another teacher, Jack Moore, witnessed this conversation.

16. Plaintiff immediately filed a complaint with the Archdiocese of Los Angeles.

17. One of Plaintiff's coworkers, Ms. Bosch, told Plaintiff that in the summer of 2014, Principal Beuder said "I know how to get rid of older people. You cut their hours and make them so miserable they don't want to be here."

18. Plaintiff is informed and believes, and thereon alleges, that Defendant terminated Plaintiff's employment because of her age.

**EXHAUSTION OF ADMINISTRATIVE
REMEDIES**

19. On June 2, 2015, Plaintiff filed charges with the Equal Employment Opportunity Commission ("EEOC"). Plaintiff received a "Right-To-Sue" letter from the EEOC on September 19, 2016. This Complaint is timely filed pursuant to that letter.

**FIRST CAUSE OF ACTION
DISCRIMINATION ON THE BASIS OF AGE
(ADEA, 29 U.S.C. § 620 et seq.)
(Against ALL Defendants)**

20. Plaintiff restates and incorporates herein paragraphs 1 through 19, inclusive, of this Complaint as though fully set forth herein.

21. Defendant is an employer as defined in the ADEA, 29 U.S.C. § 620 et seq.

22. At all relevant times, Plaintiff was an employee within the meaning and definition of the ADEA, 29 U.S.C. §631.

23. As fully alleged above, at all times mentioned herein, Plaintiff was an experienced and qualified teacher for Defendant. At all times mentioned herein, Plaintiff was an exemplary employee. Despite all this, Defendant terminated Plaintiff's employment and gave her position to a younger and less experienced teacher.

24. Plaintiff is informed and believes and based thereon alleges that she was terminated from employment with Defendant because of her age.

25. Plaintiff's age is a substantial motivating factor for the discrimination against Plaintiff in the terms, conditions or privileges of employment.

26. In terminating Plaintiff's employment, Defendant subjected Plaintiff to discrimination on the basis of her age in violation of the ADEA, 29 U.S.C. § 620 et seq.

27. By the aforesaid acts and omissions of Defendant, and each of them, Plaintiff has been directly and legally caused to suffer actual damages including, but not limited to, loss of future earning capacity, attorneys' fees, costs of suit and other pecuniary loss not presently ascertained.

28. As a direct and proximate result of Defendant's willful, knowing and intentional discrimination against her, Plaintiff has further suffered and will continue to suffer a loss of earnings and other employment benefits and job opportunities. Plaintiff is therefore entitled to liquidated damages in amounts to be proven at trial. 29 U.S.C. § 216(b).

29. As a further direct and legal result of the acts and conduct of Defendants, and each of them, as aforesaid, Plaintiff has been caused to and did suffer and

continues to suffer severe emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort and anxiety.

30. Plaintiff is informed and believes, and thereon alleges, that the Defendant, and each of them, by engaging in the aforementioned acts and/or in authorizing and/or ratifying such acts, engaged in willful, malicious, intentional oppressive and despicable conduct, and acted with willful and conscious disregard of the rights, welfare and safety of Plaintiff, thereby justifying the award of punitive and exemplary damages in an amount to be determined at trial.

31. As a further, direct and proximate result of Defendant's violations of The ADEA, as heretofore described, Plaintiff has been compelled to retain the services of counsel, and has thereby incurred, and will continue to incur, legal fees and costs. Plaintiff requests that attorneys' fees be awarded pursuant to 29 U.S.C. § 216(b).

SECOND CAUSE OF ACTION
RETALIATION IN VIOLATION OF THE ADEA
(Against ALL Defendants)

32. Plaintiff restates and incorporates herein paragraphs 1 through 31, inclusive, of this complaint as though fully set forth herein.

33. Defendant is an employer as defined in the ADEA, 29 U.S.C. § 620 et seq.

34. At all relevant times, Plaintiff was an employee within the meaning and definition of the ADEA, 29 U.S.C. §631.

35. At all times herein mentioned, the ADEA was in full force and effect and was binding on Defendants. The ADEA prohibits retaliation against any person based on age.

36. Plaintiff is informed and believes, and thereon alleges, that Defendant terminated Plaintiff's employment because of her age.

37. Defendants' conduct as alleged above constituted unlawful retaliation.

38. As a proximate result of the aforesaid acts of Defendants, Plaintiff has suffered actual, consequential and incidental financial losses, including without limitation, loss of salary and benefits, and the intangible loss of employment related opportunities in her field and damage to her professional reputation, all in an amount subject to proof at the time of trial.

39. As a proximate result of the wrongful acts of Defendants, Plaintiff has suffered and continues to suffer emotional distress, humiliation, mental anguish and embarrassment, as well as the manifestation of physical symptoms. Plaintiff is informed and believes and thereupon alleges that she will continue to experience said physical and emotional suffering for a period in the future not presently ascertainable, all in an amount subject to proof at the time of trial.

40. As a proximate result of the wrongful acts of Defendants, Plaintiff has been forced to hire attorneys to prosecute her claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to

recover attorneys' fees and costs under 29 U.S.C. § 216(b).

THIRD CAUSE OF ACTION
WRONGFUL TERMINATION IN VIOLATION
OF PUBLIC POLICY
(Against ALL Defendants)

41. Plaintiff realleges and incorporates herein paragraphs 1 through 40, inclusive, of this Complaint as though fully set forth.

42. At all times mentioned, the public policy of the State of California, as codified, expressed and mandated in California Government Code § 12940 et seq., is to prohibit employers from discriminating, harassing and retaliating against any individual engaging in a protected activity. This public policy of the State of California is designed to protect all employees and to promote the welfare and wellbeing of the community at large.

43. Accordingly, the actions of Defendant, as described herein, were wrongful and in contravention of the express public policy of the State of California, to wit, the policy set forth in California and the laws and regulations promulgated thereunder.

44. As a proximate result of the aforesaid acts of Defendant, Plaintiff has suffered actual, consequential and incidental financial losses, including without limitation, loss of salary and benefits, and the intangible loss of employment related opportunities in her field and damage to his [sic] professional reputation, all in an amount subject to proof at the time of trial. Plaintiff claims such amounts as damages pursuant to California Civil

Code § 3287 and/or § 3288 and/or any other provision of law providing for prejudgment interest.

45. As a proximate result of the wrongful acts of Defendants, Plaintiff has suffered and continues to suffer emotional distress, humiliation, mental anguish and embarrassment, as well as the manifestation of physical symptoms. Plaintiff is informed and believes and thereupon alleges, that she will continue to experience said physical and emotional suffering for a period in the future not presently ascertainable, all in an amount subject to proof at the time of trial.

46. Defendant had in place policies and procedures that specifically required Defendant's managers, officers, and agents to prevent the termination of its employees based on the protected classes identified in the EEOC and ADEA. Plaintiff relied on the fact that Defendant would follow these known policies, yet Defendant consciously chose not to follow said policies. Therefore, Defendant's conduct was fraudulent, malicious, oppressive, and was done in wanton disregard for the rights of Plaintiff and the rights and duties owed by each Defendant to Plaintiff. Each Defendant aided, abetted, participated in, authorized, ratified, and/or conspired to engage in the wrongful conduct alleged above. Plaintiff should, therefore, be awarded exemplary and punitive damages against each Defendant in an amount to be established that is appropriate to punish each Defendant and deter others from engaging in such conduct.

WHEREFORE, Plaintiff prays for judgment as follows:

1. For general damages, according to proof;

2. For medical expenses and related items of expenses, according to proof;
3. For loss of earnings, according to proof;
4. For attorneys' fees, according to proof;
5. For prejudgment interest, according to proof;
6. For costs of suit incurred herein; and
7. For such other relief and the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

DATED: December 19, 2016

JML LAW, A Professional Law Corporation

By: /s/ Joseph M. Lovretovich

JOSEPH M. LOVRETOVICH

JARED W. BEILKE

Attorneys for Plaintiff

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Attorneys for Defendant
OUR LADY OF GUADALUPE SCHOOL

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

AGNES DEIRDRE
MORRISSEY-BERRU,
an individual

Plaintiff,

v.

OUR LADY OF
GUADALUPE
SCHOOL, a California
non-profit corporation
and DOES 1 through
50, inclusive
Defendants.

CASE NO. 2:16-CV-
09353-SVW-AFM

[Assigned to Hon
Stephen V. Wilson]

**DEFENDANT OUR
LADY OF
GUADALUPE
SCHOOL'S ANSWER
TO COMPLAINT**

Action Filed:
December 19, 2016

Defendant OUR LADY OF GUADALUPE
SCHOOL ("Defendant"), for itself and for no other
defendants, hereby responds to the Complaint filed by
Plaintiff AGNES DEIRDRE MORRISSEY-BERRU
("Plaintiff"), and admits, denies and alleges as follows:

1. Answering Paragraph 1 of the Complaint, Defendant admits that Plaintiff purports to bring an employment lawsuit pursuant to 29 U.S.C. § 621 et. seq. Except as expressly admitted, Defendant denies the allegations of Paragraph 1 of the Complaint.
2. Defendant admits Paragraph 2 of the Complaint.
3. Defendant admits Paragraph 3 of the Complaint.
4. Answering Paragraph 4 of the Complaint, Defendant lacks information sufficient to admit or deny the allegations contained therein.
5. Defendant denies the allegations in Paragraph 5 of the Complaint.
6. Answering Paragraph 6 of the Complaint, Defendant lacks information sufficient to admit or deny the allegations contained therein.
7. Answering Paragraph 7 of the Complaint, Defendant lacks information sufficient to admit or deny the allegations contained therein.
8. Answering Paragraph 8 of the Complaint, Defendant lacks information sufficient to admit or deny the allegations contained therein.
9. Defendant admits Paragraph 9 of the Complaint.
10. Defendant denies the allegations in Paragraph 10 of the Complaint.
11. Defendant denies the allegation in Paragraph 11 of the Complaint.
12. Defendant denies the allegations in Paragraph 12 of the Complaint.
13. Defendant denies the allegations in Paragraph 13 of the Complaint.

14. Answering Paragraph 14 of the Complaint, Defendant lacks information sufficient to admit or deny the allegations contained therein.

15. Defendant denies the allegations in Paragraph 15 of the Complaint.

16. Answering Paragraph 16 of the Complaint, Defendant lacks information sufficient to admit or deny the allegations contained therein.

17. Answering Paragraph 17 of the Complaint, Defendant lacks information sufficient to admit or deny the allegations contained therein.

18. Defendant denies the allegations in Paragraph 18 of the Complaint[.]

19. Answering Paragraph 19 of the Complaint, Defendant lacks information sufficient to admit or deny the allegations contained therein.

20. Answering Paragraph 20 of the Complaint, Defendant incorporates by reference its previous responses to each of the individual paragraphs as pled.

21. Answering Paragraph 21 of the Complaint, to the extent this paragraph does not contain allegations of fact, but rather, contains conclusions of law, no answer is required.

22. Answering Paragraph 22 of the Complaint, to the extent this paragraph does not contain allegations of fact, but rather, contains conclusions of law, no answer is required.

23. Defendant denies the allegations in Paragraph 23 of the Complaint.

24. Defendant denies the allegations in Paragraph 24 of the Complaint.

25. Defendant denies the allegations in Paragraph 25 of the Complaint.

26. Defendant denies the allegations in Paragraph 26 of the Complaint.

27. Defendant denies the allegations in Paragraph 27 of the Complaint.

28. Defendant denies the allegations in Paragraph 28 of the Complaint.

29. Defendant denies the allegations in Paragraph 29 of the Complaint.

30. Defendant denies the allegations in Paragraph 30 of the Complaint.

31. Defendant denies the allegations in Paragraph 31 of the Complaint.

32. Answering Paragraph 32 of the Complaint, Defendant incorporates by reference its previous responses to each of the individual paragraphs as pled.

33. Answering Paragraph 33 of the Complaint, to the extent this paragraph does not contain allegations of fact, but rather, contains conclusions of law, no answer is required.

34. Answering Paragraph 34 of the Complaint, to the extent this paragraph does not contain allegations of fact, but rather, contains conclusions of law, no answer is required.

35. Answering Paragraph 35 of the Complaint, to the extent this paragraph does not contain allegations of fact, but rather, contains conclusions of law, no answer is required.

36. Defendant denies the allegations in Paragraph 36 of the Complaint.

37. Defendant denies the allegations in Paragraph 37 of the Complaint.

38. Defendant denies the allegations in Paragraph 38 of the Complaint.

39. Defendant denies the allegations in Paragraph 39 of the Complaint.

40. Defendant denies the allegations in Paragraph 40 of the Complaint.

41. Answering Paragraph 41 of the Complaint, Defendant incorporates by reference its previous responses to each of the individual paragraphs as pled.

42. Answering Paragraph 42 of the Complaint, to the extent this paragraph does not contain allegations of fact, but rather, contains conclusions of law, no answer is required.

43. Defendant denies the allegations in Paragraph 43 of the Complaint.

44. Defendant denies the allegations in Paragraph 44 of the Complaint.

45. Defendant denies the allegations in Paragraph 45 of the Complaint.

46. Answering Paragraph 46 of the Complaint, Defendant admits that it had policies and procedures in place regarding discrimination prevention. Except as expressly admitted, Defendant denies the allegations of Paragraph 46 of the Complaint.

47. In response to the prayer for judgment, paragraphs 1-7, Defendant denies generally and

specifically that Plaintiff is entitled to any damages or relief of any kind.

FIRST AFFIRMATIVE DEFENSE

[Failure to State Facts]

1. The Complaint fails to state facts sufficient to constitute a cause of action or claim upon which relief can be granted against this answering Defendant.

SECOND AFFIRMATIVE DEFENSE

**[Good Faith Legitimate,
Non-Discriminatory Reasons]**

2. All actions purportedly taken by Defendant with respect to Plaintiff were taken in good faith for legitimate, non-discriminatory reasons without any intent to discriminate or commit any other act against Plaintiff in any manner prohibited by any law or public policy.

THIRD AFFIRMATIVE DEFENSE

[Failure to Exhaust Administrative Remedy]

3. Defendant is informed and believes that Complaint is barred, in whole or in part, by Plaintiff's failure to comply with or exhaust her prerequisite administrative and/or judicial remedies.

FOURTH AFFIRMATIVE DEFENSE

[Statute of Limitations]

4. Defendant is informed and believes the Complaint may be barred, in whole or in part, by the applicable statutes of limitations.

FIFTH AFFIRMATIVE DEFENSE
[Workers' Compensation Act
Preemption/Exclusive Remedy]

5. To the extent that the Complaint alleges emotional and/or physical injury, recovery is barred on the ground that the California Workers' Compensation Act, Cal. Labor Code § 3200, et seq., provides the exclusive remedy for such injuries.

SIXTH AFFIRMATIVE DEFENSE
[Failure to Mitigate]

6. Any recovery on the Complaint is barred by Plaintiff's failure to mitigate her damages.

SEVENTH AFFIRMATIVE DEFENSE
[Laches]

7. Any recovery on the Complaint is barred by the doctrine of laches.

EIGHTH AFFIRMATIVE DEFENSE
[Contributory Fault]

8. Any recovery on the Complaint is barred by Plaintiff's own contributory and/or comparative fault and if Plaintiff recovers any sum or sums whatsoever herein, such amount(s) should and must be reduced in proportion to the extent of Plaintiff's own conduct which proximately caused in whole or in part, Plaintiff's claimed injuries and damages.

NINTH AFFIRMATIVE DEFENSE
[Punitive Damages Unconstitutional]

9. Plaintiff is not entitled to recover punitive damages as an award of punitive damages would violate Defendant's rights under the Constitutions of the United States and the State of California, including

their rights to procedural and substantive due process, and protection from excessive fines.

TENTH AFFIRMATIVE DEFENSE

[Estoppel]

10. Plaintiff is estopped by her conduct from recovering any relief under the Complaint.

ELEVENTH AFFIRMATIVE DEFENSE

[No Malice, Oppression, or Fraud]

11. Any acts, or omissions to act, by Defendant were not the result of oppression, fraud or malice as such terms are defined by Cal. Civil Code § 3294.

TWELFTH AFFIRMATIVE DEFENSE

[Unclean Hands]

12. Any recovery on the Complaint is barred, in whole or in part, by Plaintiff's unclean hands.

THIRTEENTH AFFIRMATIVE DEFENSE

[Percentage of Fault]

13. Liability for the amount of non-economic damages, if any, should be allocated to Defendant in direct proportion to its percentage of fault, if any, pursuant to Civil Code § 1431 et. seq.

FOURTEENTH AFFIRMATIVE DEFENSE

[Damages Caused by Plaintiff's Own Conduct]

14. Damages, if any, sustained by Plaintiff were solely proximately caused by her own negligent, reckless, or intentional conduct.

FIFTEENTH AFFIRMATIVE DEFENSE

[Justification/Privilege]

15. Without admitting that Defendant engaged in the conduct alleged in this lawsuit, Defendant contends that its purported conduct was at all times justified,

privileged, and undertaken in good faith, or with a good faith belief that good cause existed for any of the disputed contact or actions, and without any intent to injure Plaintiff.

SIXTEENTH AFFIRMATIVE DEFENSE

[No Impermissible Factors]

16. Defendant denies that Plaintiff's age or any other impermissible factor played any role in any purported decisions relating to Plaintiff. Alternatively, even if some impermissible motive had been a factor in any of those decisions, the same decisions would have been reached for legitimate, non-discriminatory reasons.

SEVENTEENTH AFFIRMATIVE DEFENSE

[After Acquired Evidence]

17. Defendant alleges that this action may be barred and/or Defendant's liability may be limited by after acquired evidence of Plaintiff's conduct or misconduct.

EIGHTEENTH AFFIRMATIVE DEFENSE

[Avoidable Consequences]

18. Defendant alleges that Plaintiff's damages could have been reduced, in whole or in part, by her failure to avoid the consequences of alleged discrimination by using the preventive and corrective measures provided by Defendant.

NINETEENTH AFFIRMATIVE DEFENSE

[Consent]

19. Defendant is informed and believes that Plaintiff consented to the conduct alleged in the Complaint.

TWENTIETH AFFIRMATIVE DEFENSE
[Allege Other Affirmative Defenses]

20. Defendant reserves its right to allege other affirmative defenses as they may arise during the course of discovery.

WHEREFORE, Defendant prays that:

1. Plaintiff take nothing by way of her Complaint;
2. That judgment be entered in favor of Defendant;
3. Defendant be awarded attorneys' fees and costs of suit incurred herein; and
4. For such other and further relief as the court deems just and proper.

DATED: February 13, 2017

BALLARD ROSENBERG GOLPER & SAVITT, LLP

By: /s/ Linda Miller Savitt
Linda Miller Savitt
Stephanie B. Kantor
Attorneys for Defendant
OUR LADY OF
GUADALUPE SCHOOL

* * *

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Attorneys for Defendant
OUR LADY OF GUADALUPE SCHOOL

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

AGNES DEIRDRE
MORRISSEY-BERRU,
an individual
Plaintiff,

v.

OUR LADY OF
GUADALUPE
SCHOOL, a California
non-profit corporation
and DOES 1 through
50, inclusive
Defendants.

CASE NO. 2:16-CV-
09353-SVW-AFM

[Assigned to Hon
Stephen V. Wilson]

**DEFENDANT OUR
LADY OF
GUADALUPE
SCHOOL'S
AMENDED ANSWER
TO COMPLAINT**

Action Filed: December
19, 2016

Defendant OUR LADY OF GUADALUPE SCHOOL ("Defendant"), for itself and for no other defendants, hereby responds to the Complaint filed by Plaintiff AGNES DEIRDRE MORRISSEY-BERRU ("Plaintiff"), and admits, denies and alleges as follows:

1. Answering Paragraph 1 of the Complaint, Defendant admits that Plaintiff purports to bring an employment lawsuit pursuant to 29 U.S.C. § 621 et. seq. Except as expressly admitted, Defendant denies the allegations of Paragraph 1 of the Complaint.
2. Defendant admits Paragraph 2 of the Complaint.
3. Defendant admits Paragraph 3 of the Complaint.
4. Answering Paragraph 4 of the Complaint, Defendant lacks information sufficient to admit or deny the allegations contained therein.
5. Defendant denies the allegations in Paragraph 5 of the Complaint.
6. Answering Paragraph 6 of the Complaint, Defendant lacks information sufficient to admit or deny the allegations contained therein.
7. Answering Paragraph 7 of the Complaint, Defendant lacks information sufficient to admit or deny the allegations contained therein.
8. Answering Paragraph 8 of the Complaint, Defendant lacks information sufficient to admit or deny the allegations contained therein.
9. Defendant admits Paragraph 9 of the Complaint.
10. Defendant denies the allegations in Paragraph 10 of the Complaint.
11. Defendant denies the allegation in Paragraph 11 of the Complaint.
12. Defendant denies the allegations in Paragraph 12 of the Complaint.
13. Defendant denies the allegations in Paragraph 13 of the Complaint.

14. Answering Paragraph 14 of the Complaint, Defendant lacks information sufficient to admit or deny the allegations contained therein.

15. Defendant denies the allegations in Paragraph 15 of the Complaint.

16. Answering Paragraph 16 of the Complaint, Defendant lacks information sufficient to admit or deny the allegations contained therein.

17. Answering Paragraph 17 of the Complaint, Defendant lacks information sufficient to admit or deny the allegations contained therein.

18. Defendant denies the allegations in Paragraph 18 of the Complaint,

19. Answering Paragraph 19 of the Complaint, Defendant lacks information sufficient to admit or deny the allegations contained therein.

20. Answering Paragraph 20 of the Complaint, Defendant incorporates by reference its previous responses to each of the individual paragraphs as pled.

21. Answering Paragraph 21 of the Complaint, to the extent this paragraph does not contain allegations of fact, but rather, contains conclusions of law, no answer is required.

22. Answering Paragraph 22 of the Complaint, to the extent this paragraph does not contain allegations of fact, but rather, contains conclusions of law, no answer is required.

23. Defendant denies the allegations in Paragraph 23 of the Complaint.

24. Defendant denies the allegations in Paragraph 24 of the Complaint.

25. Defendant denies the allegations in Paragraph 25 of the Complaint.

26. Defendant denies the allegations in Paragraph 26 of the Complaint.

27. Defendant denies the allegations in Paragraph 27 of the Complaint.

28. Defendant denies the allegations in Paragraph 28 of the Complaint.

29. Defendant denies the allegations in Paragraph 29 of the Complaint.

30. Defendant denies the allegations in Paragraph 30 of the Complaint.

31. Defendant denies the allegations in Paragraph 31 of the Complaint.

32. Answering Paragraph 32 of the Complaint, Defendant incorporates by reference its previous responses to each of the individual paragraphs as pled.

33. Answering Paragraph 33 of the Complaint, to the extent this paragraph does not contain allegations of fact, but rather, contains conclusions of law, no answer is required.

34. Answering Paragraph 34 of the Complaint, to the extent this paragraph does not contain allegations of fact, but rather, contains conclusions of law, no answer is required.

35. Answering Paragraph 35 of the Complaint, to the extent this paragraph does not contain allegations of fact, but rather, contains conclusions of law, no answer is required.

36. Defendant denies the allegations in Paragraph 36 of the Complaint.

37. Defendant denies the allegations in Paragraph 37 of the Complaint.

38. Defendant denies the allegations in Paragraph 38 of the Complaint.

39. Defendant denies the allegations in Paragraph 39 of the Complaint.

40. Defendant denies the allegations in Paragraph 40 of the Complaint.

41. Answering Paragraph 41 of the Complaint, Defendant incorporates by reference its previous responses to each of the individual paragraphs as pled.

42. Answering Paragraph 42 of the Complaint, to the extent this paragraph does not contain allegations of fact, but rather, contains conclusions of law, no answer is required.

43. Defendant denies the allegations in Paragraph 43 of the Complaint.

44. Defendant denies the allegations in Paragraph 44 of the Complaint.

45. Defendant denies the allegations in Paragraph 45 of the Complaint.

46. Answering Paragraph 46 of the Complaint, Defendant admits that it had policies and procedures in place regarding discrimination protection. Except as expressly admitted, Defendant denies the allegations of Paragraph 46 of the Complaint.

47. In response to the prayer for judgment, paragraphs 1-7, Defendant denies generally and specifically that

Plaintiff is entitled to any damages or relief of any kind.

FIRST AFFIRMATIVE DEFENSE

[Failure to State Facts]

1. The Complaint fails to state facts sufficient to constitute a cause of action or claim upon which relief can be granted against this answering Defendant.

SECOND AFFIRMATIVE DEFENSE

[Good Faith Legitimate, Non-Discriminatory Reasons]

2. All actions purportedly taken by Defendant with respect to Plaintiff were taken in good faith for legitimate, non-discriminatory reasons without any intent to discriminate or commit any other act against Plaintiff in any manner prohibited by any law or public policy.

THIRD AFFIRMATIVE DEFENSE

[Failure to Exhaust Administrative Remedy]

3. Defendant is informed and believes that Complaint is barred, in whole or in part, by Plaintiff's failure to comply with or exhaust her prerequisite administrative and/or judicial remedies.

FOURTH AFFIRMATIVE DEFENSE

[Statute of Limitations]

4. Defendant is informed and believes the Complaint may be barred, in whole or in part, by the applicable statutes of limitations.

FIFTH AFFIRMATIVE DEFENSE

**[Workers' Compensation Act
Preemption/Exclusive Remedy]**

5. To the extent that the Complaint alleges emotional and/or physical injury, recovery is barred on the ground that the California Workers' Compensation Act, Cal. Labor Code § 3200, et seq., provides the exclusive remedy for such injuries.

SIXTH AFFIRMATIVE DEFENSE

[Failure to Mitigate]

6. Any recovery on the Complaint is barred by Plaintiff's failure to mitigate her damages.

SEVENTH AFFIRMATIVE DEFENSE

[Laches]

7. Any recovery on the Complaint is barred by the doctrine of laches.

EIGHTH AFFIRMATIVE DEFENSE

[Contributory Fault]

8. Any recovery on the Complaint is barred by Plaintiff's own contributory and/or comparative fault and if Plaintiff recovers any sum or sums whatsoever herein, such amount(s) should and must be reduced in proportion to the extent of Plaintiff's own conduct which proximately caused in whole or in part, Plaintiff's claimed injuries and damages.

NINTH AFFIRMATIVE DEFENSE

[Punitive Damages Unconstitutional]

9. Plaintiff is not entitled to recover punitive damages as an award of punitive damages would violate Defendant's rights under the Constitutions of the United States and the State of California, including

their rights to procedural and substantive due process, and protection from excessive fines.

TENTH AFFIRMATIVE DEFENSE

[Estoppel]

10. Plaintiff is estopped by her conduct from recovering any relief under the Complaint.

ELEVENTH AFFIRMATIVE DEFENSE

[No Malice, Oppression, or Fraud]

11. Any acts, or omissions to act, by Defendant were not the result of oppression, fraud or malice as such terms are defined by Cal. Civil Code § 3294.

TWELFTH AFFIRMATIVE DEFENSE

[Unclean Hands]

12. Any recovery on the Complaint is barred, in whole or in part, by Plaintiff's unclean hands.

THIRTEENTH AFFIRMATIVE DEFENSE

[Percentage of Fault]

13. Liability for the amount of non-economic damages, if any, should be allocated to Defendant in direct proportion to its percentage of fault, if any, pursuant to Civil Code § 1431 et. seq.

FOURTEENTH AFFIRMATIVE DEFENSE

[Damages Caused by Plaintiff's Own Conduct]

14. Damages, if any, sustained by Plaintiff were solely and proximately caused by her own negligent, reckless, or intentional conduct.

FIFTEENTH AFFIRMATIVE DEFENSE

[Justification/Privilege]

15. Without admitting that Defendant engaged in the conduct alleged in this lawsuit, Defendant contends

that its purported conduct was at all times justified, privileged, and undertaken in good faith, or with a good faith belief that good cause existed for any of the disputed contact or actions, and without any intent to injure Plaintiff.

SIXTEENTH AFFIRMATIVE DEFENSE

[No Impermissible Factors]

16. Defendant denies that Plaintiff's age or any other impermissible factor played any role in any purported decisions relating to Plaintiff. Alternatively, even if some impermissible motive had been a factor in any of those decisions, the same decisions would have been reached for legitimate, non-discriminatory reasons.

SEVENTEENTH AFFIRMATIVE DEFENSE

[After Acquired Evidence]

17. Defendant alleges that this action may be barred and/or Defendant's liability may be limited by after acquired evidence of Plaintiff's conduct or misconduct.

EIGHTEENTH AFFIRMATIVE DEFENSE

[Avoidable Consequences]

18. Defendant alleges that Plaintiff's damages could have been reduced, in whole or in part, by her failure to avoid the consequences of alleged discrimination by using the preventive and corrective measures provided by Defendant.

NINETEENTH AFFIRMATIVE DEFENSE

[Consent]

19. Defendant is informed and believes that Plaintiff consented to the conduct alleged in the Complaint.

TWENTIETH AFFIRMATIVE DEFENSE
[Allege Other Affirmative Defenses]

20. Defendant reserves its right to allege other affirmative defenses as they may arise during the course of discovery.

TWENTY-FIRST AFFIRMATIVE DEFENSE
[No Cause of Action]

21. Plaintiff's wrongful termination cause of action is barred because there exists no cause of action for tortious non-renewal of contract.

TWENTY-SECOND AFFIRMATIVE DEFENSE
[Ministerial Exception]

22. Plaintiff's operative complaint, and each cause of action therein, is barred in its entirety based on the ministerial exception as outlined in *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171 (U.S. 2012) and other cases.

TWENTY-THIRD AFFIRMATIVE DEFENSE
[First Amendment to the United States Constitution]

23. Plaintiff's operative complaint, and each cause of action therein, is barred in its entirety based on the Free Exercise of Religion and Establishment Clauses contained in the First Amendment to the United States Constitution.

WHEREFORE, Defendant prays that:

1. Plaintiff take nothing by way of her Complaint;
2. That judgment be entered in favor of Defendant;
3. Defendant be awarded attorneys' fees and costs of suit incurred herein; and

4. For such other and further relief as the court
deems just and proper.

DATED: March 17, 2017

BALLARD ROSENBERG GOLPER & SAVITT, LLP

By: /s/ Linda Miller Savitt

Linda Miller Savitt

Stephanie B. Kantor

Attorneys for Defendant

OUR LADY OF

GUADALUPE SCHOOL

* * *

JA 197

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

No. 17-55180

Darryl Biel, in his capacity as Kristen Biel's personal
representative

Plaintiff-Appellant,

v.

St. James School

Defendant-Appellee.

RELEVANT DOCKET ENTRIES

Date Filed	#	Docket Text
02/13/2017	1	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. SEND MQ: Yes. The schedule is set as follows: Mediation Questionnaire due on 02/21/2017. Appellant Kristen Biel opening brief due 07/20/2017. Appellees Does, St. James Catholic School and St. James School, A Corp. answering brief due 08/21/2017. Appellant's optional reply brief is due 14 days after service of the answering brief. [10316854] (JMR) [Entered: 02/13/2017]

Date Filed	#	Docket Text
		10:42 AM]
* * *		
09/20/2017	20	Submitted (ECF) Opening Brief for review. Submitted by Appellant Kristen Biel. Date of service: 09/20/2017. [10588407] [17-55180]-[COURT UPDATE: Attached corrected brief. 09/25/2017 by SLM] (Lovretovich, Joseph) [Entered: 09/20/2017 04:46 PM]
09/20/2017	21	09/20/2017 Submitted (ECF) excerpts of record. Submitted by Appellant Kristen Biel. Date of service: 09/20/2017. [10588412] [17-55180]-[COURT UPDATE: Attached corrected PDF of excerpts, Vol 3-5. 10/03/2017 by RY] (Lovretovich, Joseph) [Entered: 09/20/2017 04:48 PM]
* * *		
09/27/2017	25	Submitted (ECF) Amicus brief for review (by government or with consent per FRAP 29(a)). Submitted by Equal Employment Opportunity Commission. Date of service: 09/27/2017.

Date Filed	#	Docket Text
		[10596481] [17-55180] (Oxford, Susan) [Entered: 09/27/2017 01:35 PM]
* * *		
12/20/2017	36	Submitted (ECF) Answering Brief for review. Submitted by Appellee St. James Catholic School. Date of service: 12/20/2017. [10697963] [17-55180]-[COURT UPDATE: Attached corrected PDF of brief. 12/21/2017 by RY] (Fermin, Veronica) [Entered: 12/20/2017 02:52 PM]
12/20/2017	37	Submitted (ECF) supplemental excerpts of record. Submitted by Appellee St. James Catholic School. Date of service: 12/20/2017. [10698096] [17-55180]-[COURT UPDATE: Attached corrected PDFs of excerpts. 12/21/2017 by RY] (Fermin, Veronica) [Entered: 12/20/2017 03:22 PM]
* * *		

Date Filed	#	Docket Text
02/09/2018	43	Submitted (ECF) Reply Brief for review. Submitted by Appellant Kristen Biel. Date of service: 02/09/2018. [10759015] [17-55180]-[COURT UPDATE: Attached corrected brief. 02/12/2018 by SLM] (Loretovich, Joseph) [Entered: 02/09/2018 08:27 PM]
* * *		
03/01/2018	48	Filed (ECF) Appellee St. James Catholic School citation of supplemental authorities. Date of service: 03/01/2018. [10782658] [17-55180]-[COURT UPDATE: Attached corrected citation. 3/2/2018 by TYL] (Fermin, Veronica) [Entered: 03/01/2018 11:52 AM]
* * *		

Date Filed	#	Docket Text
05/08/2018	53	Filed (ECF) Amicus Curiae EEOC Unopposed Motion for miscellaneous relief [Motion of Amicus Curiae EEOC for leave to participate in oral argument on 5 minutes of time ceded by the plaintiff.]. Date of service: 05/08/2018. [10866122] [17-55180] (Oxford, Susan) [Entered: 05/08/2018 04:29 PM]
* * *		
05/10/2018	56	Filed clerk order (Deputy Clerk: OC): The unopposed motion of amicus curiae Equal Employment Opportunity Commission to participate in oral argument, Dkt. [53], is GRANTED. The EEOC shall be allotted five minutes of Plaintiff-Appellant's oral argument time. [10867951] (OC) [Entered: 05/10/2018 09:31 AM]
* * *		

Date Filed	#	Docket Text
07/05/2018	66	Filed (ECF) Amicus Curiae EEOC citation of supplemental authorities. Date of service: 07/05/2018. [10931618] [17-55180] (Oxford, Susan) [Entered: 07/05/2018 07:50 AM]
07/11/2018	67	ARGUED AND SUBMITTED TO D. MICHAEL FISHER, PAUL J. WATFORD and MICHELLE T. FRIEDLAND. [10938612] (Witt, Dusty) [Entered: 07/11/2018 01:49 PM]
07/12/2018	68	Filed Audio recording of oral argument. Note: Video recordings of public argument calendars are available on the Court's website, at http://www.ca9.uscourts.gov/media/ [10940302] (Witt, Dusty) [Entered: 07/12/2018 02:39 PM]
09/07/2018	69	Filed (ECF) Appellee St. James Catholic School citation of supplemental authorities. Date of service: 09/07/2018. [11004431] [17-55180] (Fermin, Veronica) [Entered: 09/07/2018 12:41 PM]

Date Filed	#	Docket Text
09/11/2018	70	Filed (ECF) Appellant Kristen Biel citation of supplemental authorities. Date of service: 09/11/2018. [11008091] [17-55180]-[COURT UPDATE: Attached searchable version of citation of supplemental authorities. 09/11/2018 by SLM] (Lovretovich, Joseph) [Entered: 09/11/2018 04:07 PM]
12/17/2018	71	FILED OPINION (D. MICHAEL FISHER, PAUL J. WATFORD and MICHELLE T. FRIEDLAND) REVERSED AND REMANDED. Judge: DMF Dissenting, Judge: MTF Authoring. FILED AND ENTERED JUDGMENT. [11121871]-[Edited: Typo corrected. 12/20/2018 by TYL] (RMM) [Entered: 12/17/2018 09:11 AM]
* * *		

Date Filed	#	Docket Text
01/22/2019	83	Filed (ECF) Appellee St. James Catholic School petition for panel rehearing and petition for rehearing en banc (from 12/17/2018 opinion). Date of service: 01/22/2019. [11161874] [17-55180] (Rassbach, Eric) [Entered: 01/22/2019 03:06 PM]
01/31/2019	84	Submitted (ECF) Amicus brief for review and filed Motion to become amicus curiae. Submitted by Stephen Wise Temple. Date of service: 01/31/2019. [11174598] [17-55180]-[COURT UPDATE: Attached separate PDF files of brief and motion. 01/31/2019 by RY] (McIntosh, Jacob) [Entered: 01/31/2019 01:40 PM]

Date Filed	#	Docket Text
01/31/2019	85	Submitted (ECF) Amicus brief for review and filed Motion to become amicus curiae. Submitted by Douglas Laycock, Michael W. McConnell, Thomas C. Berg, Robert F. Cochran, Jr., Carl H. Esbeck, Richard W. Garnett, Paul Horwitz, and John D. Inazu. Date of service: 01/31/2019. [11174795] [17-55180]-[COURT UPDATE: Attached separate PDF files of brief and motion. 01/31/2019 by RY] (Dorfman, Victoria) [Entered: 01/31/2019 02:38 PM]
* * *		
02/01/2019	88	Submitted (ECF) Amicus brief for review and filed Motion to become amicus curiae. Submitted by National Catholic Educational Association. Date of service: 02/01/2019. [11175682] [17-55180] (Haun, William) [Entered: 02/01/2019 10:30 AM]

Date Filed	#	Docket Text
02/01/2019	89	Submitted (ECF) Amicus brief for review and filed Motion to become amicus curiae. Submitted by General Conference of Seventh-day Adventists, International Society for Krishna Consciousness, Inc., Jewish Coalition for Religious Liberty, and Shaykh Hamza Yusuf. Date of service: 02/01/2019. [11175707] [17-55180] (McArthur, Eric) [Entered: 02/01/2019 10:43 AM]
* * *		
02/01/2019	98	Submitted (ECF) Amicus brief for review and filed Motion to become amicus curiae. Submitted by Church of God in Christ, Inc.; Union of Orthodox Jewish Congregations of America. Date of service: 02/01/2019. [11176621]-[COURT ENTERED FILING to correct entry [94].] (RY) [Entered: 02/01/2019 03:30 PM]
* * *		

Date Filed	#	Docket Text
02/26/2019	106	Filed order (D. MICHAEL FISHER, PAUL J. WATFORD and MICHELLE T. FRIEDLAND) Appellant Kristin Biel is directed to file a response to the petition for rehearing and rehearing en banc within 21 days of the date of this order. The response shall not exceed 15 pages in length unless it complies with the alternative length limitation of 4,200 words. 9th Cir. R. 40-1. [11207553] (OC) [Entered: 02/26/2019 09:49 AM]
03/19/2019	107	Filed (ECF) Appellant Kristen Biel response to Combo PFR Panel and En Banc (ECF Filing), Combo PFR Panel and En Banc (ECF Filing) for panel and en banc rehearing, for panel and en banc rehearing (statistical entry). Date of service: 03/19/2019. [11234859]. [17-55180] (Pletcher, Andrew) [Entered: 03/19/2019 10:53 PM]

Date Filed	#	Docket Text
05/31/2019	108	Filed (ECF) Appellee St. James Catholic School citation of supplemental authorities. Date of service: 05/31/2019. [11315995] [17-55180] (Rassbach, Eric) [Entered: 05/31/2019 03:40 PM]
06/04/2019	109	Filed (ECF) Appellant Kristen Biel citation of supplemental authorities. Date of service: 06/04/2019. [11319566] [17-55180] (Pletcher, Andrew) [Entered: 06/04/2019 03:19 PM]

Date Filed	#	Docket Text
06/25/2019	110	Filed Order for PUBLICATION (D. MICHAEL FISHER, PAUL J. WATFORD and MICHELLE T. FRIEDLAND) (Dissent by Judge R. Nelson) The panel has voted unanimously to deny the petition for panel rehearing. Judge Fisher recommends granting the petition for rehearing en banc. The full court has been advised of the petition for rehearing en banc. A judge of the court requested a vote on en banc rehearing. The matter failed to receive a majority of votes of non-recused active judges in favor of en banc consideration. Fed. R. App. P. 35(f). The petition for rehearing and the petition for rehearing en banc are DENIED. [11343159]-[Edited: Attached corrected order (typo corrected). 06/25/2019 by TYL]-[Edited: Replaced PDF of order (paragraph edit). 08/09/2019 by RY] (AKM) [Entered: 06/25/2019 08:16 AM]

Date Filed	#	Docket Text
06/25/2019	111	Filed (ECF) Appellee St. James Catholic School Correspondence: FRAP 43(a)(1) Suggestion of Death. Date of service: 06/25/2019 [11343730] [17-55180] (Rassbach, Eric) [Entered: 06/25/2019 12:12 PM]
07/02/2019	112	Filed (ECF) Appellant Kristen Biel Motion to substitute party. Date of service: 07/02/2019. [11352373] [17-55180] (Lovretovich, Joseph) [Entered: 07/02/2019 02:00 PM]
07/03/2019	113	Filed text clerk order (Deputy Clerk: OC): The motion to substitute, is granted. [11354288] (OC) [Entered: 07/03/2019 03:56 PM]
* * *		
07/05/2019	115	MANDATE ISSUED.(DMF, PJW and MTF) Costs taxed against Appellees in the amount of \$472.50. [11354884] (QDL) [Entered: 07/05/2019 10:43 AM]
09/18/2019	116	Supreme Court Case Info Case number: 19-348; Filed on: 09/16/2019; Cert Petition Action 1: Pending; [11436050] (JFF) [Entered: 09/18/2019 02:07 PM]

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Date Filed	#	Docket Text
12/18/2019	117	Supreme Court Case Info Case number: 19-348; Filed on: 09/16/2019; Cert Peti- tion Action 1: Granted, 12/18/2019; [11537625] (RR) [Entered: 12/18/2019 03:45 PM]

JA 212

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

No. 2:15-cv-4248

Kristen Biel

Plaintiff,

v.

St. James School, et al.

Defendants.

RELEVANT DOCKET ENTRIES

Date Filed	#	Docket Text
06/05/2015	1	COMPLAINT Receipt No: 0973-15851026 - Fee: \$400, filed by plaintiff Kristen Biel. (Attorney Joseph M Lovretovich added to party Kristen Biel(pty:pla))(Lovretovich, Joseph) (Entered: 06/05/2015)
* * *		
07/22/2015	11	ANSWER to Complaint (Attorney Civil Case Opening) 1 JURY DEMAND. filed by Defendant St. James School, A Corp..(Attorney Daniel R Sullivan added to party St. James School, A Corp. (pty:dft)) (Sullivan, Daniel) (Entered: 07/22/2015)

Date Filed	#	Docket Text
* * *		
10/30/2015	17	STIPULATION to AMEND Complaint (Attorney Civil Case Opening) 1 filed by plaintiff Kristen Biel. (Attachments: # 1 Exhibit Exhibit A - FAC, # 2 Proposed Order) (Lovretovich, Joseph) (Entered: 10/30/2015)
* * *		
11/10/2015	20	ORDER by Judge Terry J. Hatter, Jr, re Stipulation to Amend Complaint 17 . Plaintiff is granted leave to file the Proposed First Amended Complaint. The First Amended Complaint shall be filed within 10 days from the date of this Order. Defendants previously filed Answer shall be deemed the Answer to Plaintiffs First Amended Complaint. (shb) (Entered: 11/10/2015)

Date Filed	#	Docket Text
11/12/2015	21	FIRST AMENDED COMPLAINT against Defendant St. James School, A Corp. amending Complaint (Attorney Civil Case Opening) 1, filed by plaintiff Kristen Biel (Lovretovich, Joseph) (Entered: 11/12/2015)
* * *		
09/06/2016	64	FINAL PRETRIAL CONFERENCE ORDER GRANTING IN PART by Judge Terry J. Hatter, Jr (shb) (Entered: 09/06/2016)
10/06/2016	65	NOTICE OF MOTION AND MOTION for Summary Judgment as to Plaintiffs First through Sixth Causes of Action filed by defendant St. James Catholic School. Motion set for hearing on 11/7/2016 at 08:30 AM before Judge Terry J. Hatter Jr. (Attachments: # 1 Proposed Order, # 2 Proposed Judgment) (Fermin, Veronica) (Entered: 10/06/2016)

Date Filed	#	Docket Text
10/06/2016	66	STATEMENT of Separate Statement of Uncontroverted Facts and Conclusions of Law NOTICE OF MOTION AND MOTION for Summary Judgment as to Plaintiffs First through Sixth Causes of Action 65 filed by Defendant St. James Catholic School. (Fermin, Veronica) (Entered: 10/06/2016)
10/06/2016	67	DECLARATION of Veronica Fermin in support of NOTICE OF MOTION AND MOTION for Summary Judgment as to Plaintiffs First through Sixth Causes of Action 65 filed by Defendant St. James Catholic School. (Attachments: # 1 Exhibit A (Part I), # 2 Exhibit A (Part II), # 3 Exhibit B (Part I), # 4 Exhibit B (Part II), # 5 Exhibit C (Part I), # 6 Exhibit C (Part II), # 7 Exhibit D, # 8 Exhibit E, # 9 Exhibit F, # 10 Exhibit G)(Fermin, Veronica) (Entered: 10/06/2016)
* * *		

Date Filed	#	Docket Text
10/17/2016	71	MEMORANDUM in Opposition to NOTICE OF MOTION AND MOTION for Summary Judgment as to Plaintiffs First through Sixth Causes of Action 65 filed by Plaintiff Kristen Biel. (Lovretovich, Joseph) (Entered: 10/17/2016)
10/17/2016	72	REQUEST FOR JUDICIAL NOTICE re NOTICE OF MOTION AND MOTION for Summary Judgment as to Plaintiffs First through Sixth Causes of Action 65 <i>Opposition</i> filed by Plaintiff Kristen Biel. (Lovretovich, Joseph) (Entered: 10/17/2016)
10/17/2016	73	STATEMENT of Controverted and Uncontroverted Facts NOTICE OF MOTION AND MOTION for Summary Judgment as to Plaintiffs First through Sixth Causes of Action 65 <i>Opposition</i> filed by Plaintiff Kristen Biel. (Lovretovich, Joseph) (Entered: 10/17/2016)

Date Filed	#	Docket Text
10/17/2016	74	PLAINTIFF'S COMPENDIUM OF EVIDENCE 1 OF 4 re NOTICE OF MOTION AND MOTION for Summary Judgment as to Plaintiffs First through Sixth Causes of Action 65 <i>Opposition</i> filed by Plaintiff Kristen Biel. (Lovretovich, Joseph) (Entered: 10/17/2016)
10/17/2016	75	PLAINTIFF'S COMPENDIUM OF EVIDENCE 3 OF 4 re NOTICE OF MOTION AND MOTION for Summary Judgment as to Plaintiffs First through Sixth Causes of Action 65 <i>Opposition</i> filed by Plaintiff Kristen Biel. (Lovretovich, Joseph) (Entered: 10/17/2016)
10/17/2016	76	PLAINTIFF'S COMPENDIUM OF EVIDENCE 4 OF 4 re NOTICE OF MOTION AND MOTION for Summary Judgment as to Plaintiffs First through Sixth Causes of Action 65 <i>Opposition</i> filed by Plaintiff Kristen Biel. (Lovretovich, Joseph) (Entered: 10/17/2016)

Date Filed	#	Docket Text
10/17/2016	77	PLAINTIFF'S COMPENDIUM OF EVIDENCE 2a OF 4 re NOTICE OF MOTION AND MOTION for Summary Judgment as to Plaintiffs First through Sixth Causes of Action 65 <i>Opposition</i> filed by Plaintiff Kristen Biel. (Loretovich, Joseph) (Entered: 10/17/2016)
10/17/2016	78	PLAINTIFF'S COMPENDIUM OF EVIDENCE 2b OF 4 re NOTICE OF MOTION AND MOTION for Summary Judgment as to Plaintiffs First through Sixth Causes of Action 65 <i>Opposition</i> filed by Plaintiff Kristen Biel. (Loretovich, Joseph) (Entered: 10/17/2016)
10/17/2016	79	PLAINTIFF'S COMPENDIUM OF EVIDENCE 2c OF 4 re NOTICE OF MOTION AND MOTION for Summary Judgment as to Plaintiffs First through Sixth Causes of Action 65 <i>Opposition</i> filed by Plaintiff Kristen Biel. (Loretovich, Joseph) (Entered: 10/17/2016)

Date Filed	#	Docket Text
10/17/2016	80	PLAINTIFF'S COMPENDIUM OF EVIDENCE 2d OF 4 re NOTICE OF MOTION AND MOTION for Summary Judgment as to Plaintiffs First through Sixth Causes of Action 65 <i>Opposition</i> filed by Plaintiff Kristen Biel. (Loretovich, Joseph) (Entered: 10/17/2016)
10/17/2016	81	PLAINTIFF'S COMPENDIUM OF EVIDENCE 2e OF 4 re NOTICE OF MOTION AND MOTION for Summary Judgment as to Plaintiffs First through Sixth Causes of Action 65 <i>Opposition</i> filed by Plaintiff Kristen Biel. (Loretovich, Joseph) (Entered: 10/17/2016)
* * *		
10/24/2016	83	REPLY in support of NOTICE OF MOTION AND MOTION for Summary Judgment as to Plaintiffs First through Sixth Causes of Action 65 filed by Defendant St. James Catholic School. (Fermin, Veronica) (Entered: 10/24/2016)

Date Filed	#	Docket Text
10/24/2016	84	NOTICE OF LODGING filed <i>Defendant's Response</i> re Statement (Motion related) 73 (Attachments: # 1 Defendant's Response to Plaintiffs Separate Statement of Uncontroverted and Controverted Facts and Conclusions of Law in support of Her Opposition to Defendants Motion for Summary Judgment)(Fermin, Veronica) (Entered: 10/24/2016)
10/24/2016	85	DECLARATION of Veronica Fermin in support of NOTICE OF MOTION AND MOTION for Summary Judgment as to Plaintiffs First through Sixth Causes of Action 65 <i>Reply Brief</i> filed by Defendant St. James Catholic School. (Attachments: # 1 Exhibit Exhibit A, # 2 Exhibit Exhibit B, # 3 Exhibit Exhibit C, # 4 Exhibit Exhibit D)(Fermin, Veronica) (Entered: 10/24/2016)
* * *		
10/26/2016	89	<i>CORRECTED</i> re: Memorandum of Contentions of Fact and Law 41 (Fermin, Veronica) (Entered: 10/26/2016)

Date Filed	#	Docket Text
* * *		
01/17/2017	96	ORDER AND JUDGMENT by Judge Terry J. Hatter, Jr: GRANTING 65 MOTION for Summary Judgment in favor of St. James Catholic School, St. James School, A Corp. against Kristen Biel. MD JS-6. Case Terminated. (shb) (Entered: 01/18/2017)
01/20/2017	97	NOTICE OF LODGING filed re Order on Motion for Summary Judgment 96 (Attachments: # 1 Exhibit Judgment)(Vasin, Michael) (Entered: 01/20/2017)

Date Filed	#	Docket Text
01/24/2017	98	AMENDED ORDER AND JUDGMENT by Judge Terry J. Hatter, Jr, re Order on Motion for Summary Judgment 96 . It is Ordered that the motion for summary judgment be, and hereby is, Granted. It is Further Ordered, Adjudged, and Decreed that judgment be, and hereby is, Entered in favor of Defendant St. James School and against Plaintiff Kristen Biel. It is Further Ordered, Adjudged, and Decreed that Plaintiff Kristen Biel shall take nothing and that all parties shall bear their own costs. (See order for further details). (shb) (Entered: 01/24/2017)
02/10/2017	99	NOTICE OF APPEAL to the 9th Circuit Court of Appeals filed by plaintiff Kristen Biel. Appeal of Order,, 98. (Appeal Fee - \$505 Fee Paid, Receipt No. 0973-19344582.) (Lovretovich, Joseph) (Entered: 02/10/2017)
* * *		

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Date Filed	#	Docket Text
12/17/2018	104	OPINION from Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals 99 filed by Kristen Biel. CCA # 17-55180. (yl) (Entered: 12/19/2018)
* * *		
06/25/2019	119	ORDER from Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals 99 filed by Kristen Biel. CCA # 17-55180. The petition for rehearing and the petition for rehearing en banc are DENIED.(mat) (Entered: 06/25/2019)

Date Filed	#	Docket Text
07/05/2019	120	MANDATE of Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals 99 CCA # 17-55180. The judgment of this Court, entered December 17, 2018, takes effect this date. This constitutes the formal mandate of this Court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure. Costs are taxed against the appellees in the amount of \$472.50. [See USCA Opinion 104 For the foregoing reasons, we REVERSE the district court's grant of summary judgment to St. James and RE-MAND](mat) (Entered: 07/08/2019)
* * *		

Date Filed	#	Docket Text
09/23/2019	122	MINUTES OF Status Conference held before Judge Terry J. Hatter, Jr: The matter is called and counsel state their appearances. Court and counsel confer. At the parties request, the Court orders the case stayed. A further status conference is set for January 27, 2020 at 10:00 a.m. Court Reporter: Courtsmart. (yl) (Entered: 09/24/2019)
* * *		

**Excerpts from Defendant's Response to
Plaintiff's Separate Statement of
Uncontroverted and Controverted Facts and
Conclusions of Law in Support of Her
Opposition to Defendant's Motion for Summary
Judgment or in the Alternative, Partial
Summary Judgment
ECF No. 84-1**

[ER 29]

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Attorneys for Defendant ST. JAMES CATHOLIC
SCHOOL (erroneously sued herein as St. James
School, a corp.)

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

KRISTEN BIEL, an
individual,

Plaintiff,

vs.

Case No. 2:15-cv-04248
TJH (ASx)

Assigned to: Hon. Terry
J. Hatter, Jr.

ST. JAMES SCHOOL,
A CORP, a California
non-profit corporation;
and DOES 1-50, inclu-
sive,

Defendants.

Magistrate Judge: Alka
Sagar

DEFENDANT'S RE-
SPONSE TO PLAIN-
TIF'S SEPARATE
STATEMENT OF UN-
CONTROVERTED
AND CONTRO-
VERTED FACTS AND
CONCLUSIONS OF
LAW IN SUPPORT OF
HER OPPOSITION TO
DEFENDANT'S MO-
TION FOR SUMMARY
JUDGMENT, OR IN
THE ALTERNATIVE,
PARTIAL SUMMARY
JUDGMENT

[Filed and Served Con-
currently with Defend-
ant's Reply Brief to
Plaintiff's Opposition to
Motion for Summary
Judgment, or in the Al-
ternative, Partial Sum-
mary Judgment; Decla-
ration of Veronica Fer-
min; and Evidentiary
Objections]

Date: November 7,
2016

Time: UNDER SUB-
MISSION

Complaint Filed:

06/05/2015

Trial Date: 01/10/2017

* * *

[ER 34]

[12.] **[DEFENDANT'S] RESPONSE:** Objection: Mischaracterizes facts and evidence.

This does not create a genuine dispute as to any material fact because the evidence presented by Plaintiff does not controvert the moving party's fact. Plaintiff testified that she was hired to teach the first grade while a teacher was on maternity leave. Plaintiff only taught the first grade for two days out of the week and only from March 2013 to June 2013. Plaintiff attempts to create the appearance of a controverted fact when there isn't one here. **Evidence:** Biel Depo., 14:5-15:25.

13. Plaintiff's part-time position at St. James ended four months later in June 2013.

(Plaintiff depo., 14:5-9).

Plaintiff's Response and Supporting Evidence
UNCONTROVERTED

14. After Plaintiff's part-time position ended in June 2013, Sister Mary hired Plaintiff as the full-time 5th grade teacher for the 2013-2014 school year.

(Plaintiff depo., 17:13-25).

Plaintiff's Response and Supporting Evidence
UNCONTROVERTED

15. As the principal of the School, Sister Mary was the supervisor for all teachers including Plaintiff.

(Plaintiff depo., 17:3-8; Kreuper depo., 11:19-22).

Plaintiff's Response and Supporting Evidence
UNCONTROVERTED

16. As a teacher at St. James, Plaintiff was required to perform her duties in conformity with the School's overriding mission of promoting and developing the Catholic faith, as required in her employment contract.

(Kreuper decl., ¶ 6; Plaintiff depo. 26:13-17).

Plaintiff's Response and Supporting Evidence
UNCONTROVERTED

* * *

[ER 40]

[34.] **[DEFENDANT'S] RESPONSE:** Objection: Mischaracterizes facts and evidence. Lack of foundation.

This does not create a genuine dispute as to any material fact because the evidence presented by Plaintiff does not controvert the moving party's fact that St. Mary required every teacher to attend the Los Angeles Religious Education Congress in order to become better religious educators. Whether there were some non-religious education classes that were offered at the conference does not controvert Defendant's fact. Plaintiff attempts to create the appearance of a controverted fact when there isn't one here. **Evidence:** (Kreuper decl., ¶ 10; Plaintiff 33:22-24, 35:2-12).

35. At St. James, every teacher's employment was governed by an annual written employment agreement.

(Kreuper decl., ¶ 5; Plaintiff depo., 18:8-25, 19:6-20, 20:11-14, 20:23-21:3).

Plaintiff's Response and Supporting Evidence
UNCONTROVERTED

36. This employment agreement was created and distributed to the Catholic schools within the Archdiocese of Los Angeles by the Department of Catholic Schools.

(Kreuper decl., ¶ 5).

Plaintiff's Response and Supporting Evidence
UNCONTROVERTED

37. According to the employment agreement, every teacher's employment was on an annual basis, meaning employment started at the beginning of every school year and expired at the end of each school year.

(Kreuper decl., ¶ 5; Plaintiff depo., 19:6-15).

Plaintiff's Response and Supporting Evidence
CONTROVERTED to the extent that the Defendant's cited evidence only reflects the agreement between Biel and St. James School and does not reflect "every teacher's employment" with St. James School.

(See, Defendant's Evidence)

* * *

[ER 45]

[50.] * * * with classroom management.

(Kreuper depo., 101:23-102:5, 104:13-19, 105:11-13, 106:17-19).

Plaintiff's Response and Supporting Evidence

* * * not establish that Sister Margaret was “counseling” Biel from the beginning of the school year.

(Kreuper depo., 101:23-102:5, 104:13-19, 105:11-13, 106:17-19).

2) Sister Margaret testified that she regularly “checks in” with other teachers as she did with Biel

Deposition of Mary Kreuper 109:16-110:8

3) In addition, during these meetings, Biel and Sister Margaret also discussed other things including Biel’s efforts to make sure the students were “understanding and learning” in her classroom which Sister Margaret complimented.

Deposition of Kristen Biel 45:21-47:2.

4) During these meetings Biel and Sister Margaret discussed the large number of students who were on Biel’s honor roll during the first trimester

Deposition of Mary Kreuper 83:24-86:14; 157:15-157:23

[DEFENDANT’S] RESPONSE: Objection: Mischaracterizes facts and evidence, assumes facts, calls for speculation, irrelevant.

This does not create a genuine dispute as to any material fact because the evidence presented by Plaintiff does not controvert the moving party’s fact that Sister Mary met with Plaintiff from the beginning of the school year to discuss Plaintiff’s classroom management issues, including the conditions of the students’ desks, the lack of test schedule, the missed homework

policy, etc. The evidence presented by [ER 46] Plaintiff does not controvert this fact. Whether Sister Mary “checked in” with other teachers is irrelevant to the fact that Sister Mary met with Plaintiff one to two times per week. (Kreuper depo., 101:23-102:5, 104:13-19, 105:11-13, 106:17-19).

Further, Plaintiff’s belief that Sister Mary thought she was “doing a good job with testing and that students were understanding and learning” is speculative, lacks foundation, and is not credible.

Lastly, whether Plaintiff and Sister Mary discussed the amount of students that were on Plaintiff’s Honor roll is irrelevant to the subject fact at hand.

51. On November 12, 2013, Sister Mary completed a formal classroom observation report after observing Plaintiff teach the subject of Math to her students.

(Kreuper depo., 90:5-15, 90:22-24; Plaintiff’s depo., 37:6-21, 38:1-6).

Plaintiff’s Response and Supporting Evidence
UNCONTROVERTED

52. In this observation report, Sister Mary noted that there were many items on the students’ desks and that Plaintiff needed to work on organization in the classroom.

(Kreuper depo., 93:5-94:4; Plaintiff depo., 40:19-41:1).

Plaintiff’s Response and Supporting Evidence
UNCONTROVERTED

53. In addition,[sic] to this observation report, Sister Mary also verbally counseled Plaintiff on multiple occasions throughout the school year regarding keeping her classroom organized and controlling the noise level.

(Plaintiff depo., 41:10-19, 42:3-7, 57:24-58:13, 71:15-18, 113:24-114:8; Kreuper depo., 82:16-25, 83:1-13, 97:16-25)

Plaintiff's Response and Supporting Evidence
CONTROVERTED to the extent the Biel testified that only on five occasions or less did Sister Mary verbally counsel her on various aspects of her teaching.

Deposition of Kristen Biel 42:3-42:9; 57:24-58:15; 71:15-18.

[ER 47] [DEFENDANT'S] RESPONSE: Objection: Mischaracterizes facts and evidence, argumentative, calls for speculation.

This does not create a genuine dispute as to any material fact because the evidence presented by Plaintiff does not controvert the moving party's fact that Sister Mary verbally counseled Plaintiff on multiple occasions. Plaintiff testified that Sister Mary talked to her about the condition of her students' desks more than once as well as the noise level in her classroom. Evidence: Biel Depo., 42:3-42:9; 57:24-58:15; 71:15-18. Plaintiff attempts to create the appearance of a controverted fact when there isn't one here.

54. However, Plaintiff failed to improve her issues with classroom management throughout the school year.

(Kreuper depo., 83:1-13, 106:5-12).

Plaintiff's Response and Supporting Evidence

CONTROVERTED as Sister Margaret wrote positive comments about Biel's teaching, including that she was "very good" at "[e]stablishing and maintaining learning environments that are physically, intellectually, and emotionally safe"

Deposition of Mary Kreuper 89:24-90:15, Exh. 3 ("Elementary School Classroom Observation Report")

Additionally, the Elementary School Classroom Observation Report has all of the boxes for "Creating and Maintaining Effective Environments for Student Learning" crossed out which indicates that there was evidence that Biel was doing those aspects of her teaching.

Deposition of Mary Kreuper 89:24-* * *

* * *

[ER 73]

[109.] * * * **[DEFENDANT'S] RESPONSE:** Objection: Mischaracterizes facts and evidence, argumentative.

This does not create a genuine dispute as to any material fact because Plaintiff does not offer any evidence that controverts the fact that Sister Mary wrote a letter on May 15, 2014 to Plaintiff informing her that she would not be offering her an employment contract for the following school year. Plaintiff produces evidence that Plaintiff never received it. However, this testimony does not controvert the fact that Sister Mary

wrote it. Even if it were true that Plaintiff never received the letter, this does not necessarily mean that Sister Mary did not write the letter.

**PLAINTIFF'S SEPARATE STATEMENT OF
ADDITIONAL MATERIAL FACTS**

NEW UNDISPUTED MATERIAL FACT[S]:

110. Kristen Biel ("Biel") attended three colleges to receive her Bachelor of Arts in liberal studies[.]

SUPPORTING EVIDENCE: Deposition of Kristen Biel 9:25-11:2

[DEFENDANT'S] RESPONSE: Uncontroverted.

111. After receiving her degree, Biel attended California State University of Dominguez Hills and received her teaching credential[.]

SUPPORTING EVIDENCE: Deposition of Kristen Biel 9:25-11:2

[DEFENDANT'S] RESPONSE: Uncontroverted.

112. Biel began her teaching career at a substitute teacher for various school districts as well as a few private schools, including St. Lawrence Martyr School where she worked before starting at St. James School[.]

SUPPORTING EVIDENCE: Deposition of Kristen Biel 11:8-13:8

[ER 74] [DEFENDANT'S] RESPONSE: Uncontroverted.

113. At the time of her employment with St. James Catholic School, Biel was Catholic.

SUPPORTING EVIDENCE: Deposition of Kristen Biel 24:9-24:10

[DEFENDANT'S] RESPONSE: Objection. Mischaracterizes facts and evidence.

At the time of Plaintiff's deposition, she testified that she was Catholic. The deposition occurred on November 10, 2015. This was over one year after Plaintiff's departure from St. James Catholic School.

114. In 2013, Biel began working for St. James School as a long-term substitute for one of the two first grade teachers that was on maternity leave[.]

SUPPORTING EVIDENCE: Deposition of Kristen Biel 14:5-15:21

[DEFENDANT'S] RESPONSE: Objection. Mischaracterizes facts and evidence, lacks foundation.

Plaintiff's belief that a long-term substitute is like a full-time teacher lacks foundation and is not credible evidence. **Evidence:** Biel Depo., 14:5-15:25.

115. After her long-term substitute position ended in June 2013, she was hired as a full-time teacher by Sister Mary Margaret for the 2013-2014 school year[.]

SUPPORTING EVIDENCE: Deposition of Kristen Biel 17:13-17:25

[DEFENDANT'S] RESPONSE: Objection. Mischaracterizes facts and evidence, lacks foundation.

Plaintiff's belief that a long-term substitute is like a full-time teacher lacks foundation and is not credible evidence. Evidence: Biel Depo., 14:5-15:25.

[ER 75]

116. Upon being hired, Biel signed an employment contract with the school that defined her title as a "Teacher" throughout the contract[.]

SUPPORTING EVIDENCE: Deposition of Kristen Biel 17:17-19:2, Exh. 1

[DEFENDANT'S] RESPONSE: Objection. Mischaracterizes facts and evidence, lacks foundation. There is no "definition" of Plaintiff's title within her employment contract.

117. Shortly after she was hired, Biel attended a conference at the request of St. James School that lasted "four or five hours" over a single day[.]

SUPPORTING EVIDENCE: Deposition of Kristen Biel 18:1-19:17; 33:22-37:5, Exh. 1

[DEFENDANT'S] RESPONSE: Uncontroverted.

118. In November 2013, Sister Margaret performed an observational review of Biel's teaching.

SUPPORTING EVIDENCE: Deposition of Mary Kreuper 89:2-89:6; 89:24-90:16, Exh. 3; Deposition of Kristen Biel 37:6-37:25, Exh. 4

[DEFENDANT'S] RESPONSE: Uncontroverted.

119. On the review, Sister Margaret checked boxes to indicate that Biel was sufficiently performing in several aspects of her job including having "visible evidence of signs, sacramental, traditions of the Roman Catholic Church in the classroom[.]"

SUPPORTING EVIDENCE: Deposition of Mary Kreuper 89:24- 90:15; 91:14-91:24; 92:4-94:12, Exh. 3 ("Elementary School Classroom Observation Report"); Deposition of Kristen Biel 37:6- 37:25, Exh. 4 ("Elementary School Classroom Observation Report")

* * *

[ER 77]

122. Sister Margaret wrote positive comments about Biel's teaching, including that she was "very good" at "[e]stablishing and maintaining learning environments that are physically, intellectually, and emotionally safe[.]"

SUPPORTING EVIDENCE: Deposition of Mary Kreuper 89:24-90:15; 91:14-91:24; 92:4-94:12, Exh. 3 ("Elementary School Classroom Observation Report"); Deposition of Kristen Biel 37:6- 37:25, Exh. 4 ("Elementary School Classroom Observation Report")

[DEFENDANT'S] RESPONSE: Objection. Mischaracterizes facts and evidence, lacks foundation. The cited testimony does not support Plaintiff's characterization of the evidence.

123. Sister Margaret wrote positive comments about Biel's teaching, including that overall it was a "good review[.]"

SUPPORTING EVIDENCE: Deposition of Mary Kreuper 89:24-90:15; 91:14-91:24; 92:4-94:12, Exh. 3 ("Elementary School Classroom Observation Report"); Deposition of Kristen Biel 37:6- 37:25, Exh. 4 ("Elementary School Classroom Observation Report")

[DEFENDANT'S] RESPONSE: Objection. Mischaracterizes facts and evidence, lacks foundation. The cited testimony does not support Plaintiff's characterization of the evidence.

124. Biel testified that she first learned she had cancer during Easter vacation of 2014 and informed Sister Margaret the following week[.]

SUPPORTING EVIDENCE: Deposition of Kristen Biel 90:23-91:25 Deposition of Mary Kreuper 121:16-121:23; 124:14-124:25

[ER 78]

[DEFENDANT'S] RESPONSE: Uncontroverted.

125. In 2014, Easter Sunday was April 20, 2014[.]

SUPPORTING EVIDENCE: Plaintiff's Request for Judicial Notice

[DEFENDANT'S] RESPONSE: Uncontroverted to the extent the Court takes judicial notice.

126. In early May, Biel informed Sister Margaret that she would need to undergo chemotherapy and surgery and that her last day would be May 22, 2014[.]

SUPPORTING EVIDENCE: Deposition of Mary Kreuper 125:9-127:22; Deposition of Kristen Biel 94:9-94:17; 95:8-96:16

[DEFENDANT'S] RESPONSE: Objection. Mischaracterizes facts and evidence. Sister Mary testified that Plaintiff told her she would need to undergo chemotherapy and surgery in end of April or first part of May. **Evidence:** Kreuper depo., 125:9-14.

127. According to the St. James School's employment contract, the school must provide notice on or before May 15 of whether it intends to offer the teacher a new employment contract for the following school year[.]

SUPPORTING EVIDENCE: Deposition of Mary Kreuper 59:7-59:17; 132:10-132:15; 135:24-136:7, Exhs. 2, 6

[DEFENDANT'S] RESPONSE: Uncontroverted.

128. Sister Margaret testified that pursuant to this provision, she provided notice to Biel on May 15th by placing written notice in her teacher mailbox[.]

SUPPORTING EVIDENCE: Deposition of Mary
Kreuper 132:10-134:16; 135:24-136:7, Exh. 6

[DEFENDANT'S] RESPONSE: Uncontroverted.

* * *

**Excerpts from Transcript of Deposition of
Kristen Biel**

[ER 207]

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

KRISTEN BIEL, an
individual,

Plaintiff,

vs.

ST. JAMES SCHOOL, A
CORP, a California non-
profit corporation, and
DOES 1-50, inclusive,

Defendants

No. 2:15-cv-04248 (TJH)
(ASx)

DEPOSITION OF
KRISTEN BIEL

TUESDAY, NOVEMBER 10, 2015

400 North Tustin Avenue, Suite 120
Santa Ana, California

Reported by: ROBERTA WIMBERLY, CSR No. 4882

* * *

[ER 210]

[BY MS. FERMIN]

Q. What is her name?

A. Delaney, D-e-l-a-n-e-y.

Q. Do you live with anyone else?

A. No.

Q. What is your date of birth?

A. May 19th, 1965.

Q. Where were you born?

A. Chicago, Illinois.

Q. When did you move to California?

A. When I was a year old.

Q. Your current address?

A. 1019 Avenue B, Redondo Beach, California, 90277.

Q. How long have you lived there?

A. 20 years.

Q. You only have one daughter?

A. Yes.

Q. Do you have any intention of moving within the next year?

A. No.

Q. Where did you attend high school?

A. Bullard High School.

Q. Can you spell that for me?

A. B-u-1-1-a-r-d High School. It's in Fresno, California.

Q. Did you attend college?

[ER 211]

A. I did.

Q. What college was that?

A. California State University of Fresno.

Q. Did you complete a degree?

A. Not there. I also attended El Camino College.

Q. After you attended Cal State Fresno?

A. Not right after, but, yes. And then finally California State University of Dominguez Hills where I got my degree.

Q. What year was that?

A. 2009.

Q. What was your degree in?

A. Liberal Studies.

Q. Have you had any legal training or legal education of any sort?

A. No.

Q. Have you obtained any other degrees other than your degree in liberal studies?

A. No. I do have a credential.

Q. Teaching credential?

A. Yes.

Q. When did you obtain that?

A. 2009.

Q. From where?

A. Cal State University of Dominguez Hills.

[ER 212]

Q. Your degree in liberal studies is a B.A.?

A. Yes.

Q. Are you currently working?

A. No.

Q. Was your employment at St. James your most recent employment?

A. Yes.

Q. Prior to working at St. James, where did you work immediately prior?

A. St. Lawrence Martyr.

Q. St. Lawrence?

A. Uh-huh.

Q. Did you work for the parish or the school?

A. The school.

Q. What years did you work there?

A. It's all—does she not have my resume?

S. SHOEMAKER: You have to answer her questions.

THE WITNESS: I'm sorry. 2012, 2013.

BY MS. FERMIN:

Q. What was your position at St. Lawrence?

A. Substitute teacher.

Q. For the entire time at St. Lawrence?

A. I was a substitute teacher there and a long-term sub there, as well.

Q. When did your employment at St. Lawrence end?

[ER 213]

A. June. I think it was 2012.

Q. June of 2012?

A. I think so.

Q. Why did you depart from St. Lawrence?

A. My long-term job was over. The teacher was pregnant, and I worked for her until she came back. Was it 2012? Yeah, it was 2012.

Q. Prior to St. Lawrence Martyr School, where did you work immediately prior?

A. I worked as a substitute teacher for a few different school districts as well as a few private schools.

Q. Okay. Let's start with the private schools.

A. Riviera Hall Lutheran School and St. Lawrence, and then I worked for the City of El Segundo—El Segundo Unified School District and Manhattan Unified School District.

Q. Any other school districts?

A. Not that I can remember.

Q. You substituted at all of these locations?

A. Correct.

Q. You never worked as a full-time teacher?

A. Correct. I also worked as a tutor at two different locations—companies. I'm not remembering the names right now. Sorry.

[ER 214]

Q. Private companies?

A. Yes.

Q. Prior to your employment at St. James, how long had you been substituting?

A. Since 2009.

Q. Before you got your teaching credential—I mean after you got your teaching credential?

A. Yes.

Q. What did you do before you obtained your teaching credential for employment?

A. I was a dance teacher and artistic director at a dance studio.

Q. Private studio?

A. Yes.

Q. What is the name of the studio?

A. Vergari Dance Center.

Q. Can you spell that, please?

A. V-e-r-g-a-r-i Dance Center.

Q. How long were you a dance teacher there?

A. Ten years.

Q. No other employment while you were working as a dance teacher at Vergari?

A. I did teach a few Mommy and Me classes at a local ballet studio. I'm not remembering the name. Riviera Dance Center, I think.

[ER 215]

Q. You studied dance?

A. I'm sorry.

Q. Did you study dance?

A. Yes.

Q. Okay. You were eventually hired as a substitute teacher at St. James. Right?

A. Yes.

Q. Do you recall the month and year?

A. March of 2013 to June of 2013.

Q. As a substitute?

A. Long-term sub.

Q. What do you mean by “long-term sub”?

A. A substitute teacher sometimes can substitute for just one day. A long-term sub is like a full-time teacher. I’m there every day all the time teaching, but for somebody who is out, usually because they are pregnant.

Q. Who was out during that time, what teacher?

A. I don’t remember her name. Sorry.

Q. Was she on maternity leave?

A. Yes.

Q. So you were first hired as a substitute teacher at St. James in March of 2013. Right?

A. Yes.

Q. And your term ended in June of 2013?

[ER 216]

A. Yes.

Q. What grade did you teach during that time period?

A. First grade.

Q. Did you teach the first grade by yourself during those few months?

A. I was a team teacher. I taught two days a week and Alisa taught three days a week.

Q. Alisa? What is her last name?

A. Gobey. I can't recall her last name. It's difficult to remember.

Q. She taught three days a week?

A. Yes.

Q. Was she a long-term sub, too?

A. No. She was a permanent teacher.

Q. Was she the one who was on maternity leave?

A. No.

Q. Who were you subbing for that was on maternity leave?

A. I don't remember her name.

Q. But she was a first grade teacher?

A. Yes. They shared the position.

Q. I see. So Alisa shared the first grade teaching position with this other teacher that went on maternity leave?

A. Yes.

* * *

[ER 217]

long-term sub?

A. No.

Q. You know who Sister Mary Margaret is. Right?

A. Yes.

Q. Did she hire you?

A. Yes.

Q. Was she your supervisor?

A. Yes.

Q. You know who Father Meyers is?

A. Yes.

Q. Was he ever your supervisor?

A. Not that I know of.

Q. After your long-term substitute after you subbed for the first grade—that ended in June of 2013. Right?

A. Yes.

Q. Were you then hired as a full-time teacher?

A. Yes.

Q. Who hired you?

A. Sister Mary Margaret.

Q. Do you know when she hired you as a full-time teacher?

A. June of 2013.

Q. For what position?

A. Fifth grade teacher

[ER 218]

(Exhibit 1 was marked for identification by the court reporter.)

BY MS. FERMIN:

Q. Kristen, if you would look over this document and let me know when you're done.

A. Explain "look over." Do you want me to full on read it or do you want me to glance at it?

Q. I want you to tell me if you recognize it. Do you recognize the document?

A. Yes.

Q. Okay. What is it?

A. An employment contract.

Q. Is this your employment contract for the 2013-2014 school year at St. James?

A. I believe so.

Q. On page 5—yes, on page 5, is that your signature?

A. It looks like my signature.

Q. Do you recall signing an employment contract prior to teaching the 2013 to 2014 school year at St. James?

A. Ask the question again.

Q. Do you recall signing an employment contract before you started teaching at St. James full time?

A. Yes.

[ER 219]

Q. Does this look like the contract that you signed?

A. It looks like it.

Q. Do you have any reason to believe it's not the contract that you signed?

A. Not at this time.

Q. Was it your understanding this contract was for the 2013 to 2014 school year?

A. Yes.

Q. And that the start date of your employment, according to this contract, was August 26, 2013, at the top?

A. Yes.

Q. And the end date of this employment contract was June 30th, 2014, as indicated at the top of the contract?

A. That's what it says.

Q. Was that your understanding?

A. As I look at it now.

Q. Did you have a different understanding when you signed the contract?

A. Not that I can recall.

Q. Was it your understanding at the time that you signed this contract that the terms of your employment were contained in this document?

A. I'm sorry. Rephrase the question.

MS. FERMIN: Can you read it back, please.

* * *

[ER 223]

Q. Is that your understanding?

A. What do you mean by "promoting and furthering"?

Q. Incorporating it into the curriculum.

A. We prayed every day, yes.

Q. You prayed with your students?

A. Yes.

Q. In the morning or at the end of the day?

A. Both.

Q. Twice a day?

A. Yes.

Q. Did you teach your students any Catholic prayers?

A. They already knew them. I didn't need to teach them anything. And I had prayer leaders. The prayers that were said in the classroom were said mostly by the students. We had prayer leaders. That was like a job.

Q. Did you pray the Hail Mary with your students?

A. We did.

Q. The Lord's Prayer?

A. We did, yes.

Q. Those are Catholic prayers, aren't they?

A. Hail Mary is.

Q. The Lord's Prayer is not a Catholic prayer?

A. It's a Christian prayer.

Q. But used in mass. Right?

A. Yes, but used in mass of other Christian

[ER 224]

religions, as well.

Q. Going back to Exhibit 1, the second paragraph that is entitled "Philosophy," can you read that to yourself and let me know when you're done.

A. I understand.

Q. Was it your understanding that as a teacher you performed your duties with this overriding mission of

the school in mind to develop and promote the Catholic faith?

MS. SHOEMAKER: Objection; vague and ambiguous, legal contention. You can answer.

THE WITNESS: Can you rephrase the question?

BY MS. FERMIN:

Q. Was it your understanding that as a teacher at St. James you had to abide with the school's mission in promoting and developing the Catholic faith within the school?

A. Yes.

Q. Did you teach the subject of religion to your fifth graders at St. James?

A. Yes.

Q. How often per week did you teach religion?

A. Four days.

Q. Four days a week?

A. Uh-huh.

Q. How long would these religion classes last?

[ER 225]

A. 30 minutes, approximately.

Q. 30 minutes each day four days a week?

A. Approximately. Sometimes they were longer and sometimes they were shorter. It depends on the schedule.

Q. What did this religion curriculum entail?

A. Reading from a workbook and answering questions from the workbook.

Q. What was the name of the workbook?

A. I don't recall.

Q. Was it called "Coming To God's Life"?

A. I'm not sure. It's the curriculum that Sister Mary Margaret gave me. It's what they teach at that school.

Q. Would you recognize it if you saw the book?

A. Probably.

Q. "Coming to God's Life" doesn't ring a bell as that being the workbook?

A. I don't recall the name.

Q. So your lessons for religion were done from this curriculum workbook?

A. Yes.

Q. What kind of lessons were in this workbook?

A. Religion lessons.

Q. Can you give me an example?

A. Telling the story of Jesus, telling the stories

[ER 226]

of the disciples. Just the stories of the Bible.

Q. Was this a Catholic workbook?

A. I think so.

Q. Did you teach your students any songs, religious songs?

A. I don't recall teaching them anything. They may know songs and sing them, but I don't recall teaching them any. I don't remember.

Q. Did you teach your students about the significance of lent?

A. I'm sorry. What?

Q. The significance of lent?

A. Oh, we did talk about lent.

Q. What did you talk about regarding lent?

A. I followed the instructions in the book.

Q. Which entailed the significance of lent?

A. Yes.

Q. What about Easter? Did you teach your students the significance of Easter?

A. Yes.

Q. What about Catholic practices like the Eucharist and confession?

A. Yes.

Q. You taught your students the significance—

A. That was in the book.

[ER 227]

Q. —of the Eucharist and confession?

A. That was in the book, yes. But the kids—I'm sorry. Never mind.

Q. Did you give tests based on this religious workbook?

A. Yes.

Q. How often would you give tests?

A. Weekly.

Q. Did you ever attend mass with your students?

A. Yes.

Q. Where was mass held?

A. It was kind of a multi-purpose room.

Q. It was school mass, I'm assuming.

A. Yes. The church and the school are not connected.

Q. So it was a mass just with the St. James students?

A. Yes.

Q. Okay. How often did school mass take place?

A. Once a month.

Q. You attended the school mass with your students?

A. Yes.

MS. FERMIN: I'm going to mark this as Exhibit No. 2.

(Exhibit 2 was marked for identification by the

* * *

[ER 228]

by that as a teacher?

A. Yes.

Q. That you had to teach religion for approximately 200 minutes per week?

A. Is that what it says? Per week?

Q. Weekly time allotments at the top.

A. Okay.

Q. Was that your understanding?

A. Yes.

Q. When you went to school mass with your students, was it Father Meyers who conducted mass?

A. Not always.

Q. But it was always led by a Catholic priest?

A. No.

Q. Who was it led by if not a priest?

A. Sister Mary Margaret and Sister Lana.

Q. What was your role during school masses?

A. To make sure the kids were quiet and in their seats.

Q. Did your students ever participate in mass?

A. Yes.

Q. In what way?

A. They would bring the gifts.

Q. Who trained them on bringing the gifts?

A. They were trained from previous years.

[ER 229]

Q. Did you go over with your students on how to present the gifts in mass?

A. As far as rehearsal? I don't think we did rehearsal. Most of them know how to do it already.

Q. So you did not go over how to present gifts?

A. I don't remember. Maybe we quickly did something, or not. I don't remember. It wasn't that often.

Q. Just for the record, when you say "gifts," you are referring to the Eucharist. Right?

A. Yes.

Q. How often would your class present the gifts at school mass?

A. It was only twice a year.

Q. That they would present the gifts?

A. Yes, something like that. Not very often. It was kind of a volunteer thing if the kids wanted to do it.

Q. During these school masses you mentioned that you made sure that the kids were quiet and sitting down and behaving during mass. Right?

A. Yes.

Q. Did your students pray during school mass?

A. Yes.

Q. Did you pray too?

A. Yes.

[ER 230]

S. FERMIN: I'm going to mark this as Exhibit 3.
(Exhibit 3 was marked for identification by the court reporter.)

THE WITNESS: This is Virtus.

BY MS. FERMIN:

Q. I'm sorry.

A. Sorry.

Q. Do you recognize this certificate?

A. Yes.

Q. Did you receive this certificate?

A. Yes.

Q. What was it for?

A. Virtus.

Q. V-i-r-t-u-s?

A. Yes.

Q. What is Virtus?

A. A training for child abuse.

Q. This was required by St. James?

A. Yes.

Q. Prior to your employment. Right?

A. Yes, I guess.

Q. Did you take any other training seminars for St. James?

A. We went to a religious conference together.

Q. Is that called Congress?

[ER 231]

A. I don't remember what it's called. It was my first time at one.

Q. Where was it held?

A. I think in Orange County.

Q. At the Anaheim Convention Center?

A. I'm not sure. I know we had to drive at least an hour. I wasn't driving.

Q. This was put on by the Archdiocese?

A. I think so. I don't know.

Q. Were you required to attend this religious conference?

A. They asked us to.

Q. Who is "they"?

A. I'm sorry. Sister Mary Margaret asked us to.

Q. When you say "us," who are you referring to?

A. Teachers.

Q. The teachers at St. James?

A. Yes.

Q. Do you remember the month that this religious conference took place?

A. I don't.

Q. Was this before you started your employment?

A. No.

Q. Were you working as a full-time teacher when you attended the religious conference?

[ER 232]

A. Yes.

Q. What took place at this conference?

A. We took classes.

Q. What kind of classes?

A. Education classes mostly.

Q. How long was this conference?

A. About four or five hours.

Q. Just one day?

A. Yes.

Q. What did they teach you?

A. Different techniques on teaching and incorporating God.

Q. Who were the instructors?

A. I do not know.

Q. Were they priests or sisters?

A. No, not all of them.

Q. Was the focus of this conference how to develop your skills as a religious educator?

A. I don't remember what the focus was. Sorry. I don't know.

Q. Well, you said they taught you different techniques and incorporating God.

A. That's what I remember about it.

Q. Was this a Catholic conference?

A. I'm not sure if it was Catholic or not.

[ER 233]

Q. What other teachers did you go with?

A. I'm trying to remember. The fourth grade teacher, the third grade teacher and the computer teacher.

Q. What were their names?

A. I was in the car with them, but there were other teachers there from St. James.

Q. Did you sit with the fourth grade teacher, the third grade teacher and the computer teacher?

A. In the car.

Q. What about at the conference?

A. We went to different classes.

Q. What are these teachers' names?

A. Ms. White and Ruth. She was a computer teacher. And Ms. McDermott.

Q. Kathleen McDermott?

A. Yes.

Q. And Cindy White?

A. Cindy White.

Q. And Ruth. What is her last name?

A. Gosh. It starts with a B. It's confusing. Mrs. Bell, something like that.

Q. So at this conference you were taught how to incorporate God into your lesson plans. Is that right?

A. Some classes did that. Other classes showed us how to do art and make little pictures or things like

[ER 234]

that.

Q. Other than this religious conference, did you attend any other conferences or training for your employment at St. James?

A. Not that I remember.

MS. FERMIN: I'm going to mark this as Exhibit No. 4.

(Exhibit 4 was marked for identification by the court reporter.)

BY MS. FERMIN:

Q. Do you recognize this document?

A. Yes.

Q. What is it?

A. Observation report.

Q. Was this a performance review—

A. Yes

Q. —that was taken of you during your employment at St. James?

A. Yes.

Q. At this time you were teaching the fifth grade?

A. Yes.

Q. Is that your signature on the last page?

A. It looks like it.

Q. Do you recall signing this?

A. I don't recall, but I guess I did.

* * *

[ER 258]

A. I do.

Q. This was written for the purpose of your medical extension with the California state credentialing office?

A. I think.

Q. Did you ask Dr. Hool to write this?

A. Yes.

Q. For the purpose of getting an extension for your teaching credential?

A. Probably.

Q. Did you show this letter to anyone else other than the California state credentialing office?

A. I don't know. I may have given—did I give you guys a copy of this? Probably my attorneys.

Q. Other than your attorney?

A. Not that I can remember.

Q. Dr. Hool references you suffering from a medical condition in Exhibit 16. Right?

A. Due to Mrs. Biel's disease and toxicity and treatment she is currently disabled through December 16, 2014. That's what he says.

Q. What was your disease?

A. Breast cancer.

Q. When did you first learn that you had breast cancer?

A. During Easter vacation of 2014.

[ER 259]

Q. Is Dr. Hool your physician?

A. He is my oncologist.

Q. As of Easter 2014?

A. Uh-huh.

Q. Is he currently?

A. He still is my oncologist.

Q. Are you seeing any other oncologists other than Dr. Hool?

A. No.

Q. You said you first discovered that you had breast cancer over Easter of 2014. Is that right?

A. Yes.

Q. Was it over Easter break from school?

A. Yes.

Q. You weren't working at the time?

A. I was not working when I found it, no.

Q. Did you inform Sister Mary Margaret that you had breast cancer?

A. Yes.

Q. When did you tell her?

A. I believe that next week.

Q. When you returned to school?

A. Yes.

Q. Did you tell her in person?

A. Yes.

* * *

[ER 260]

Q. How about a month?

A. No, a month didn't pass.

Q. So within three weeks? Would that be fair to say?

A. I don't know.

Q. The next conversation you had with Sister, what did you tell her?

A. I don't know what you're asking.

Q. The next conversation you had with Sister Mary Margaret regarding your breast cancer, what did you tell her?

A. I don't remember the specifics.

Q. Generally?

A. I probably told her the doctor wanted to do chemo first and then do surgery and then do chemo afterwards.

Q. Surgery first and then chemo?

A. Chemo first and then surgery and then more chemo.

Q. What did Sister Mary Margaret say in response to this?

A. I don't recall.

Q. What else specifically did you tell Sister Mary Margaret regarding your doctor's intentions?

A. I don't understand the question.

Q. What else did you tell Sister Mary Margaret other than your doctor wanted you to do chemo—

[ER 261]

A. I don't remember.

Q. —chemo, then surgery and then chemo?

A. I don't remember.

Q. What was Sister Mary Margaret's reaction to your statements regarding your treatment?

A. I think she said okay, I'll need to get ready and get a sub for you for the rest of the year.

Q. Did you tell her you needed a sub for the rest of the year?

A. She knew that she needed a sub for May and June.

Q. Did you tell her that you needed a sub?

A. Yes. I told her that my doctor wanted me to start chemo. I don't know specifically what date this was, but I did tell her during one of these meetings that my doctor wanted to start chemo on May 27th, my first chemo.

Q. Did you tell Sister Mary Margaret that your first date for chemo was May 27th?

A. Yes.

Q. Did you tell her that you would not be able to teach during your chemo treatment?

A. I told her the doctor recommended that I don't teach full time.

Q. Did you want to teach part time?

A. That wasn't offered.

[ER 262]

Q. Would you have?

A. I wasn't sure how the chemo would affect me, so I didn't know.

Q. Did you request to teach part time?

A. No.

Q. Did you tell Sister Mary Margaret that you would not be able to come back to school after your May 27th chemo treatment?

A. I may have mentioned the doctor recommended that I stay home during chemo.

Q. And you wanted to follow what your doctor recommended?

A. I wanted to see how the chemo affected me before I could decide whether or not—how much work I could do.

Q. Did you tell Sister Mary Margaret that?

A. Yes.

Q. After you received your first chemo treatment on May 27, did you talk to Sister Mary Margaret regarding how well you felt?

A. She called me in on June 6th.

Q. What did she say to you?

A. That's when we discussed—I told her how I was feeling.

Q. What did you tell her?

A. I don't specifically remember.

* * *

[ER 263]

(Exhibit 18 was marked for identification by the court reporter.)

BY MS. FERMIN:

Q. This is Exhibit 18. This is a letter addressed to you from Sister Mary Margaret. Have you seen this letter before?

A. Yes.

Q. It's dated May 15, 2014. Is that the date you received this letter?

A. No.

Q. When did you receive this letter?

A. I never received this letter.

Q. You said that you've seen this letter before.

A. Yes. My attorney showed me.

Q. Prior to your attorney showing you this letter, you had never seen this letter before?

A. No.

Q. Did Sister Mary Margaret ever verbally tell you that you would not be offered a contract for the 2014-2015 school year?

A. She verbally told me that she would not be renewing my contract in July of 2014. I think it was like the 11th or 12th.

Q. July 11 or 12 of 2014?

A. Yes.

[ER 264]

Q. That's the first time Sister Mary Margaret told you she would not be offering you a contract—

A. Yes.

Q. —for the 2014-2015 school year? Yes?

A. Yes.

Q. How did she tell you this?

A. I asked her.

Q. In person?

A. Yes.

Q. Where was this meeting?

A. In her office.

Q. Why were you there?

A. To find out if I was going to be teaching the next year or not.

Q. Was this meeting pre-arranged?

A. I called a few days before to make an appointment, yes.

Q. Who did you make an appointment with?

A. Sister Mary Margaret.

Q. You called her?

A. I called the school.

Q. Who did you speak to at the school?

A. I may have spoken to Cheryl.

Q. Cheryl?

A. Hugo.

[ER 265]

Q. Is that the school secretary?

A. Yes.

Q. You made an appointment with Ms. Hugo?

A. She is probably the one that made the appointment, yeah.

Q. For your meeting with Sister Mary Margaret?

A. Uh-huh.

Q. What did Sister Mary Margaret tell you during this meeting?

A. First she asked me how I was feeling and wanted to know how I was doing. Then I asked her if she was going to—wanted me to work for her the next year.

Q. Why did you ask her that?

A. Because I wasn't sure.

Q. Why weren't you sure?

A. Because she told me she was possibly looking into someone else—giving someone else the job.

Q. When did she tell you that?

A. I'm trying to remember. June—maybe it was June. In the June 6th meeting she may have said I'm not sure I want you to come back, something like that.

Q. When you met with her on June 6th, 2014, Sister Mary Margaret told you she wasn't sure that she wanted you back?

A. Uh-huh.

[ER 266]

Q. Did she say why?

A. She said that she felt I was not strict and that it wouldn't be fair to the students to have two teachers in one school year.

Q. What other reasons?

A. Those are the ones that—I guess those. She asked me to write a letter explaining what I can do to be—I don't know—things I could come back and do, I guess. I don't know. So I wrote her a letter.

Q. Things that you could do—

A. Improve on, I think, maybe.

Q. Things you could improve on as a teacher?

A. Uh-huh.

Q. When you said Sister Mary Margaret felt that you weren't strict, this is in regards to your classroom?

A. I guess.

Q. Is that your understanding?

A. I felt that she wanted me to be strict with the students.

Q. She asked you to write a letter regarding different things that she wanted you to improve on?

A. Uh-huh.

Q. Things that you talked about in this meeting?

A. Yes.

Q. And throughout the school year?

* * *

[ER 267]

Q. May 23rd?

A. Yeah. It was that Memorial Day weekend.

Q. How did you pick that date?

A. My first chemo date was the 27th. It just made sense since it was Memorial Day weekend, the next week have off and get ready for my chemo.

Q. You picked to be off one week before your first chemo treatment?

A. It wasn't really a week. It was maybe Tuesday, I think. On a Tuesday.

Q. In any case, you decided on this date for your last day teaching for the fifth grade?

A. I think Sister Mary Margaret and I decided together.

Q. When did you decide with Sister Mary Margaret that May 23rd would be your last day?

A. I don't recall.

Q. Was it during the same conversation when you told her that your doctor recommended chemo and then surgery and then chemo?

A. I don't remember.

Q. You stopped teaching before Memorial Day weekend or after?

A. The Thursday before.

Q. Did you have a box at school, an inbox?

[ER 268]

A. Yes.

Q. How often would you check it?

A. Daily.

Q. Even up until May 23rd?

A. Yes.

Q. How about after you stopped teaching? Did you check your box?

A. I checked my box as long as it had my name on it in case people wanted to leave notes and things. People left me notes and papers. So I did check it. When I came in to grade papers, I would check it.

Q. You mentioned after your last day of teaching, which was the Thursday before Memorial Day weekend, you would come in and continue to work but not teach.

A. Right.

Q. What would you do after you stopped teaching?

A. I would grade some tests and load the grades onto the computer.

Q. Who was teacher that took over your classroom?

A. I don't remember her name.

Q. Did Sister Mary Margaret know that you continued to grade tests and load them onto the computer?

A. Yes.

Q. Did you have a conversation with her regarding this?

* * *

[ER 272]

Q. Did you ever talk to Sister Mary Margaret regarding this letter afterwards?

A. I don't remember. I don't think so, but I don't remember. It may have been during the July meeting. I don't know.

Q. During the July meeting?

A. Uh-huh.

Q. What did Sister Mary say to you regarding your June 16 letter?

A. I don't understand the question.

Q. When you met with her on July 11 or 12, 2014, did Sister Mary Margaret bring up your June 16th letter?

A. I don't recall talking about it.

Q. What about your performance issues? Was that talked about in the July meeting?

A. I don't think we talked too much about my performance.

Q. What was Sister Mary Margaret's reason for not offering you a contract in that July 11 or 12 meeting?

MS. SHOEMAKER: Calls for speculation.

THE WITNESS: The same reasons I told you before, she said I was not strict and it was not fair for me—it was not fair for her to have to have two teachers for the children during the school year.

BY MS. FERMIN:

* * *

[ER 282]

Archdiocese of Los Angeles
Elementary School Classroom Observation Report

Teacher: Kristen
School: St. James
Principal: SMM
City: Torrance
Grade: 5
School Year: 2013-14
Subject: Math
Date: Nov. 12, 2013

Innovating	Implementing
Adjusts and creates new strategies for unique student needs and situations during the lesson.	Uses strategies at appropriate time, in the appropriate manner.
Emerging	Not Exhibiting
Attempts to use strategy but uses it incorrectly or at the wrong time.	Strategy was called for but not exhibited.

WCEA (*Catholic Identity Factors*) Check if observed

- | | |
|-------------------------------------|--|
| ☐ Innovating | ☒ Implementing |
| ☐ Emerging | ☐ Not Exhibiting |

- ☒ There is visible evidence of signs, sacramental, traditions of the Roman Catholic Church in the classroom.
- ☒ Curriculum includes Catholic values infused through all subject areas. *Respect – [handwritten note]*
- ☒ Integrates Schoolwide Learning Expectations.

Observation Comments: _____

Objective to be Observed: *California Standards for the Teaching Profession*

For the following 5 standards, check if observed

Standard 1: Engaging and Supporting All Students in Learning

- | | |
|--|---|
| ☒ Innovating | ☐ Implementing |
| ☐ Emerging | ☐ Not Exhibiting |

- ☒ **1.1** Using knowledge of students to engage them in learning
- ☐ **1.2** Connecting learning to students' prior knowledge, backgrounds, life experiences, and interests
- ☐ **1.3** Connecting subject matter to meaningful, real-life contexts
- ☒ **1.4** Using a variety of instructional strategies, resources, and technologies to meet students' diverse learning needs
- ☒ **1.5** Promoting critical thinking through inquiry, problem solving, and reflection
- ☒ **1.6** Monitoring student learning and adjusting instruction while teaching

Observation Comments: _____

Standard 2: Creating and Maintaining Effective Environments for Student Learning

- | | |
|-------------------------------------|--|
| ☐ Innovating | ☒ Implementing |
| ☐ Emerging | ☐ Not Exhibiting |

- ☒ **2.1** Promoting social development and responsibility within a caring community where each student is treated fairly and respectfully

☒ **2.2** Creating physical or virtual learning environments that promote student learning, reflect diversity, and encourage constructive and productive interactions among students *with teacher*

[handwritten note]

☒ **2.3** Establishing and maintaining learning environments that are physically, intellectually, and emotionally safe *Very good [handwritten note]*

☒ **2.4** Creating a rigorous learning environment with high expectations and appropriate support for all students

☒ **2.5** Developing, communicating, and maintaining high standards for individual and group behavior

☒ **2.6** Employing classroom routines, procedures, norms, and supports for positive behavior to ensure a climate in which all students can learn *There is a variety of work displayed [handwritten note]*

[ER 283]

☒ **2.7** Using instructional time to optimize learning
Co-ordinates give example [handwritten note]

Observation Comments: _____

Standard 3: Understanding and Organizing Subject Matter for Student Learning

- ☐ Innovating
- ☐ Implementing
- ☐ Emerging
- ☐ Not Exhibiting

☒ **3.1** Demonstrating knowledge of subject matter, academic content standards, and curriculum frameworks

☒ **3.2** Applying knowledge of student development and proficiencies to ensure student understanding of subject matter

- ☒ **3.3** Organizing curriculum to facilitate student understanding of the subject matter
- ☒ **3.4** Utilizing instructional strategies that are appropriate to the subject matter
- ☒ **3.5** Using and adapting resources, technologies, and standards-aligned instructional materials, including adopted materials, to make subject matter accessible to all students
- ☐ **3.6** Addressing the needs of English learners and students with special needs to provide equitable access to the content

Observation Comments: *Support for students w/ STEP/MAPS? [handwritten comment]*

Standard 4: Planning instruction and Designing Learning Experiences for All Students

- | | |
|-------------------------------------|---|
| ☐ Innovating | ☐ Implementing |
| ☐ Emerging | ☐ Not Exhibiting |

- ☒ **4.1** Using knowledge of students' academic readiness, language proficiency, cultural background, and individual development to plan instruction
- ☒ **4.2** Establishing and articulating goals for student learning
- ☐ **4.3** Developing and sequencing long-term and short-term instructional plans to support student learning
- ☒ **4.4** Planning instruction that incorporates appropriate strategies to meet the learning needs of all students *Variety [handwritten comment]*
- ☒ **4.5** Adapting instructional plans and curricular materials to meet the assessed learning needs of all students *Lots of different types of strategies [handwritten comment]*

Observation Comments: _____

Standard 5: Assessing Students for Learning

- | | |
|-------------------------------------|---|
| ☐ Innovating | ☐ Implementing |
| ☐ Emerging | ☐ Not Exhibiting |

- ☑ **5.1** Applying knowledge of the purposes, characteristics, and uses of different types of assessments
- ☑ **5.2** Collecting and analyzing assessment data from a variety of sources to inform instruction
- ☑ **5.3** Reviewing data, both individually and with colleagues, to monitor student learning *IOWA Formal assessment [handwritten comment]*
- ☑ **5.4** Using assessment data to establish learning goals and to plan, differentiate, and modify instruction
- ☑ **5.5** Involving all students in self-assessment, goal setting, and monitoring progress
- ☑ **5.6** Using available technologies to assist in assessment, analysis, and communication of student learning
- ☑ **5.7** Using assessment information to share timely and comprehensible feedback with students and their Families *packets – Good way to plot co-ordinates [handwritten comment]*

Observation Comments/Commendations: *Good review – Did you have another idea? Good having students come up to board. Good positive re-enforcement. Pick sticks.[handwritten comment]*

Recommendations: *When you give an assignment go over directions/give an example. How many picked “C”? Thumbs up/down. Call a few #s at a time... [illegible writing]. What about the people whose # is not up there? Another day – choose anyone you want. [handwritten comment]*

[ER 284]

I submit this report in accordance with the schedule and procedures established by the Department of Catholic Schools as described in the *Administrative Handbook*.

Principal Signatures: /s/ Sister Mary Margaret

Date: 11/13/2013

I have read this report and discussed it with the principal. My signature does not necessarily imply agreement this observation report. I understand that I am free to attach to this observation report any written reactions I may have within one week of today's date.

Teacher Signature: /s/ Kristen Beil

Date: 11/18/2013

****This observation form is used in conjunction with the California Standards for the Teaching Profession**

Handwritten comments:

Observed:

1. *Many things on desks*
 - *Kleenex box, markers, Julia*
 - *Pencil sharpeners*
 - *Water bottles*
 - *Books etc. under desks in aisle-Fire etc.*
 - *Binder*
 - *Staple remover – tape (scotch)*

Have a zipper-bag for items.

Work on organization –

Do the students work in SS books?

Never allow them to color the pages of the book –

Julia then Francesca (look at)

Good Review of Music rules
[illegible notes] +10/12
[ER 285]

☒ **2.7** Using instructional time to optimize learning
Co-ordinates give example [handwritten note]

Observation Comments: _____

**Standard 3: Understanding and Organizing
Subject Matter for Student Learning**

- ☐ Innovating 3.1, 3.4, 3.5
- ☐ Implementing
- ☐ Emerging 3.6
- ☐ Not Exhibiting

☒ **3.1** Demonstrating knowledge of subject matter, academic content standards, and curriculum frameworks

☒ **3.2** Applying knowledge of student development and proficiencies to ensure student understanding of subject matter

☒ **3.3** Organizing curriculum to facilitate student understanding of the subject matter

☒ **3.4** Utilizing instructional strategies that are appropriate to the subject matter

☒ **3.5** Using and adapting resources, technologies, and standards-aligned instructional materials, including adopted materials, to make subject matter accessible to all students

☐ **3.6** Addressing the needs of English learners and students with special needs to provide equitable access to the content

Observation Comments: *Support for students w/ STEP/MAPS? [handwritten comment]*

Standard 4: Planning instruction and Designing Learning Experiences for All Students

- | | |
|--|---|
| ☒ Innovating | ☐ Implementing |
| ☐ Emerging | ☐ Not Exhibiting |

- ☒ **4.1** Using knowledge of students' academic readiness, language proficiency, cultural background, and individual development to plan instruction
- ☒ **4.2** Establishing and articulating goals for student learning
- ☐ **4.3** Developing and sequencing long-term and short-term instructional plans to support student learning
- ☒ **4.4** Planning instruction that incorporates appropriate strategies to meet the learning needs of all students *Variety [handwritten comment]*
- ☒ **4.5** Adapting instructional plans and curricular materials to meet the assessed learning needs of all students *Lots of different types of strategies [handwritten comment]*

Observation Comments: _____

Standard 5: Assessing Students for Learning
n/a [handwritten comment]

- | | |
|-------------------------------------|---|
| ☐ Innovating | ☐ Implementing |
| ☐ Emerging | ☐ Not Exhibiting |

- ☒ **5.1** Applying knowledge of the purposes, characteristics, and uses of different types of assessments
- ☒ **5.2** Collecting and analyzing assessment data from a variety of sources to inform instruction
- ☒ **5.3** Reviewing data, both individually and with colleagues, to monitor student learning *IOWA Formal assessment [handwritten comment]*

- ☑ **5.4** Using assessment data to establish learning goals and to plan, differentiate, and modify instruction
- ☑ **5.5** Involving all students in self-assessment, goal setting, and monitoring progress
- ☑ **5.6** Using available technologies to assist in assessment, analysis, and communication of student learning
- ☑ **5.7** Using assessment information to share timely and comprehensible feedback with students and their Families [*packets – Good way to plot co-ordinates [handwritten comment]*]

Observation Comments/Commendations: *Good review – Did you have another idea? Good having students come up to board. Good positive reinforcement. Pick sticky. [handwritten comment]*

Recommendations: *When you give an assignment go over directions/give an example. How many picked “C”? Thumbs up/down. Call a few #s at a time... [illegible writing]. What about the people whose # is not up there? Another day – choose anyone you want. [handwritten comment]*

[ER 286]

I submit this report in accordance with the schedule and procedures established by the Department of Catholic Schools as described in the *Administrative Handbook*.

Principal Signatures: /s/ Sister Mary Margaret

Date: 11/13/2013

I have read this report and discussed it with the principal. My signature does not necessarily imply agreement this observation report. I understand that

I am free to attach to this observation report any written reactions I may have within one week of today's date.

Teacher Signature: /s/ Kristen Beil

Date: 11/18/2013

****This observation form is used in conjunction with the California Standards for the Teaching Profession**

Handwritten comments:

Observed:

2. Many things on desks

- Kleenex box, markers, Julia*
- Pencil sharpeners*
- Water bottles*
- Books etc. under desks in aisle-Fire etc.*
- Binder*
- Staple remover – tape (scotch)*

Have a zipper-bag for items.

Work on organization –

Do the students work in SS books?

Never allow them to color the pages of the book –

Julia then Francesca (look at)

Good Review of Music rules

[illegible notes] +10/12

**Excerpts from Transcript of Deposition of
Mary M. Kreuper**

[ER 431]

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

KRISTEN BIEL, an
individual,

Plaintiff,

vs.

St. James School, A
Corp, a California non-
profit corporation, and
DOES 1-50, inclusive,

Defendants.

No. 15-cv-04248 (TJH)
(ASx)

Volume I

DEPOSITION OF
MARY M. KREUPER

Woodland Hills, California
Thursday, November 12, 2015

Reported by: Alla Ponto
CSR No. 10046

NDS Job No.: 174564

* * *

[ER 435]

[BY MR. BROCK:]

A. Nine.

Q. Has the school generally looked the same
structure-wise in the 20 years you have been there?

Meaning, has it always been a parish school that taught nine grades?

A. Yes.

Q. What grades are taught there?

A. K to 8.

Q. How many classes?

A. Nine.

Q. So one class per grade?

A. That's correct.

Q. Has there always been one class per grade?

A. No.

Q. When was it different?

A. When—let's see. Years before I came there, they had three grades of each class.

Q. Okay.

A. It went down to two, and then it went down to one.

Q. Do you know when it went down to one?

A. Before I came. I'm not sure.

Q. In the 27 years you have been there, there's been one class per grade; correct?

A. That's correct.

[ER 436]

Q. And is there one teacher per grade per class?

A. There's one teacher.

Q. So is there one 8th grade teacher, one 7th grade teacher, one 6th grade teacher, one 5th grade

teacher, one 4th grade teacher, one 3rd grade teacher
one 2nd, one 1st and one K?

A. Yes.

Q. Who is the current 8th grade teacher?

A. Sister Lana, L-a-n-a.

Q. Is there a prerequisite that a teacher needs to be
Catholic in order to teach at St. James?

A. It's recommended.

Q. Is it a requirement?

A. No.

Q. Sister Lana—I take it she is Catholic?

A. She is.

Q. How long has she taught the 8th grade?

A. About 13 years.

Q. Who is the current 7th grade teacher?

A. Mrs. O'Dowd, O-d-o-w-d.

Q. Do you know if Mrs. O'Dowd is Catholic?

A. Yes.

Q. Do you know how long she's taught the 7th grade?

A. About 15 years.

* * *

[ER 437]

A. Yes.

Q. Do you know how long she's taught the 3rd grade?

A. This is her first year.

Q. 2014—

A. 2015/2016.

Q. Do you know who taught the 3rd grade prior to Ms. Raad?

A. Yes.

Q. Who?

A. Cynthia Wight, W-i-g-h-t.

Q. Do you know how long Ms. Wight taught the 3rd grade?

A. 17 years.

Q. Who teaches the 2nd grade?

A. Mrs. Sitter, S-i-t-t-e-r.

Q. Is she Catholic?

A. Yes.

Q. Do you know how long she taught the 2nd grade?

A. Eight years.

Q. Who is the 1st grade teacher?

A. Elisa Schiappa-Gobee, S-c-h-i-a-p-p-a, dash G-o-b-e-e, and Ms. Roberts, Monica Roberts

Q. Does one teacher teach two days a week and one teacher teaches another day?

* * *

[ER 441]

Q. And what did she say when she got back to you?

A. She said she cancelled her appointment with Chris Knowles and would like to take the position at St. James.

Q. Do you know when that conversation took place?

A. No. In May sometime.

Q. I will give you a document that we'll mark as Exhibit 2. (Plaintiff's Exhibit 2 was marked for identification by the court reporter and is attached hereto.)

BY MR. BROCK:

Q. Ma'am, have you seen this document before?

A. Yes.

Q. Can you tell me what this document is?

A. This is an employment agreement that we sign with each teacher

Q. Page 4 of the agreement, is that your signature?

A. Yes.

Q. Also on Page 5?

A. Yes.

Q. It is dated May 28, 2013. Is that in or around the time you had offered Ms. Biel the position?

A. I think it was a little bit after that.

* * *

[ER 442]

A. Define work performance.

Q. Her job performance in the broadest, sort of, spectrum.

My understanding is she wasn't asked back, according to the verified discovery responses, due to her job performance.

Did you have any issues with her job performance from August to November?

A. Yes.

Q. What issues did you have?

A. Classroom management, grading, policy.

Q. Grading policy?

A. No. Grading, and then policy.

Q. Okay. Any other issues?

A. That's pretty much it.

Q. What classroom management did you observe?

A. I observed a chaotic environment, lots of talking, lots of getting out of their seats with seemingly no purpose, just because they wanted to go visit a friend. I observed much clutter in the classroom and mostly on and around the students' desks.

Q. Okay. Any other issues with classroom management?

A. Yes. We have a homework policy.

Q. Okay.

* * *

[ER 443]

Q. Why were you meeting with her then?

A. She would bring her lesson plans, or I would want to see her about the clutter that I saw on the desks or that kind of thing.

Q. Did you talk to her about the clutter throughout the 1st trimester?

A. Yes.

Q. Did the chaotic environment improve during the 1st trimester or get worse from the first time you noticed it?

A. I think it stayed the same.

Q. What about the clutter? Did it stay the same?

A. Yes.

Q. The homework policy we discussed. Okay. What is the grading issues that you had in the 1st trimester?

A. All the students in her classroom with the exception of one was on the honor roll.

Q. It's because they are all doing their homework; right?

A. Right.

Q. Every single one was on the honor roll?

A. Except one.

Q. How does one get on the honor roll at St. James?

[ER 444]

A. You have to have 25 points made up of "A"s and "B"s on your report card and a "good" in work habits and behavior.

Q. Did you feel like she was too lenient on the students?

A. Yes.

Q. When does the honor roll come out?

A. After the first report card.

Q. When does that come out?

A. November.

Q. November what? Do you know?

A. Probably mid November.

Q. Okay.

A. On a Tuesday.

Q. How many 5th graders would typically be on the honor roll after the first time the report cards came out?

A. About 20 to 25, maybe.

Q. How many did she have on there?

A. 30 or however many she had in her class with the exception of one.

Q. So 20 to 25 would be typical, and she had everyone but one?

A. Correct.

Q. Do you have a list of the 5th graders on honor

* * *

[ER 447]

A. Yes.

Q. Did you ever conduct any written performance evaluations of Ms. Biel during that 1st trimester?

A. Yes, I did.

Q. How many?

A. One in November, one formal one in November.

Q. The other ones would be the walkthroughs and the walk-bys?

A. And in the meetings with her, yes.

Q. What is the purpose of the performance, written performance evaluation?

A. So that the teacher can see in documented form the pros and the cons of what they are doing.

Q. Do you do performance evaluations of all the teachers?

A. Yes.

Q. Do you do them at around the same time?

A. Yes.

Q. How often do you do written performance evaluations of teachers during the school year?

A. Formal written, twice.

Q. What period of time?

A. November and then again in May.

Q. I will hand you a document that we'll mark as Exhibit 3.

[ER 448]

(Plaintiff's Exhibit 3 was marked for identification by the court reporter and is attached hereto.)

BY MR. BROCK:

Q. Have you seen this document before?

A. Yes, I have.

Q. Can you tell me what this document is.

A. This is the observation report that I did for Kristen.

Q. Okay. When did you perform this report?

A. In November.

Q. 2013?

A. Yes.

Q. This would have been after the 1st trimester?

A. Yes.

Q. It says, "2:10, Excell." Can you tell me what that mean[s]?

A. After I did this report, Kristen asked me if I would come up to the computer lab and see an Excell class that she was going to do. Graphics. I said, "Yes."

Q. Okay. "Subject: Math." What does that mean?

A. That's the subject I observed.

Q. How long did you observe her teaching?

[ER 449]

A. About 40 minutes.

Q. And you filled out this document; correct?

A. Yes, I did.

Q. And you wanted to be accurate about what you observed; correct?

A. Yes.

Q. You write the word "respect"?

A. Uh-huh.

Q. What do you mean by that?

A. She was respectful to all the students, treated them.

Q. Is it a template form that you fill out?

A. Yes.

Q. What do the Xs mean on the boxes?

A. I did that. Those are that they—there was evidence of that.

Q. What do you say there at the bottom? There's a variety of work displayed?

A. She had class work that they had completed hung up in her room.

Q. You find that a positive?

A. Yes.

Q. Next page, "Coordinate. Give example." What do you mean by that?

A. "Using instructional time to optimize

[ER 450]

learning. Coordinates and gives examples."

She probably taught a concept, and then she gave examples of the concept she was teaching.

Q. "Observational comments." Can you read into the record just to make sure I have it correct. I think it starts with, "Good way to"—something.

A. Where is that now? Okay.

"Good way to plot and coordinate. Good review. Did you have another idea? Good having students come up to the board. Good positive reinforcement. Pick sticks. When you give an assignment, go over the directions. How many picked 'C'? They had their heads down and their thumbs up. Call a few numbers at a time. What about the people whose number is not up there? Choose anyone you want."

Q. Okay. The next page. It says: "This observation form is used in conjunction with the California standards for the

[ER 451]

teaching profession."

Do you know what that means?

A. Yes. It means that this is a template that is used with the California teaching profession.

Q. Can you read into the record what it says on the bottom under "observed"?

A. It says, "Observed many things on the Desks, Kleenex box, markers. Julia."

Q. Who is Julia?

A. She's one of the students in there.

Q. Are you saying that that student had things on the desk or all of the students had things on their desks?

A. All the students had things on the desks. She had an inordinate amount of markers on the desk

Q. Okay.

A. It says:

"Pencil sharpeners, water bottles, books, et cetera, under the desks and in the aisle. It's a fire hazard. Binders, staple removers, tape, Scotch tape."

Now I am suggesting these things:

"Have a zipper bag for these items. Work on

[ER 452]

organization. Do the students work in their Simple Solution books? Never allow the student to color the pages of the book.”

Q. “Julia,” again?

A. Yes.

Q. Okay.

A. And “Francesca.” And then, “Go over the page ahead of time.” I can’t read that.

Q. Okay.

A. And at the end of it, she had a good review of music rules.

Q. It says “plus 10 over 12”?

A. That’s what I had suggested that she use as her grading. If there were 12 items, then if they got 10 right, she put a plus 10 over 12. I thought it would be easy for her to see that and be able to grade those.

Q. Did you feel this was a positive performance evaluation?

A. Parts of it were.

Q. What parts weren’t? Was that the parts that you observed?

A. Yes.

Q. Did you meet with Ms. Biel to go over this evaluation?

* * *

[ER 453]

contract.”

Q. Based on her job performance?

A. That's right.

Q. And these were during meetings you had with her?

A. Yes.

Q. How frequently were you having meetings with her?

A. After January, I met with her weekly.

Q. Did you set up these meetings, or did she request them?

A. No, she didn't request them. I asked to see her.

Q. Once a week?

A. Sometimes twice a week.

Q. Why did you ask to see her?

A. Because I wanted to check in with her to see how she was doing with regards to all the things we talked about

Q. Did you check in with other teachers?

A. On those same issues?

Q. On any issues.

A. I check in with teachers regularly, yes.

Q. Did you have meetings once a week or twice a week—

[ER 454]

A. No.

Q. —with other teachers?

A. No.

Q. How frequently would you have meetings with other teachers?

A. Depends on what the issue is. It could be—it could be twice a week. It could be once every two weeks

Q. It says, “math.” What does it say underneath that?

A. “Pacing. Be sure skills are mastered.”

Q. Do you know when you wrote that?

A. No, I don’t.

Q. “Grades”?

A. I recall being in her classroom one time, and she did have a group religion—it was kind of like a skit. And I noticed that two of the students didn’t do anything with the skit. They just sort of were in it. And she gave everybody an A. She told them right there, “Everyone gets an A.”

I am not sure how you give everybody the same grade.

Q. Do you know when that happened?

A. No, I don’t.

Q. It says, “Communication. E-mail not to

* * *

[ER 458]

A. Looks like February 21st.

Q. When did you first decide that Ms. Biel would not be offered a contract for the 2014/2015 school year?

A. Probably after I got this. I was thinking that maybe she wouldn’t say she wanted to return.

Q. Okay.

A. So after this.

Q. When you gave her this, were you hoping that she would say “No?”

A. I wasn’t hoping that she would say “No,” but I was hoping that she had learned something. But I felt that she probably thought that I was being too hard on her. That’s my feeling.

Q. Okay. Did you have an expectation that she would say no, that she did not want to return for the next school year?

A. I didn’t have an expectation. I thought maybe she wouldn’t want to.

Q. Up until February 21, 2014, had you made a decision one way or the other that you were going to offer Ms. Biel a contract for the next school year?

A. I hadn’t decided.

Q. Are you the only person who makes the decision to offer a teacher a contract for a school year?

A. Yes.

* * *

[ER 459]

school year?

A. No, she didn’t.

Q. There’s some checked box on credentialing?

A. Uh-huh.

Q. Did any part of Ms. Biel’s credentials play any role in why she was not asked for the 2014/2015 school year?

A. No.

Q. All right. When did you decide that Ms. Biel would not be returning for the next school year?

A. My tendency was in, say, March. When I found out that she was wanting to return, I thought, well, you know, I will work with her until to see if things change. So probably in March I thought that I don't think this is going to work out.

Q. Was there a particular event that happened that caused you to make a decision that it's probably not going to work out or was it just an accumulation of things? What was it, if you can tell me?

A. I think it was the lack of doing the things that I had asked her to do.

Q. In particular, what things?

A. Classroom, the orderliness or lack of in the classroom, the chaoticness of the classroom—that never changed.

[ER 460]

I found out that she wasn't using a grammar book that she was supposed to be using.

She was also not letting children work in the Simple Solutions book, and I had asked her to do that.

I think—I believe that she did do that after I had said to her, "Let them work in the book." It's a workbook.

Q. When you made the decision in March 2014, did you communicate your decision to Ms. Biel at that time?

A. I think first I determined in my own mind I don't think this is going to work. However, I continued to try and work with her up through March and April. And, then, finally it just wasn't going to work.

Q. Did you ever tell Ms. Biel she would not be offered a contract prior to her going out on leave?

A. Before May 22nd. I said a couple of times, "I'm going to find it difficult to offer you a contract."

Q. You said that a couple of times?

A. Couple of times, uh-huh.

Q. And when is the first time you said that to her?

A. Probably after this, probably the first part of March.

Q. When is the second time?

[ER 461]

A. Probably—maybe the first part of April, I continued to meet with her to try and resolve these issues, and it just wasn't working.

Q. Did you ever tell her she would not be offered a contract prior to her going out on leave?

A. Yes –no. Prior to her going out—prior to May 22nd.

Q. When Ms. Biel went out on leave, did you ever tell her that she would not be offered a contract?

A. Yes, I did.

Q. When did you tell her?

A. When?

Q. Yes.

A. I don't remember. It was between April and May. Yeah.

Q. Do you know when Ms. Biel told you she had cancer?

A. Yes.

Q. When was that?

A. It was the Monday after Easter vacation.

Q. Do you know the date?

A. April— probably the middle or toward the end of April.

MR. BROCK: Let's take a break.

(Whereupon, at the hour of 12:36 P.M.,

* * *

[ER 462]

1:42 P.M.

MARY M. KREUPER,

having been previously duly sworn,

was examined and testified as follows:

EXAMINATION

BY MR. BROCK:

Q. Go ahead.

A. I will tell you where it was.

Q. Please.

A. It was when we were talking about Elisa Schiappa being out on maternity leave and Kristen subbing for her at that time.

Q. Uh-huh.

A. That was incorrect. Although Elisa had been out on maternity leave for two children, the one that Kristen subbed for was Annie Babuder.

Q. Got you.

A. Sorry about that.

Q. Did Elisa go out on maternity leave two times during her employment with St. James?

A. Yes.

Q. How frequently—strike that.

[ER 463]

Can you tell me how frequently teachers went out on a leave of absence that lasted longer than one or two weeks?

A. Only for babies, and that was four of them.

Q. Had any teacher taken a leave of absence for any medical condition other than pregnancy?

A. No.

Q. Four teachers in your 27 years went out on maternity leave?

A. Correct.

Q. Okay.

A. And so Annie subbed for two days a week, not the three that I said.

Q. Okay. Tell me when—Ms. Biel told you she had cancer following Easter break?

A. Yes.

Q. Do you know if it was a Monday?

A. Yes.

Q. Sometime in April?

A. Yes.

Q. Tell me how she told you.

A. She came in to my office, and she said that during Easter vacation, she had found a lump on her breast and went to the doctor, and they wanted to do some tests, and they thought it was cancer.

[ER 464

Q. Did she tell you that she was waiting for test results at that time?

A. I couldn't really say for a fact, but she told me she had several appointments. And I said, "You take whatever you need to take."

Q. At some point, did she tell you she would need to take a leave of absence from work?

A. No.

Q. At some point, did she tell you that she would need to undergo chemotherapy and surgery?

A. Yes.

Q. When did she tell you that?

A. That was probably in—in probably—maybe end of April, first part of May.

Q. Do you recall what she said at that time?

A. She said that the doctors were going to try to shrink the tumors and she would have to undergo

treatment for that. She didn't say specifically what it was and that—that's what she would have to do.

Q. From the time she first told you that she was having tests to determine whether or not she had cancer up until this conversation at the end of April where she told you that she was going to have chemotherapy and eventually surgery, did she have any conversations with you about her cancer?

[ER 465]

A. In what regard?

Q. That it's been diagnosed or anything like that?

A. At some point, she told me she had cancer and that she would have to be in treatment

Q. That was before she told you about—strike that.

She tells you the Monday you come back from Easter vacation that she found a lump and she is undergoing tests; correct?

A. Yes.

Q. When is the next time you had any conversation with Ms. Biel about her cancer?

A. Probably after the next doctor's appointment that she had.

Q. Do you recall what she told you?

A. That she would have to undergo treatment to shrink the tumors, to try to shrink the tumors.

Q. Was that the conversation you believe happened towards the end of April, early May?

A. Yes.

Q. Did she tell you in that conversation when she was going to begin chemotherapy?

A. No.

Q. Was Ms. Biel—did Ms. Biel finish the

[ER 466]

2013/2014 school year?

A. No, she didn't.

Q. When did she take off?

A. She said that her last day would be May 22nd.

Q. When did she inform you that her last day would be May 22nd?

A. Probably a couple of weeks before that.

Q. Do you recall a specific date?

A. No, I don't.

Q. Was it during this late April, early May conversation?

A. Probably a little bit after that. I think she had to get more doctors' consults.

Q. Tell me about that conversation where she informs you she would not be finishing the school year.

A. She said that she was going to undergo some type of treatment. It was sort of vague. I don't know that she had—actually knew. She was going to undergo some kind of treatment, and she needed to be—her last day needed to be May 22nd.

Q. Do you know how much notice that was?

A. Probably two weeks.

Q. Did she tell you how long she would be unable to work?

A. It was vague. She wasn't quite sure.

* * *

[ER 467]

May 22nd about two weeks prior; correct?

A. Yes.

Q. Prior to her telling you that her last day was on May 22nd, did you ever have any conversations with her where she told you she might be missing time from work?

A. No.

Q. Did she tell you what type of cancer she was diagnosed with?

A. No.

Q. At the time that Ms. Biel informed you that she had cancer—strike that.

At the time that—the Monday after Easter, she told you she might have cancer, had you made a decision whether or not to offer Ms. Biel a scholarship for the next—had you made a decision whether or not to offer Ms. Biel a contract for the next year?

A. Yes, I think I had, uh-huh.

Q. What was your decision?

A. It was not to rehire.

Q. Did you communicate that decision to Ms. Biel prior to that Monday she returned following Easter and told you she might have cancer?

A. Yes, I did.

Q. What did you tell her?

[ER 468]

A. I told her I was not going to be able to offer her a contract

Q. When did you first tell her that?

A. It was before May 15th and—I would say probably early May.

Q. That's after the Easter break; correct?

A. Yes.

Q. Did you tell—did you ever tell Ms. Biel before the Easter Monday— strike that.

Did you ever tell Ms. Biel before the Monday after Easter, when she told you she might have cancer that she was not going to get a contract for the following school year?

A. I mentioned on several occasions in early January, February when I met with her, that because of her performance, that I was going to find it very difficult to offer her a contract

Q. I understand that. Did you tell her, though, prior to her informing you she might have cancer on that Monday after Easter, that you made your decision and she was not going to get a contract?

A. I told her that—I said to her that this didn't look like it was working out. No. I don't think I ever said that I definitely was not going to rehire her

* * *

[ER 469]

A. Yes.

Q. When did you tell her that?

A. With that letter on May 15th and then before leading up to it all those other times that I told her that I would find it difficult, that I just didn't think I could offer her a contract.

Q. But did you ever tell her she would not be given a contract?

A. No.

Q. I will hand you a document that we will mark as Exhibit 6.

(Plaintiff's Exhibit 6 was marked for identification by the court reporter and is attached hereto.)

BY MR. BROCK:

Q. Can you tell me what this document is?

A. This is my formal letter to her saying that I would not be prepared to offer her a contract.

Q. When did you prepare this letter?

A. May 15th.

Q. Is this the first time you communicated to Ms. Biel definitively that she would not be offered a contract for the 2014/2015 school year?

A. Definitively, yes.

Q. You had hinted that you had trouble giving her

[ER 470]

a contract, but this is the first time you tell her she ain't coming back?

A. I don't think I hinted. I think it was stronger than a hint. Because when I say to somebody "I am not"— "I don't think I'm prepared"— "I don't think I am going to be able to offer you a contract," that's what I meant, and this was the formal declaration of that

Q. At any time prior to May 15, 2014, did you tell Ms. Biel that you are not prepared to offer her a contract for the 2014/2015 school year?

A. Yes.

Q. How did you—did you write this document before or after Ms. Biel told you two weeks prior to May 22nd that that would be her last day?

A. Please repeat that.

Q. When you sent this document—

A. Yes.

Q. —did you know Ms. Biel's last day of work would be May 22nd?

A. Yes.

Q. She had already told you that May 22nd would be her last day; correct?

A. Right.

Q. How did you present this document to Ms. Biel?

[ER 471]

A. As I do with any teacher, I put it in their mailbox. I put letters or notes in their mailboxes.

Q. Where is their mailbox?

A. In the faculty room.

Q. Do you know if Ms. Biel got this letter?

A. No.

Q. You don't know?

A. I don't know.

Q. Did you ever follow up with Ms. Biel prior to May 22nd when her last day of work was to ensure that she got this letter?

A. No.

Q. Did you ever have a conversation with Ms. Biel prior to May 22nd where she discussed receiving this letter?

A. No.

Q. Did you—when is the last time you looked in her mailbox?

A. I don't actually look at it. If I have something to put in it, I do. I don't make it a practice to look at it. There's lots of things in there.

Q. Do you still have her mailbox?

A. No. I mean, somebody else's name is there, but it's there.

[ER 472]

Q. Did you clean out her mailbox?

A. I think it was cleaned out.

Q. Do you know who cleaned it out?

A. I think she did.

Q. Have you put letters like this in other teachers' mailboxes, letters expressing—strike that.

Have you put a letter to a teacher saying they would not be offered a contract in one of their mailboxes?

A. No.

Q. This is the first time?

A. Well, yes.

Q. Is there any reason why you didn't personally deliver this letter to Ms. Biel?

A. That's not my ordinary way of communicating with something like this. I usually put—any notes or something in the mailbox. That's my ordinary way of doing it.

I did that because I felt that I had talked so much with her, and there was nothing else left to say. I think she knew that I wasn't prepared to offer the contract, and this was the formal—saying that I wasn't.

Q. Why did you wait until May 15, 2014, to write a letter to Ms. Biel advising her that she would not

[ER 473]

have a contract for the 2014/2015 school year?

A. That's the day that we have to let teachers know.

Q. Who has mandated that to be the day?

A. It's in the contract, I believe.

Q. What contract?

A. On No. 7 on Page 2 at the bottom.

Q. Did you ever extend Mrs. Biel's introductory period?

A. What does that mean?

Q. Part of the contract, Page 5, No. 5, there's an introductory period for a newly hired or transferred teacher. The introductory period is a minimum of 90 calendar days and may be extended in writing for up to another 90 calendar days at the discretion of the principal.

A. Uh-huh.

Q. Did you ever extend her introductory period?

A. I kept her until she requested that her last day be the 22nd of May. Yes.

Q. Did you notify her in writing that her introductory period would be extended by 90 days after—

A. No.

Q. —after the initial 90 days?

* * *

[ER 475]

A. And the first part of September.

Q. But other than maybe some other lesson plan documents, are you aware of any other documents out there that document a concern that you had with Ms. Biel's work performance?

A. No.

Q. Did you ever advise her in writing, at any time, if she doesn't improve her job performance, she would not be offered a contract back?

A. Did I say that in writing?

Q. Yes.

A. No. I said it to her.

Q. But not in writing; correct?

A. Not in writing.

Q. And you never considered terminating her employment during the introductory period; correct?

A. No.

Q. You never considered -- strike that.

Did you ever consider extending the introductory period for Ms. Biel?

A. By keeping her in the 5th grade after the introductory period and me working with her, that, to me, was an indication that I was willing to work with her to try and help her be a better teacher.

Q. Assume that Ms. Biel could not return to work

[ER 476]

until January of the 2014/2015 school year and you had to get two teachers, would that have created any burden on St. James?

A. No, because I have done that before.

Q. Done what before?

A. Gotten a sub for a maternity leave or -- mostly it was that.

Q. Did the fact that Ms. Biel needed a leave of absence and couldn't for [sic] work for about six months, did that play any role in your decision to bring her back?

A. She never asked me for a leave of absence.

Q. Did she ever tell you that she would be unable to work for a period of time?

A. Yes.

Q. Did that play any role in your decision not to hire her back?

A. No.

Q. Can you tell me how many teachers you have not asked back due to performance reasons?

A. I think only one.

Q. Mrs. Biel?

A. No. Counting her, two.

Q. One prior?

A. Yes.

Q. That was Ms. Wittermore?

* * *

[ER 477]

willing to make the changes.

Q. When you say she was not structured and permissive, was that your opinion about her teaching style, or was that just sort of an objective fact? I'm trying to understand.

MS. FERMIN: Vague.

THE WITNESS: I think I know what you mean.

BY MR. BROCK:

Q. Yeah.

A. No. It was the reality that I saw. Every time I walked by or went in or I subbed for her, I saw it.

Q. How many times did you sub for her?

A. Three or four.

Q. Did you feel that the kids in her 5th grade class didn't get a good educational experience during that year?

A. From an educator's point of view, I don't think they did. From their point of view and their parents' point of view, they did.

Q. Why is that?

A. Because when children who never made the honor roll are on the honor roll, the parents were ecstatic.

From my point of view, all the things that I tried to help Kristen with and help her to be a better

* * *

[ER 483]

**FACULTY EMPLOYMENT
AGREEMENT—ELEMENTARY**

**Exempt Full Time
Department of Catholic Schools
Archdiocese of Los Angeles**

Name of School: St. James

Name of Teacher: Kristen Biel

Start Date: August 26, 2013

End Date: June 30, 2014

1. Term. The School (“School”) and you (the “Teacher”) make this Employment Agreement (“Agreement”), effective on the date below, for the work period shown above (the “Term”), for you to serve as a member of our faculty.

2. Philosophy. It is understood that the mission of the School is to develop and promote a Catholic School Faith Community within the philosophy of Catholic education as implemented at the School, and the doctrines, laws and norms of the Catholic Church. All duties and responsibilities of the Teacher shall be performed within this overriding commitment.

3. Duties. Your duties shall be those of a full-time or part-time faculty member as specified in the Compensation and Benefits Supplement which is an integral part of this Agreement. You shall use your best professional efforts and skills to perform your duties in a diligent, energetic, competent, and ethical manner, consistent with the School’s established philosophy and its policies, directives and expected practices. You acknowledge and agree that the School re-

tains the right to operate within the philosophy of Catholic education and to retain teachers who demonstrate an ability to develop and maintain a Catholic School Faith Community. You understand and accept that the values of Christian charity, temperance and tolerance apply to your interactions with your supervisors, colleagues, students, parents, staff and all others with whom you come in contact at or on behalf of the School. Accordingly, you are expected to model, teach, and promote behavior in conformity to the teaching of the Roman Catholic Church. Your duties shall include careful preparation and planning for each class consistent with School and departmental curriculum; diligent review and evaluation of student work and related communication to students and parents; and conferring with students, the administration, and parents as needed regarding each student's progress and development. You also shall attend faculty/staff meetings and conferences, including those prior to and following the School's regular academic year, participate in School activities including School liturgical activities, as requested, and complete other duties as assigned. You agree to maintain the levels of competency in subject matter, teaching methods, classroom management, and student supervision required by the School whether on your own initiative or at the direction of the School. Your duties and job assignment may be revised during the Term to meet the School's needs. In the event the School's operations are extended by reason of fire, disaster, act of God, act of public authority or any other necessity or emergency cause, your services may be suspended for the time period and rescheduled as needed to complete the full School year.

4. Policies. You shall be familiar with, and comply with the School's personnel policies and procedures as they may be adopted or amended from time-to-time, including policies in the faculty handbook. You should refer to such documents for information relating to your employment, duties, and benefits. You shall be familiar with, abide by, and assist and cooperate with School administration in enforcing, the School's policies for students and families whether outlined in our handbook(s), our School policies, or other directives and expected practices (together "Policies"). You acknowledge that a copy of the faculty handbook has been made available to you. You understand and acknowledge that the policies do not constitute a contractual agreement with you.

5. Introductory Period. There is an introductory period for a newly hired or transferred teacher. The introductory period is a minimum of 90 calendar days, and may be extended, in writing, for up to another 90 calendar days at the discretion of the principal. During the introductory period this Agreement is at will; therefore, it can be terminated at any time, for any reason, without any notice. The Principal shall complete a performance appraisal at the end of the introductory period. Upon satisfactory completion of [ER 484] the introductory period, employment will be continued through any remaining term of this Agreement except as noted under "Termination."

6. Termination. Your employment, and this Agreement, may be terminated during the Term without payment of salary or benefits beyond such date of termination, for any of the following reasons:

- I. The School may terminate for "cause" without any prior notice. Such "cause" shall be determined

by the School within its reasonable judgment and shall include but not be limited to:

- a) Failure to meet any of your duties as described in Paragraphs 3 and 4 above.
- b) Inappropriate physical or social contact with students during school or otherwise.
- c) Unprofessional or unethical conduct, insubordination, unauthorized disclosure of confidential information or habitual or unreasonable tardiness or absence from duties.
- d) Any criminal, immoral or unethical conduct that relates to your duties as a teacher or brings discredit upon the school or the Roman Catholic Church.
- e) Unauthorized possession of, or working under the influence of, illegal drugs, intoxicants, or alcohol.
- f) Threatening or causing bodily harm to others or other coercive and or intimidating acts, or any verbal or physical harassment.
- g) Having a diploma, credential, permit, license or certificate denied, revoked or suspended.
- h) Falsification of documents, false or misleading information on an application, resume, personnel record, professional or character reference, academic transcript, degree or credential.
- i) Any other breach of the terms of this Agreement.

II. Either you or the School may terminate this Agreement without cause, for any reason within the sole discretion of the terminating party, upon 30 calendar days' prior written notice to the other party in a manner that is consistent with applicable law and on a time frame that is mutually agreeable to you and the Principal. However, you may not terminate employment under this Agreement if the termination is effective during the 30 days immediately prior to the beginning of the school year except by mutual agreement with the Principal. You acknowledge that a breach by you of this provision is a grave ethical violation, may harm the educational program for the students and may cause expenses and damages to the School.

III. The School may terminate your employment if you are unable to perform the essential functions of your position and reasonable accommodation is not available or required under applicable laws.

The School's failure to invoke its right of termination on one occasion for the occurrence of a matter constituting a basis for discharge shall not affect the right of the School to invoke discharge when the same or a different basis for termination arises at a later date.

7. Renewal. Future employment will be determined on a year-to-year-basis. It is agreed that you will give written notice to the School, on or before April 1, 20__, stating whether or not you wish to renew the Agreement. The School will give you written notice, or before May 15, 20__, stating whether or not it intends to renew the Agreement for the following year. In the absence of a notice by either party, this agreement will lapse under its own terms. The Prin-

cial alone, with the approval of the Pastor, has the final and sole authority with respect to offering contracts. This Agreement is contingent upon sufficient School enrollment and the School's financial condition. If the enrollment or the School's financial condition does not justify the staffing, the Principal has discretionary power to make decisions regarding personnel reduction including, but not limited to, modification or cancellation of this Agreement. Notwithstanding this, if the School closes for any reason, this Agreement will be considered terminated on the date of the closure. You understand that tenure is not granted by Archdiocesan Schools and upon expiration or termination of the Agreement for any reason you shall have no right to

[ER 485]

**FACULTY COMPENSATION AND BENEFITS
SUPPLEMENT**

**Elementary—Exempt Full Time
Department of Catholic Schools
Archdiocese of Los Angeles**

13. School Day and Work Schedule.

Full Time Faculty

As a full time teacher, you understand that there will be approximately 8 hours of work at the School each regular class day. You will also devote additional time to other assigned school responsibilities and in preparation and assessment activities at hours not during the regular class day. The School's regular class day is from 7:30 a.m. to 3:45 p.m.

14. Base Compensation.

Base Salary: \$34,970

15. Additional Compensation For Designated Responsibilities (If Any):

Note: Calculations and Additional Compensation for designated responsibility are based on anticipated time commitment and skills.

<u>Responsibility</u>	<u>Additional Compensation</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____

Total Additional Compensation: \$ _____

16. Payment Schedule.

Compensation for all faculty will be distributed on a semi-monthly/bi-weekly schedule beginning August 30, 2013 and ending June 20, 2014.

34,970/22

17. Education And Professional Growth Requirements:

In accordance with the regulations for salary placement and professional growth requirements, you agree that you will complete the following requirements to be eligible to be offered an employment agreement for the next school year.

- _____
- _____
- Enroll in California Testing Credential program.
- Complete at least _____ unites toward a Christian Teaching Credential.

- California Teaching Credential program must be completed by July 1, 20__ for an Elementary School Faculty Employment Agreement to be offered for the 20__—20__ academic year.

18. Available Benefits.

See Department of Catholic Schools Lay Employees Benefit Guide.

[ER 486] employment or preferential treatment regarding employment at any other Archdiocesan School. There is no implied duty by you or the School to renew this Agreement, and no cause whatsoever is required by either party for non-renewal. Any other arrangement with respect to respect to renewal, extension or duration of employment is valid only if in writing, executed by you and the Principal, with the approval of the Pastor.

8. Severability. If, for any reason, any one or more of the provisions of this Agreement shall be held or deemed to be legally invalid or unenforceable, that shall not have any effect on any of the other provisions of this Agreement, all of which shall remain in full force and effect.

9. Entire Agreement. This Agreement and the attached Compensation and Benefits Supplement contain the complete and entire agreement between you and the School, and it supersedes all prior offers, agreements, commitments, understandings, whether oral or written. No changes to this Agreement may be made except by a document signed by you and the Principal, with the approval of the Pastor.

10. Applicable Law. This Agreement in [sic] entered into under, and governed by the laws of the State of California.

11. Dispute Resolution and Grievances. You and the School agree to attempt to resolve any disputes in good faith. Any unresolved dispute between you and the School arising out of or in any way related to your employment or the termination thereof, shall be subject to the Grievance Procedures promulgated by the Archdiocesan Department of Catholic Schools and no legal actions may be taken until all procedures have been fully discharged. This clause is intended to provide a speedy, economical and exclusive forum for resolving claims; its existence shall not imply any limitations upon the School's right to manage its affairs or terminate any employment.

12. Condition Precedent. It is agreed that a condition precedent of this Agreement is the receipt of the Criminal Record Summary report from the California Department of Justice and the Federal Bureau of Investigation, the completion of the I-9 Form from the Immigration and Naturalization Service, and the completion of the other relevant health and document requirements of the school.

By: /s/Sister Mary Margaret
Principal's Signature

Sr. Mary Margaret
Print Name

5/28/2013
Date

I accept a position as Grade 5 Teacher at St. James School School [sic] on each and all of the terms and

conditions set forth in the above Agreement and the attached Compensation and Benefits Supplement.

By: /s/Kristen Biel Kristen Biel 5/25/13
Teacher's Signature Print Name Date

By: /s/Msg. Michael Meyers Msg. Michael Meyers
Pastor's Signature Print Name

5/28/13
Date

[ER 487]

Sick Day: Full-time Faculty: 10 days per school year.

/s/Sister Mary Margaret Sr. Mary Margaret
Principal's Signature Print Name

5/28/2013
Date

/s/Kristen Biel Kristen Biel 5/25/13
Teacher's Signature Print Name Date

/s/Msg. Michael Meyers Msg. Michael Meyers
Pastor's Signature Print Name

5/28/13
Date

JA 330

[ER 502]

ST.JAMES CATHOLIC SCHOOL

4625 Garnet St.
Torrance, CA 90503
(310) 371-0416

May15, 2014

Dear Kristen,

At this time I am not prepared to offer you a contract for the 2014-2015 school year at St James School.

We have had many conversations about your classroom management. I have tried to offer suggestions, which I thought would help you. They haven't seemed to work.

I do think that you are better suited for a position in the primary grades. You have agreed with me. Unfortunately, I do not have a primary position available.

I wish you the very best!

Sincerely,

/s/Sr. Mary Margaret
Sister Mary Margaret
Principal

**DECLARATION OF
MARY MARGARET KREUPER**

* * *

[ER 666]

School's overriding commitment to developing its faith. Accordingly, it is my preference that the teachers at St. James are practicing Catholics. Further, as stated in each agreement, each teacher is employed on an annual basis with no guarantee of renewal of the employment agreement for the following year. The Principal alone has the sole discretion with respect to renewing or offering employment contracts. The employment contract states that the School will give written notice on May 15 of the present school year regarding whether it intends to offer a new employment contract to the teacher for the following school year. Attached hereto as Exhibit A-1 is a true and correct copy of the employment agreement that governed Plaintiff's employment for the 2013-2014 school year.

6. The job duties for every teacher are outlined in each employment agreement. Each teacher is expected to "model, teach, and promote behavior in conformity to the teaching the Roman Catholic Church." As stated in every teacher employment agreement at St. James Catholic School, every teacher is expected to model and promote behavior in conformity to the teachings of the Catholic Church in faith and morals. Further, it is every teacher's duty to develop, promote, and implement the Catholic faith through their daily teachings.

7. Plaintiff taught the subject of Religion to her students at least four days a week. She was required to

dedicate a minimum of 200 minutes every week to the subject of Religion. The curriculum for the Religion course was grounded upon the norms and doctrines of the Catholic Faith, including the sacraments of the Catholic Church, social teachings according to the Catholic Church, morality, the history of Catholic saints, Catholic prayers, and the overall Catholic way of life. Plaintiff was required to teach her Religion course from the textbook entitled "Coming to God's Life." Attached hereto as Exhibit A-2 is a true and correct copy of the cover page and table of contents of the textbook.

8. Moreover, Plaintiff was required to incorporate Catholic values and traditions throughout all subject areas, not just during the Religion course. In fact, **[ER 667]** two requirements included in all standard teacher evaluation reports for the school were 1) incorporating "signs, sacramental, traditions of the Roman Catholic Church in the classroom," and 2) infusing "Catholic values through all subject areas." During the 2013-2014 school year, I evaluated Plaintiff on her ability to incorporate these factors while she taught the subject of Math. Attached hereto as Exhibit A-3 is a true and correct copy of the evaluation report I completed for Plaintiff on November 12, 2013.

9. During the 2013-2014 school year, every teacher at St. James, including Plaintiff, was required to pray with their students every day. In addition, Plaintiff was required to accompany her students to Mass once a month.

10. In order to prepare teachers as religious educators and to develop their skills, I required each teacher, including Plaintiff, to attend a Catholic education

conference every other year called the Los Angeles Religious Education Congress. At this conference, the teachers learned different methods and techniques in incorporating God into their teachings in order to enable them to become better religious educators.

11. Throughout the 2013-2014 school year, I instructed Plaintiff to follow certain teaching methods and practices that were consistent with St. James' teaching philosophy. I counseled Plaintiff on numerous occasions regarding these issues, which included classroom management, test-taking procedures, and homework policy. For instance, at St. James School, students were not permitted to re-take exams in order to obtain a higher grade on the exam. However, I learned that Plaintiff allowed her students to re-take exams if they were not satisfied with their prior grade on the exam.

12. I also required Plaintiff to inform the parents of the students' test schedule so that they could help the students prepare for the tests. However, I learned that Plaintiff failed to communicate the students' test schedule to the parents.

13. In preparation for exams, Plaintiffs' students were required to complete

* * *

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Attorneys for Plaintiff
KRISTEN BIEL

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

KRISTEN BIEL,
an individual,
Plaintiff,

vs.

ST. JAMES SCHOOL,
A CORP, a California
non-profit corporation;
and DOES 1-50,
inclusive,
Defendants.

Case No.:

COMPLAINT FOR:

1. DISCRIMINATION IN
VIOLATION OF THE
ADA;
2. RETALIATION IN
VIOLATION OF THE
ADA;
3. FAILURE TO
ACCOMMODATE IN
VIOLATION OF THE
ADA;
4. FAILURE TO
ENGAGE IN THE
INTERACTIVE

PROCESS IN
VIOLATION OF THE
ADA;
5. FAILURE TO
PREVENT IN
VIOLATION OF THE
ADA; and
6. WRONGFUL
TERMINATION IN
VIOLATION OF THE
ADA.

DEMAND FOR
JURY TRIAL

Plaintiff, KRISTEN BIEL, hereby brings her employment complaint against the above-named Defendants and states and alleges as follows:

JURISDICTION AND VENUE

1. This is an employment lawsuit, brought pursuant to 42 U.S.C. § 12101 et. seq. to remedy violations of the Americans with Disabilities Act of 1990 (“ADA”).
2. This Court has original federal question jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Plaintiff alleges violations of the laws of the United States of America.
3. The venue is appropriate since the actions giving rise to this lawsuit occurred in Los Angeles County, California, which is located within this district.

THE PARTIES

4. At all times mentioned herein, Plaintiff KRISTEN BIEL was a resident of the State of California.

5. At all times mentioned herein, Defendant ST. JAMES SCHOOL, A CORP was a California non-profit corporation that operated St. James Catholic School, a private school, located at 4625 Garnet Street, Torrance, California 90503.

6. The true names and capacities, whether individual, corporate, associate or otherwise of DOES 1 through 50 are unknown to Plaintiff who therefore sues these defendants under said fictitious names. Plaintiff is informed and believes that each of the defendants named as a Doe defendant is legally responsible in some manner for the events referred to in this Complaint, is either negligently, willfully, wantonly, recklessly, tortiously, strictly liable, statutorily liable or otherwise, for the injuries and damages described below to this Plaintiff. Plaintiff will in the future seek leave of this court to show the true names and capacities of these Doe defendants when it has been ascertained.

7. Plaintiff is informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent to this action as the agent of the other defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendants.

8. Hereinafter in the Complaint, unless otherwise specified, reference to a Defendant or Defendants shall refer to all Defendants, and each of them.

ALLEGATIONS

9. Plaintiff commenced employment with Defendant as a long term substitute teacher for the first grade in or around February 2013.

10. In or around June 2013, Defendant hired Plaintiff to be a permanent teacher of the fifth grade for the 2013-2014 school year.

11. On or about March 1, 2014, Defendant presented Plaintiff with a notice of intent form to return to teach for the 2014-2015 school. Plaintiff immediately returned this form indicating her intent to return to teach.

12. Unfortunately, on or about April 24, 2014, Plaintiff was diagnosed with breast cancer. Within days of her diagnosis, Plaintiff informed Defendant's principal, Sister Mary Margaret, of her diagnosis and that she would need a finite leave of absence from work, starting on or about May 23, 2014 and lasting until January 2015, so that Plaintiff's doctors could perform a double mastectomy and so that Plaintiff could undergo chemotherapy and radiation treatment.

13. On or about July 15, 2014, while Plaintiff was on a leave of absence, Sister Mary Margaret informed Plaintiff that she believed it was "unfair" to Plaintiff's potential students that Defendant accommodate her leave of absence accommodation request and that Plaintiff would not be placed back to work for Defendant, effectively terminating Plaintiff's employment.

14. Plaintiff is informed and believes, and thereon alleges, that Defendant terminated Plaintiff's employment because of her cancer and because it did not want to accommodate her finite leave of absence for no legitimate reason under the law.

**EXHAUSTION OF ADMINISTRATIVE
REMEDIES**

15. On December 15, 2014, Plaintiff filed charges with the Equal Employment Opportunity Commission (“EEOC”). Plaintiff received a “Right-To-Sue” letter from the EEOC on March 14, 2015. This Complaint is timely filed pursuant to that letter.

**FIRST CAUSE OF ACTION
DISCRIMINATION
IN VIOLATION OF THE ADA
(Against ALL Defendants)**

16. Plaintiff restates and incorporates herein paragraphs 1 through 15, inclusive, of this Complaint as though fully set forth herein.

17. Plaintiff is, and at all times material hereto was, an employee covered by the ADA. The ADA prohibits discrimination on the basis of disability, which includes cancer, in all employment practices.

18. Defendants are and were at all times material hereto, employers within the meaning of the ADA and, as such, were barred from discriminating in employment decisions on the basis of disabilities as set forth in the ADA.

19. Defendants have at all times relevant hereto regarded Plaintiff as having a disability within the meaning of the ADA. A “disability” means a [sic] “a physical or mental impairment that substantially limits one or more major life activities” of an individual. (42 U.S.C. § 12102(1)(A).) Major life activities include, but are not limited to, walking, standing, performing manual tasks, and working. (42 U.S.C. § 12102(2)(A).)

20. Defendants have continuously discriminated against Plaintiff on the basis of disability in violation of the ADA by continuously engaging in a course of conduct that included, but is not limited to, acts described in this complaint.

21. As a proximate result of Defendant's continuous discrimination against Plaintiff, Plaintiff has suffered and continues to suffer substantial losses in earnings, deferred compensation, and other employment benefits and has suffered and continues to suffer embarrassment, humiliation and mental anguish all to his damage in an amount according to proof.

22. As a result of Defendant's discriminatory acts as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as provided by 42 U.S.C. § 12205.

**SECOND CAUSE OF ACTION
RETALIATION IN VIOLATION OF THE ADA
(Against ALL Defendants)**

23. Plaintiff restates and incorporates herein paragraphs 1 through 22, inclusive, of this complaint as though fully set forth herein.

24. At all times herein mentioned, the ADA was in full force and effect and was binding on Defendants. The ADA prohibits retaliation against any person who engages in a protective activity.

25. Plaintiff engaged in protected activity by requesting reasonable accommodation for her disability. In response, Defendant terminated Plaintiff's employment and accused Plaintiff of being an unfit teacher.

26. Defendants' conduct as alleged above constituted unlawful retaliation.

27. As a proximate result of the aforesaid acts of Defendants, Plaintiff has suffered actual, consequential and incidental financial losses, including without limitation, loss of salary and benefits, and the intangible loss of employment related opportunities in her field and damage to her professional reputation, all in an amount subject to proof at the time of trial.

28. As a proximate result of the wrongful acts of Defendants, Plaintiff has suffered and continues to suffer emotional distress, humiliation, mental anguish and embarrassment, as well as the manifestation of physical symptoms. Plaintiff is informed and believes and thereupon alleges that she will continue to experience said physical and emotional suffering for a period in the future not presently ascertainable, all in an amount subject to proof at the time of trial.

29. As a proximate result of the wrongful acts of Defendants, Plaintiff has been forced to hire attorneys to prosecute her claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover attorneys' fees and costs under 42 U.S.C. § 12205.

THIRD CAUSE OF ACTION
FAILURE TO ACCOMMODATE
IN VIOLATION OF THE ADA
(Against ALL Defendants)

30. Plaintiff restates and incorporates herein paragraphs 1 through 29, inclusive, of this complaint as though fully set forth herein.

31. Although Defendants, and each of them, knew of Plaintiff's physical disabilities, Defendants, and each of them, refused to accommodate Plaintiff's disabilities. Defendants' actions were in direct contravention of the ADA.

32. Plaintiff alleges that with reasonable accommodations she could have fully performed all duties and functions of her job in an adequate, satisfactory and/or outstanding manner.

33. As a direct and legal result of Defendants refusal to accommodate Plaintiff, Plaintiff has suffered and continues to suffer general and special damages including but not limited to substantial losses in earnings, other employment benefits, physical injuries, physical sickness, as well as emotional distress, all to her damage in an amount according to proof.

34. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff has been forced to hire attorneys to prosecute her claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover attorneys' fees and costs under 42 U.S.C. § 12205.

FOURTH CAUSE OF ACTION
FAILURE TO ENGAGE IN THE INTERACTIVE
PROCESS IN VIOLATION OF THE ADA
(Against ALL Defendants)

35. Plaintiff restates and incorporates herein paragraphs 1 through 34, inclusive, of this complaint as though fully set forth herein.

36. The ADA provides that it is unlawful for an employer to fail to engage in a timely, good faith, interactive process with the employee to determine effective reasonable accommodations, if any.

37. Defendants failed to engage in a timely, good faith, interactive with Plaintiff to determine effective reasonable accommodations for Plaintiff's known disability, and instead Defendants terminated Plaintiff's employment while she was on a leave of absence.

38. As a proximate result of the wrongful conduct of Defendants, and each of them, Plaintiff has suffered and continues to sustain substantial losses in earnings and other employment benefits in an amount according to proof at the time of trial.

39. As a direct and legal result of Defendants' actions, Plaintiff has suffered and continues to suffer general and special damages including but not limited to substantial losses in earnings, other employment benefits and emotional distress, all to his damage in an amount according to proof.

40. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff has been forced to hire attorneys to prosecute her claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover attorneys' fees and costs under 42 U.S.C. 12205.

FIFTH CAUSE OF ACTION
FAILURE TO PREVENT
IN VIOLATION OF THE ADA
(Against ALL Defendants)

41. Plaintiff restates and incorporates herein paragraphs 1 through 40, inclusive, of this complaint as though fully set forth herein.

42. At all times herein mentioned, the ADA was in full force and effect and was binding on Defendants. Plaintiff is, and at all times material hereto was, an employee covered by the ADA prohibiting discrimination in employment on the basis of disabilities.

43. Defendants failed to take immediate and appropriate corrective action to end the discrimination against Plaintiff. Defendants also failed to take all reasonable steps necessary to prevent the discrimination from occurring.

44. In failing and/or refusing to take immediate and appropriate corrective action to end the discrimination and in failing and/or refusing to take and or all reasonable steps necessary to prevent discrimination from occurring, Defendants violated the ADA causing Plaintiff to suffer damages as set forth above.

45. As a proximate result of the aforesaid acts of Defendants, and each of them, Plaintiff has suffered actual, consequential and incidental financial losses, including without limitation, loss of salary and benefits, and the intangible loss of employment related opportunities in her field and damage to her professional reputation, all in an amount subject to proof at the time of trial.

46. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff has suffered and continues to suffer emotional distress, humiliation, mental anguish and embarrassment, as well as the manifestation of physical symptoms. Plaintiff is informed and believes and thereupon alleges that she will continue to experience said physical and emotional suffering for a period in the future not presently ascertainable, all in an amount subject to proof at the time of trial.

47. As a proximate result of the wrongful acts of Defendants, Plaintiff has been forced to hire attorneys to prosecute her claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover attorneys' fees and costs under 42 U.S.C. § 12205.

SIXTH CAUSE OF ACTION
WRONGFUL TERMINATION
IN VIOLATION OF THE ADA
(Against ALL Defendants)

48. Plaintiff restates and incorporates herein paragraphs 1 through 47, inclusive, of this complaint as through fully set forth herein.

49. At all times herein mentioned, the ADA was in full force and effect and was binding on Defendants.

50. The actions Defendants, and each of them, in terminating Plaintiff on the grounds alleged and described herein were wrongful and in contravention of the ADA and the laws and regulations promulgated thereunder.

51. As a proximate result of the aforesaid acts of Defendants, and each of them, Plaintiff has suffered actual, consequential and incidental financial losses, including without limitation, loss of salary and benefits, and the intangible loss of employment related opportunities in her field and damage to her professional reputation, all in an amount subject to proof at the time of trial.

52. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff has suffered and continues to suffer emotional distress, humiliation, mental anguish and embarrassment, as well as the manifestation of physical symptoms. Plaintiff is informed and believes and thereupon alleges that she will continue to experience said physical and emotional suffering for a period in the future not presently ascertainable, all in an amount subject to proof at the time of trial.

53. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff has been forced to hire attorneys to prosecute her claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover attorneys' fees and costs under 42 U.S.C. § 12205.

WHEREFORE, Plaintiff prays for judgment as follows:

1. For general damages, according to proof;
2. For medical expenses and related items of expenses, according to proof;
3. For loss of earnings, according to proof;
4. For attorneys' fees, according to proof;
5. For prejudgment interest, according to proof;

JA 346

6. For costs of suit incurred herein; and
7. For such other relief and the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

DATED: Friday, June 5, 2015

JML LAW, A Professional Law Corporation

By: /s/ D. Aaron Brock
JOSEPH M. LOVRETOVICH
D. AARON BROCK
Attorneys for Plaintiff

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Attorneys for Defendant ST. JAMES CATHOLIC
SCHOOL (erroneously sued herein as St. James
School, a corp.)

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

KRISTEN BIEL,
an individual,
Plaintiff,

vs.

ST. JAMES SCHOOL,
A CORP, a California
non-profit corporation
and DOES 1-50,
inclusive,
Defendants.

Case No.: 2:15-cv-04248
TJH (ASx)

Assigned to: Hon. Terry J.
Hatter, Jr.

Magistrate Judge: Alka
Sagar

DEFENDANTS'
ANSWER TO
PLAINTIFF'S
COMPLAINT

Filed: 6/05/2015

COMES NOW, Defendant, ST. JAMES
CATHOLIC SCHOOL (erroneously sued herein as St.
James School, a corp.) and answers Plaintiff,
KRISTEN BIEL'S complaint for damages on file

herein for themselves and themselves alone, and admit, deny and allege as follows:

JURISDICTION AND VENUE

1. In answering paragraph 1-3, this answering Defendant admits that Plaintiff is ostensibly invoking jurisdiction of this district court under 28 U.S.C. § 1331. Except as so admitted, this answering Defendant lacks information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

THE PARTIES

2. In answering paragraph 4, this answering Defendant lacks information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

3. In answering paragraph 5, this answering Defendant generally admits that St. James Catholic School (hereinafter “St. James”) is and at all relevant times was a Catholic school located in Torrance, California. Except as so admitted, this answering Defendant lacks information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

4. In answering paragraph 6, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

5. In answering paragraph 7, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

6. In answering paragraph 8, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

7. In answering paragraph 9, this answering Defendant generally admits that Plaintiff was an employee at St. James. Except as so admitted, this answering Defendant lacks information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

ALLEGATIONS

8. In answering paragraph 9, this answering Defendant generally admits that Plaintiff was employed at St. James. Except as so admitted, this answering Defendant lacks information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

9. In answering paragraph 10, this answering Defendant generally admits that Plaintiff was employed at St. James. Except as so admitted, this answering Defendant lacks information and belief

sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

10. In answering paragraph 11, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

11. In answering paragraph 12, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

12. In answering paragraph 13, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

13. In answering paragraph 14, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

**EXHAUSTION OF ADMINISTRATIVE
REMEDIES**

14. In answering paragraph 15, this answering Defendant lacks sufficient information and belief

sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

FIRST CAUSE OF ACTION
DISCRIMINATION
IN VIOLATION OF THE ADA

15. In answering paragraph 16, this answering Defendant repeats and re-alleges herein its responses to paragraphs 1 through 15, inclusive, and incorporate the same herein by reference as though fully set forth at length.

16. In answering paragraph 17, this answering Defendant generally admits that the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., prohibits employers from discriminating against qualified individuals because of a disability. Except as so admitted, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

17. In answering paragraph 18, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

18. In answering paragraph 19, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and

specifically each and every allegation contained therein.

19. In answering paragraph 20, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

20. In answering paragraph 21, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

21. In answering paragraph 22, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

SECOND CAUSE OF ACTION
RETALIATION IN VIOLATION OF THE ADA

22. In answering paragraph 23, this answering Defendant repeats and re-alleges herein its responses to paragraphs 1 through 22, inclusive, and incorporate the same herein by reference as though fully set forth at length.

23. In answering paragraph 24, this answering Defendant generally admits that the ADA “prohibits retaliation against any person who engages in a protective activity.” Except as so admitted, this answering Defendant lacks sufficient information and

belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

24. In answering paragraph 25, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

25. In answering paragraph 26, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

26. In answering paragraph 27, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

27. In answering paragraph 28, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

28. In answering paragraph 29, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and

specifically each and every allegation contained therein.

THIRD CAUSE OF ACTION
FAILURE TO ACCOMMODATE
IN VIOLATION OF THE ADA

29. In answering paragraph 30, this answering Defendant repeats and re-alleges herein its responses to paragraphs 1 through 29, inclusive, and incorporate the same herein by reference as though fully set forth at length.

30. In answering paragraph 31, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

31. In answering paragraph 32, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

32. In answering paragraph 33, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

33. In answering paragraph 34, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and

specifically each and every allegation contained therein.

FOURTH CAUSE OF ACTION
**FAILURE TO ENGAGE IN THE INTERACTIVE
PROCESS IN VIOLATION OF THE ADA**

34. In answering paragraph 35, this answering Defendant repeats and re-alleges herein its responses to paragraphs 1 through 34, inclusive, and incorporate the same herein by reference as though fully set forth at length.

35. In answering paragraph 36, this answering Defendant generally admits that the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., provides that “it is unlawful for an employer to fail to engage in a timely, good faith, interactive process with the employee to determine effective reasonable accommodations, if any.”

36. In answering paragraph 37, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

37. In answering paragraph 38, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

38. In answering paragraph 39, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its

denial on that ground, denies generally and specifically each and every allegation contained therein.

39. In answering paragraph 40, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

FIFTH CAUSE OF ACTION
FAILURE TO PREVENT
IN VIOLATION OF THE ADA

40. In answering paragraph 41, this answering Defendant repeats and re-alleges herein its responses to paragraphs 1 through 40, inclusive, and incorporate the same herein by reference as though fully set forth at length.

41. In answering paragraph 42, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

42. In answering paragraph 43, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

43. In answering paragraph 44, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its

denial on that ground, denies generally and specifically each and every allegation contained therein.

44. In answering paragraph 45, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

45. In answering paragraph 46, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

46. In answering paragraph 47, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

SIXTH CAUSE OF ACTION
WRONGFUL TERMINATION
IN VIOLATION OF THE ADA

47. In answering paragraph 48, this answering Defendant repeats and re-alleges herein its responses to paragraphs 1 through 47, inclusive, and incorporate the same herein by reference as though fully set forth at length.

48. In answering paragraph 49, this answering Defendant generally admits that the ADA was “in full force and effect.” Except as so admitted, this

answering Defendant denies generally and specifically each and every allegation contained therein.

49. In answering paragraph 50, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

50. In answering paragraph 51, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

51. In answering paragraph 52, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

52. In answering paragraph 53, this answering Defendant lacks sufficient information and belief sufficient to enable it to answer thereto and basing its denial on that ground, denies generally and specifically each and every allegation contained therein.

FIRST AFFIRMATIVE DEFENSE

53. Plaintiff's operative complaint fails to state facts sufficient to constitute a cause of action against this answering Defendant.

SECOND AFFIRMATIVE DEFENSE

54. Because Plaintiff's operative complaint is couched in conclusory terms, this answering Defendant cannot fully anticipate all of the affirmative defenses that may be applicable to the action, accordingly, the right to assert additional affirmative defenses, if and to the extent that such affirmative defenses are applicable, is hereby reserved.

THIRD AFFIRMATIVE DEFENSE

55. Plaintiff has failed to mitigate her damages, which damages are denied to exist.

FOURTH AFFIRMATIVE DEFENSE

56. Defendant alleges that all claims are barred in whole or in part by the applicable statute of limitations.

FIFTH AFFIRMATIVE DEFENSE

57. Plaintiff's causes of action are barred in whole or in part by the doctrine of waiver.

SIXTH AFFIRMATIVE DEFENSE

58. Plaintiff's causes of action are barred in full or in part by the doctrine of estoppel.

SEVENTH AFFIRMATIVE DEFENSE

59. Plaintiff's causes of action are barred in whole or in part by the doctrine of unclean hands.

EIGHTH AFFIRMATIVE DEFENSE

60. Any compensatory damages are capped pursuant to 42 U.S.C. § 1981.

NINTH AFFIRMATIVE DEFENSE

61. Plaintiff's causes of action are barred because Plaintiff did not suffer an adverse employment action.

TENTH AFFIRMATIVE DEFENSE

62. The causes of action contained in Plaintiff's Complaint are barred by the doctrine of laches in that Plaintiff has unreasonably delayed in bringing these claims, and said delays have caused prejudice to this answering Defendant.

ELEVENTH AFFIRMATIVE DEFENSE

63. Plaintiff's causes of action are unfounded as the basis for the public policy asserted therein fails to support the claims and relief sought.

TWELFTH AFFIRMATIVE DEFENSE

64. Plaintiff's causes of action are barred by the fact that she was an at-will employee.

THIRTEENTH AFFIRMATIVE DEFENSE

65. Plaintiff's causes of action are unfounded as Plaintiff was not a qualified individual under the Americans with Disabilities Act (hereinafter "ADA").

FOURTEENTH AFFIRMATIVE DEFENSE

66. Plaintiff's Complaint is barred, in whole or in part by the business necessity defense.

FIFTEENTH AFFIRMATIVE DEFENSE

67. Plaintiff's Complaint is unfounded as Plaintiff's alleged disability was not substantially limiting within the meaning of the ADA.

SIXTEENTH AFFIRMATIVE DEFENSE

68. Plaintiff's Complaint is barred, in whole or in party, by the after-acquired evidence rule.

SEVENTEENTH AFFIRMATIVE DEFENSE

69. Plaintiff's causes of action are barred because she failed to exhaust administrative remedies.

EIGHTEENTH AFFIRMATIVE DEFENSE

70. Plaintiff's causes of action are barred because this answering defendant provided a reasonable accommodation.

NINETEENTH AFFIRMATIVE DEFENSE

71. Plaintiff's causes of action are barred because providing the requested accommodation would have imposed an undue hardship on this answering defendant.

TWENTIETH AFFIRMATIVE DEFENSE

72. Plaintiff's causes of action are barred because providing the requested accommodation would have caused an administrative hardship on this answering defendant.

TWENTY-FIRST AFFIRMATIVE DEFENSE

73. Plaintiff's causes of action are barred by the ministerial exception.

TWENTY-SECOND AFFIRMATIVE DEFENSE

74. Plaintiff's causes of action are barred because Plaintiff could not conduct the essential functions of her job.

TWENTY-THIRD AFFIRMATIVE DEFENSE

75. That at all time mentioned herein, the conduct of Plaintiff was willful and wrong and in violation of her duty of good faith and fair dealing.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

76. Plaintiff's wrongful termination cause of action is barred because there exists no cause of action for tortious non-renewal of contract.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

77. Plaintiff's causes of action for retaliation are barred because she cannot establish she was engaging in a protected activity.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

78. Plaintiff's causes of action are barred by the Avoidable Consequences Doctrine.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

79. Upon information and belief, Defendants' alleged obligations, if any, were excused.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

80. Plaintiff's operative complaint, and each cause of action therein, is barred because the acts complained of were undertaken in good faith in that Defendants acted in a manner authorized and/or required by the applicable law, which controls Plaintiff's rights, if any, with regard to the matters alleged in the operative complaint.

TWENTY-NINTH AFFIRMATIVE DEFENSE

81. Plaintiff's punitive damages prayer is improper given that there is no evidence of malice, oppression or fraud.

THIRTIETH AFFIRMATIVE DEFENSE

82. Plaintiff is not entitled to recover attorney's fees in this action.

THIRTY-FIRST AFFIRMATIVE DEFENSE

83. Plaintiff is not entitled to recover statutory damages in this action.

THIRTY-SECOND AFFIRMATIVE DEFENSE

84. As discovery progresses, other defenses may become apparent or available. Defendants reserve the right to assert other defenses as they become apparent or available and to amend this answer accordingly. No defense is being knowingly or intentionally waived.

WHEREFORE, the answering Defendant prays:

1. That Plaintiff takes nothing by virtue of her Complaint on file herein;
2. For costs of suit incurred herein and attorney's fees as allowed by law; and
3. For such other and further relief as the Court deems just and proper.

DATED: July 21, 2015

SULLIVAN, BALLOG & WILLIAMS, LLP

By: /s/ Daniel R. Sullivan

Daniel R. Sullivan

Nikki Fermin

Attorneys for Defendant ST. JAMES CATHOLIC
SCHOOL (erroneously sued herein as St. James
School, a corp.)

DEMAND FOR JURY TRIAL

Defendant, ST. JAMES CATHOLIC SCHOOL, hereby demands a trial by jury in the above-referenced matter.

DATED: July 22, 2015

/s/ Daniel R. Sullivan

Daniel R. Sullivan

Nikki Fermin

SULLIVAN, BALLOG &

WILLIAMS, LLP

Attorneys for Defendant

ST. JAMES CATHOLIC

SCHOOL (erroneously sued

herein as St. James School,

a corp.)

* * *

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Attorneys for Plaintiff
KRISTEN BIEL

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

KRISTEN BIEL,
an individual,
Plaintiff,

vs.

ST. JAMES SCHOOL,
A CORP, a California
non-profit corporation;
ST. JAMES
CATHOLIC SCHOOL,
a California non-profit
corporation; and DOES
2-50, inclusive,
Defendants.

Case No.: 2:15-cv-04248
TJH (ASx)

Assigned to: Hon. Terry J.
Hatcher, Jr.
Magistrate Judge: Hon.
Alka Sagar

FIRST AMENDED
COMPLAINT FOR:

1. DISCRIMINATION IN
VIOLATION OF THE
ADA;
2. RETALIATION IN
VIOLATION OF THE
ADA;

3. FAILURE TO
ACCOMMODATE IN
VIOLATION OF THE
ADA;
4. FAILURE TO
ENGAGE IN THE
INTERACTIVE
PROCESS IN
VIOLATION OF THE
ADA;
5. FAILURE TO
PREVENT IN
VIOLATION OF THE
ADA; and
6. WRONGFUL
TERMINATION IN
VIOLATION OF THE
ADA.

DEMAND FOR
JURY TRIAL

Plaintiff, KRISTEN BIEL, hereby brings her employment complaint against the above-named Defendants and states and alleges as follows:

JURISDICTION AND VENUE

1. This is an employment lawsuit, brought pursuant to 42 U.S.C. § 12101 et. seq. to remedy violations of the Americans with Disabilities Act of 1990 (“ADA”).
2. This Court has original federal question jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Plaintiff alleges violations of the laws of the United States of America.

3. The venue is appropriate since the actions giving rise to this lawsuit occurred in Los Angeles County, California, which is located within this district.

THE PARTIES

4. At all times mentioned herein, Plaintiff KRISTEN BIEL was a resident of the State of California.

5. At all times mentioned herein, Defendant ST. JAMES SCHOOL, A CORP was a California non-profit corporation that operated St. James Catholic School, a private school, located at 4625 Garnet Street, Torrance, California 90503.

6. Upon the filing of the complaint, Plaintiff being ignorant of the true name of Defendant, and having designated Defendant under the fictitious names of "DOE 1" and having discovered the true name of Defendant to be ST. JAMES CATHOLIC SCHOOL amends the complaint by substituting the true name for the fictitious name. Plaintiff is informed and believes, and based thereon alleges, that Defendant St. James Catholic School is a California non-profit corporation that operated St. James Catholic School, a private school, located at 4625 Garnet Street, Torrance, California 90503.

7. The true names and capacities, whether individual, corporate, associate or otherwise of DOES 2 through 50 are unknown to Plaintiff who therefore sues these defendants under said fictitious names. Plaintiff is informed and believes that each of the defendants named as a Doe defendant is legally responsible in some manner for the events referred to in this Complaint, is either negligently, willfully, wantonly, recklessly, tortiously, strictly liable, statutorily liable or otherwise, for the injuries and damages described

below to this Plaintiff. Plaintiff will in the future seek leave of this court to show the true names and capacities of these Doe defendants when it has been ascertained.

8. Plaintiff is informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent to this action as the agent of the other defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendants.

9. Hereinafter in the Complaint, unless otherwise specified, reference to a Defendant or Defendants shall refer to all Defendants, and each of them.

ALLEGATIONS

10. Plaintiff commenced employment with Defendants ST. JAMES SCHOOL, A CORP and/or ST. JAMES CATHOLIC SCHOOL (collectively “Defendant(s)” or “St. James”) as a long term substitute teacher for the first grade in or around February 2013.

11. In or around June 2013, Defendant hired Plaintiff to be a permanent teacher of the fifth grade for the 2013-2014 school year.

12. On or about March 1, 2014, Defendant presented Plaintiff with a notice of intent form to return to teach for the 2014-2015 school. Plaintiff immediately returned this form indicating her intent to return to teach.

13. Unfortunately, on or about April 24, 2014, Plaintiff was diagnosed with breast cancer. Within days of her diagnosis, Plaintiff informed Defendant’s principal, Sister Mary Margaret, of her diagnosis and that she

would need a finite leave of absence from work, starting on or about May 23, 2014 and lasting until January 2015, so that Plaintiff's doctors could perform a double mastectomy and so that Plaintiff could undergo chemotherapy and radiation treatment.

14. On or about July 15, 2014, while Plaintiff was on a leave of absence, Sister Mary Margaret informed Plaintiff that she believed it was "unfair" to Plaintiff's potential students that Defendant accommodate her leave of absence accommodation request and that Plaintiff would not be placed back to work for Defendant, effectively terminating Plaintiff's employment.

15. Plaintiff is informed and believes, and thereon alleges, that Defendant terminated Plaintiff's employment because of her cancer and because it did not want to accommodate her finite leave of absence for no legitimate reason under the law.

**EXHAUSTION OF ADMINISTRATIVE
REMEDIES**

16. On December 15, 2014, Plaintiff filed charges with the Equal Employment Opportunity Commission ("EEOC"). Plaintiff received a "Right-To-Sue" letter from the EEOC on March 14, 2015. This Complaint is timely filed pursuant to that letter.

FIRST CAUSE OF ACTION
DISCRIMINATION
IN VIOLATION OF THE ADA
(Against ALL Defendants)

17. Plaintiff restates and incorporates herein paragraphs 1 through 16, inclusive, of this Complaint as though fully set forth herein.

18. Plaintiff is, and at all times material hereto was, an employee covered by the ADA. The ADA prohibits discrimination on the basis of disability, which includes cancer, in all employment practices.

19. Defendants are and were at all times material hereto, employers within the meaning of the ADA and, as such, were barred from discriminating in employment decisions on the basis of disabilities as set forth in the ADA.

20. Defendants have at all times relevant hereto regarded Plaintiff as having a disability within the meaning of the ADA. A “disability” means a [sic] “a physical or mental impairment that substantially limits one or more major life activities” of an individual. (42 U.S.C. § 12102(1)(A).) Major life activities include, but are not limited to, walking, standing, performing manual tasks, and working. (42 U.S.C. § 12102(2)(A).)

21. Defendants have continuously discriminated against Plaintiff on the basis of disability in violation of the ADA by continuously engaging in a course of conduct that included, but is not limited to, acts described in this complaint.

22. As a proximate result of Defendant’s continuous discrimination against Plaintiff, Plaintiff has suffered

and continues to suffer substantial losses in earnings, deferred compensation, and other employment benefits and has suffered and continues to suffer embarrassment, humiliation and mental anguish all to his damage in an amount according to proof.

23. As a result of Defendant's discriminatory acts as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as provided by 42 U.S.C. § 12205.

SECOND CAUSE OF ACTION
RETALIATION IN VIOLATION OF THE ADA
(Against ALL Defendants)

24. Plaintiff restates and incorporates herein paragraphs 1 through 23, inclusive, of this complaint as though fully set forth herein.

25. At all times herein mentioned, the ADA was in full force and effect and was binding on Defendants. The ADA prohibits retaliation against any person who engages in a protective activity.

26. Plaintiff engaged in protected activity by requesting reasonable accommodation for her disability. In response, Defendant terminated Plaintiff's employment and accused Plaintiff of being an unfit teacher.

27. Defendants' conduct as alleged above constituted unlawful retaliation.

28. As a proximate result of the aforesaid acts of Defendants, Plaintiff has suffered actual, consequential and incidental financial losses, including without limitation, loss of salary and benefits, and the intangible loss of employment related opportunities in her field and damage to her

professional reputation, all in an amount subject to proof at the time of trial.

29. As a proximate result of the wrongful acts of Defendants, Plaintiff has suffered and continues to suffer emotional distress, humiliation, mental anguish and embarrassment, as well as the manifestation of physical symptoms. Plaintiff is informed and believes and thereupon alleges that she will continue to experience said physical and emotional suffering for a period in the future not presently ascertainable, all in an amount subject to proof at the time of trial.

30. As a proximate result of the wrongful acts of Defendants, Plaintiff has been forced to hire attorneys to prosecute her claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover attorneys' fees and costs under 42 U.S.C. § 12205.

THIRD CAUSE OF ACTION
FAILURE TO ACCOMMODATE
IN VIOLATION OF THE ADA
(Against ALL Defendants)

31. Plaintiff restates and incorporates herein paragraphs 1 through 30, inclusive, of this complaint as though fully set forth herein.

32. Although Defendants, and each of them, knew of Plaintiff's physical disabilities, Defendants, and each of them, refused to accommodate Plaintiff's disabilities. Defendants' actions were in direct contravention of the ADA.

33. Plaintiff alleges that with reasonable accommodations she could have fully performed all

duties and functions of her job in an adequate, satisfactory and/or outstanding manner.

34. As a direct and legal result of Defendants refusal to accommodate Plaintiff, Plaintiff has suffered and continues to suffer general and special damages including but not limited to substantial losses in earnings, other employment benefits, physical injuries, physical sickness, as well as emotional distress, all to her damage in an amount according to proof.

35. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff has been forced to hire attorneys to prosecute her claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover attorneys' fees and costs under 42 U.S.C. § 12205.

FOURTH CAUSE OF ACTION
FAILURE TO ENGAGE IN THE INTERACTIVE
PROCESS IN VIOLATION OF THE ADA
(Against ALL Defendants)

36. Plaintiff restates and incorporates herein paragraphs 1 through 35, inclusive, of this complaint as though fully set forth herein.

37. The ADA provides that it is unlawful for an employer to fail to engage in a timely, good faith, interactive process with the employee to determine effective reasonable accommodations, if any.

38. Defendants failed to engage in a timely, good faith, interactive with Plaintiff to determine effective reasonable accommodations for Plaintiff's known disability, and instead Defendants terminated

Plaintiff's employment while she was on a leave of absence.

39. As a proximate result of the wrongful conduct of Defendants, and each of them, Plaintiff has suffered and continues to sustain substantial losses in earnings and other employment benefits in an amount according to proof at the time of trial.

40. As a direct and legal result of Defendants' actions, Plaintiff has suffered and continues to suffer general and special damages including but not limited to substantial losses in earnings, other employment benefits and emotional distress, all to his damage in an amount according to proof.

41. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff has been forced to hire attorneys to prosecute her claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover attorneys' fees and costs under 42 U.S.C. 12205.

FIFTH CAUSE OF ACTION
FAILURE TO PREVENT
IN VIOLATION OF THE ADA
(Against ALL Defendants)

42. Plaintiff restates and incorporates herein paragraphs 1 through 41, inclusive, of this complaint as though fully set forth herein.

43. At all times herein mentioned, the ADA was in full force and effect and was binding on Defendants. Plaintiff is, and at all times material hereto was, an employee covered by the ADA prohibiting

discrimination in employment on the basis of disabilities.

44. Defendants failed to take immediate and appropriate corrective action to end the discrimination against Plaintiff Defendants also failed to take all reasonable steps necessary to prevent the discrimination from occurring.

45. In failing and/or refusing to take immediate and appropriate corrective action to end the discrimination and in failing and/or refusing to take and or all reasonable steps necessary to prevent discrimination from occurring, Defendants violated the ADA causing Plaintiff to suffer damages as set forth above.

46. As a proximate result of the aforesaid acts of Defendants, and each of them, Plaintiff has suffered actual, consequential and incidental financial losses, including without limitation, loss of salary and benefits, and the intangible loss of employment related opportunities in her field and damage to her professional reputation, all in an amount subject to proof at the time of trial.

47. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff has suffered and continues to suffer emotional distress, humiliation, mental anguish and embarrassment, as well as the manifestation of physical symptoms. Plaintiff is informed and believes and thereupon alleges that she will continue to experience said physical and emotional suffering for a period in the future not presently ascertainable, all in an amount subject to proof at the time of trial.

48. As a proximate result of the wrongful acts of Defendants, Plaintiff has been forced to hire attorneys

to prosecute her claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover attorneys' fees and costs under 42 U.S.C. § 12205.

SIXTH CAUSE OF ACTION
WRONGFUL TERMINATION
IN VIOLATION OF THE ADA
(Against ALL Defendants)

49. Plaintiff restates and incorporates herein paragraphs 1 through 48, inclusive, of this complaint as through fully set forth herein.

50. At all times herein mentioned, the ADA was in full force and effect and was binding on Defendants.

51. The actions Defendants, and each of them, in terminating Plaintiff on the grounds alleged and described herein were wrongful and in contravention of the ADA and the laws and regulations promulgated thereunder.

52. As a proximate result of the aforesaid acts of Defendants, and each of them, Plaintiff has suffered actual, consequential and incidental financial losses, including without limitation, loss of salary and benefits, and the intangible loss of employment related opportunities in her field and damage to her professional reputation, all in an amount subject to proof at the time of trial.

53. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff has suffered and continues to suffer emotional distress, humiliation, mental anguish and embarrassment, as well as the manifestation of physical symptoms.

Plaintiff is informed and believes and thereupon alleges that she will continue to experience said physical and emotional suffering for a period in the future not presently ascertainable, all in an amount subject to proof at the time of trial.

54. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff has been forced to hire attorneys to prosecute her claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover attorneys' fees and costs under 42 U.S.C. § 12205.

WHEREFORE, Plaintiff prays for judgment as follows:

1. For general damages, according to proof;
2. For medical expenses and related items of expenses, according to proof;
3. For loss of earnings, according to proof;
4. For attorneys' fees, according to proof;
5. For prejudgment interest, according to proof;
6. For costs of suit incurred herein; and
7. For such other relief and the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

DATED: November 12, 2015

JML LAW, A Professional Law Corporation

By: /s/ D. Aaron Brock

JOSEPH M. LOVRETOVICH

D. AARON BROCK

Attorneys for Plaintiff