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Attorneys for Plaintiffs and Proposed Class

17 UNITED STATES DISTRICT COURT
18 CENTRAL DISTRICT OF CALIFORNIA
19 SOUTHERN DIVISION
20

21 SCOTT WILFORD; BONNIE
HAYHURST; REBECCA
22 FRIEDRICHS; MICHAEL MONGE;
HARLAN ELRICH; JELENA
23 FIGUEROA; AND, MIKE RAUSEO,
AS INDIVIDUALS, AND ON
24 BEHALF OF ALL OTHERS
SIMILARLY SITUATED,
25

Plaintiffs,

26 v.
27

28 NATIONAL EDUCATION
ASSOCIATION OF THE UNITED
STATES; AMERICAN FEDERATION

Case No. 8:18-cv-1169

**PLAINTIFFS' CLASS-ACTION
COMPLAINT**

1 OF TEACHERS; CALIFORNIA
2 TEACHERS ASSOCIATION;
3 CALIFORNIA FEDERATION OF
4 TEACHERS; COMMUNITY
5 COLLEGE ASSOCIATION;
6 SADDLEBACK VALLEY
7 EDUCATORS ASSOCIATION;
8 EXETER TEACHERS ASSOCIATION;
9 SAVANNA DISTRICT TEACHERS
10 ASSOCIATION; CERTIFICATED
11 HOURLY INSTRUCTORS, LONG
12 BEACH CITY COLLEGE CHAPTER;
13 COAST FEDERATION OF
14 EDUCATORS, LOCAL 1911; SOUTH
15 ORANGE COUNTY COMMUNITY
16 COLLEGE DISTRICT FACULTY
17 ASSOCIATION; SANGER UNIFIED
18 TEACHERS ASSOCIATION;
19 ORANGE UNIFIED EDUCATION
20 ASSOCIATION; UNITED TEACHERS
21 LOS ANGELES; SADDLEBACK
22 VALLEY UNIFIED SCHOOL
23 DISTRICT; EXETER UNIFIED
24 SCHOOL DISTRICT; SAVANNA
25 SCHOOL DISTRICT; LONG BEACH
26 COMMUNITY COLLEGE DISTRICT;
27 COAST COMMUNITY COLLEGE
28 DISTRICT; SOUTH ORANGE
COUNTY COMMUNITY COLLEGE
DISTRICT; SANGER UNIFIED
SCHOOL DISTRICT; ORANGE
UNIFIED SCHOOL DISTRICT; LOS
ANGELES UNIFIED SCHOOL
DISTRICT; DR. CRYSTAL TURNER,
IN HER OFFICIAL CAPACITY; TIM
HIRE, IN HIS OFFICIAL CAPACITY;
DR. SUE JOHNSON, IN HER
OFFICIAL CAPACITY; DR. REAGAN
ROMALI, IN HER OFFICIAL
CAPACITY; DR. JOHN
WEISPFENNING, IN HIS OFFICIAL
CAPACITY; DR. KATHLEEN
BURKE, IN HER OFFICIAL
CAPACITY; MATTHEW NAVO, IN
HIS OFFICIAL CAPACITY; DR.
GUNN MARIE HANSEN, IN HER
OFFICIAL CAPACITY; AUSTIN
BEUTNER, IN HIS OFFICIAL
CAPACITY,

Defendants.

1 Plaintiffs SCOTT WILFORD, BONNIE HAYHURST, REBECCA
2 FRIEDRICHS, MICHAEL MONGE, HARLAN ELRICH, JELENA FIGUEROA
3 and MIKE RAUSEO (collectively, hereinafter “Plaintiffs”) are current or former
4 public-school teachers who bring this class action on behalf of themselves and all
5 others similarly situated, seeking redress for the defendants’ past and ongoing
6 violations of their constitutionally protected rights. The defendants have violated
7 the representative plaintiffs’ constitutional rights by, amongst other things, forcing
8 them to pay fair share service fees as a condition of their employment. Plaintiffs on
9 behalf of themselves and all others similarly situated allege as follows:

10 **PARTIES**

11 1. Plaintiff Scott Wilford resides in the County of Orange, California.
12 Plaintiff Scott Wilford is, and was at all times mentioned herein, a public school
13 teacher in the State of California. He has been a teacher in Saddleback Valley
14 Unified School District for over 19 years. As such, Mr. Wilford is a “public school
15 employee” within the meaning of the CAL. GOV’T. CODE § 3546. He resigned his
16 union membership in 2009 and has opted out of paying the non-chargeable portion
17 of agency fees. Yet, he is required, as a condition of his employment, to pay fair
18 share service fees to Saddleback Valley Educators Association, portions of which
19 are forwarded to California Teachers Association and National Education
20 Association of the United States.

21 2. Plaintiff Bonnie Hayhurst resides in the County of Orange, California.
22 Plaintiff Bonnie Hayhurst is, and was at all times mentioned herein, a public school
23 teacher in the State of California at Exeter Unified School District. As such, Ms.
24 Hayhurst is a “public school employee” within the meaning of the CAL. GOV’T.
25 CODE § 3546. She resigned her union membership in 2008 and has opted out of
26 paying the non-chargeable portion of agency fees. Yet, she is required, as a
27 condition of her employment, to pay fair share service fees to Exeter Teachers
28 Association, portions of which are forwarded to California Teachers Association

1 and National Education Association of the United States.

2 3. Plaintiff Rebecca Friedrichs resides in the County of Orange,
3 California. Plaintiff Rebecca Friedrichs was at all times mentioned herein, a public
4 school teacher in the Savanna School District in the State of California. As such,
5 Ms. Friedrichs was a “public school employee” within the meaning of the CAL.
6 GOV’T. CODE § 3546. She resigned her union membership in 2012 and has opted
7 out of paying the non-chargeable portion of agency fees. Yet, she is required, as a
8 condition of her employment, to pay fair share service fees to Savanna District
9 Teachers Association, portions of which are forwarded to California Teachers
10 Association and National Education Association of the United States.

11 4. Plaintiff Michael Monge resides in the County of Orange, California.
12 Plaintiff Michael Monge is, and was at all times mentioned herein, employed by
13 one or more of various community colleges in the State of California, including
14 Long Beach Community College District, Coast Community College District, and
15 South Orange County Community College District. As such, Mr. Monge is a
16 “public school employee” within the meaning of the CAL. GOV’T. CODE § 3546. He
17 resigned his union memberships and has opted out of paying the non-chargeable
18 portion of agency fees. Yet, he is required, as a condition of his employment with
19 Long Beach Community College District, to pay fair share service fees to
20 Certificated Hourly Instructors, Long Beach City College Chapter, portions of
21 which are forwarded Community College Association, California Teachers
22 Association, and to National Education Association of the United States. He is
23 required, as a condition of his employment with Coast Community College District,
24 to pay fair share service fees to Coast Federation of Educators, Local 1911, portions
25 of which are forwarded to California Federation of Teachers and American
26 Federation of Teachers. He is required, as a condition of his employment with
27 South Orange County Community College District, to pay fair share service fees to
28 South Orange County Community College District Faculty Association, portions of

1 which are forwarded to Community College Association, California Teachers
2 Association, and National Education Association of the United States.

3 5. Plaintiff Harlan Elrich resides in Fresno County, California. Plaintiff
4 Harlan Elrich is, and was at all times mentioned herein, a public school teacher in
5 the State of California. He has been a public school teacher in California for nearly
6 25 years and a teacher in the Sanger Unified School District for 13 years. As such,
7 Mr. Elrich is a “public school employee” within the meaning of the CAL. GOV’T.
8 CODE § 3546. He resigned his union membership in 2012 and has opted out of
9 paying the non-chargeable portion of agency fees. Yet, he is required, as a condition
10 of his employment, to pay fair share service fees to Sanger Unified Teachers
11 Association, portions of which are forwarded to California Teachers Association
12 and National Education Association of the United States.

13 6. Plaintiff Jelena Figueroa resides in the County of Orange, California.
14 Plaintiff Jelena Figueroa is, and was at all times mentioned herein, a public school
15 teacher in the State of California at the Orange Unified School District for 14 years.
16 As such, Ms. Figueroa is a “public school employee” within the meaning of CAL.
17 GOV’T. CODE § 3546. She resigned her union membership in 2008 and has opted
18 out of paying the non-chargeable portion of agency fees. Yet, she is required, as a
19 condition of her employment, to pay fair share service fees to Orange Unified
20 Education Association, portions of which are forwarded to California Teachers
21 Association and National Education Association of the United States.

22 7. Plaintiff Mike Rauseo resides in the Ventura County, California.
23 Plaintiff Mike Rauseo is, and was at all times mentioned herein, a public school
24 teacher in the State of California at the Los Angeles Unified School District for
25 over 18 years. As such, Mr. Rauseo is a “public school employee” within the
26 meaning of CAL. GOV’T. CODE § 3546. He resigned his union membership and has
27 opted out of paying the non-chargeable portion of agency fees. Yet, he is required,
28 as a condition of his employment, to pay fair share service fees to United Teachers

1 Los Angeles, portions of which are forwarded to California Teachers Association
2 and National Education Association of the United States.

3 8. Defendant National Education Association of the United States
4 (“NEA”) is the largest teachers’ union in the United States and one of the largest
5 public-sector unions. It receives a portion of the fair share service fees that are
6 extracted from Plaintiffs and other public school employees under California
7 agency-shop laws. It also receives portions of agency fees paid by persons in other
8 states who are not union members. NEA is a major participant in political activities
9 at the national, state, and local levels. NEA is headquartered in Washington DC
10 and engages in business throughout California including in the County of Orange.

11 9. Defendant American Federation of Teachers (“AFT”) is a teachers’
12 union in the United States and one of the largest public-sector unions. It receives a
13 portion of the fair share service fees that are extracted from Plaintiffs and other
14 public school employees under California agency-shop laws. It also receives
15 portions of agency fees paid by persons in other states who are not union members.
16 AFT is a major participant in political activities at the national, state, and local
17 levels. AFT is headquartered in Washington DC and engages in business
18 throughout California including in the County of Orange.

19 10. Defendant California Teachers Association (“CTA”) is the state
20 affiliate of NEA. It is the largest teachers’ union in California. CTA engages in
21 business in Orange County, California. It receives a portion of the fair share
22 service fees that are extracted from Plaintiffs and other public school employees
23 under California agency-shop laws. CTA is a major participant in political
24 activities at the state and local levels. CTA is headquartered in Burlingame,
25 California, and engages in business throughout the State of California, including in
26 the County of Orange.

27 11. Defendant California Federation of Teachers (“CFT”) is the state
28 affiliate of AFT. It is a teachers’ union in California. It receives a portion of the

1 fair share service fees that are extracted from Plaintiffs and other public school
2 employees under California agency-shop laws. CFT is a major participant in
3 political activities at the state and local levels. CFT is headquartered in Burbank,
4 California, and engages in business throughout the State of California, including in
5 the County of Orange.

6 12. Defendant Community College Association (“CCA”) is the
7 community college faculty union in California. It receives a portion of the fair
8 share service fees that are extracted from Plaintiffs and other public school
9 employees under California agency-shop laws. CCA is a major participant in
10 political activities at the state and local levels. CCA engages in business
11 throughout the state of California, including in the County of Orange.

12 13. Defendant Saddleback Valley Educators Association (“SVEA”) is the
13 “recognized employee organization” in the Saddleback Valley Unified School
14 District, within the meaning of CAL. GOV’T. CODE § 3546. SVEA is headquartered
15 in Laguna Hills, California, and conducts its business and operations in the County
16 of Orange. Its state affiliate is CTA and its national affiliate is NEA.

17 14. Defendant Exeter Teachers Association (“ETA”) is the “recognized
18 employee organization” in the in the Exeter Unified School District, within the
19 meaning of CAL. GOV’T. CODE § 3546. ETA is headquartered in Exeter, California,
20 and conducts its business and operations in the State of California. Its state affiliate
21 is CTA and its national affiliate is NEA.

22 15. Defendant Savanna District Teachers Association (“SDTA”) is the
23 “recognized employee organization” in the Savanna School District within the
24 meaning of CAL. GOV’T. CODE § 3546. SDTA is headquartered in Anaheim,
25 California, and conducts its business and operations in the County of Orange. Its
26 state affiliate is CTA and its national affiliate is NEA.

27 16. Defendant Certificated Hourly Instructors, Long Beach City College
28 Chapter (“CHI”) is the “recognized employee organization” for Long Beach City

1 College District, within the meaning of CAL. GOV'T. CODE § 3546. CHI is
2 headquartered in San Francisco, California, and conducts its business and
3 operations in the State of California, including in the County of Orange. Its state
4 affiliates are CCA and CTA, and its national affiliate is NEA.

5 17. Defendant Coast Federation of Educators, Local 1911 ("CFE") is the
6 "recognized employee organization" for Coast Community College District, within
7 the meaning of CAL. GOV'T. CODE § 3546. CFE is headquartered in Costa Mesa,
8 California, and conducts its business and operations in the County of Orange. Its
9 state affiliate is CFT and its national affiliate is the AFT.

10 18. Defendant South Orange County Community College District Faculty
11 Association ("SOCCCDFA") is the "recognized employee organization" for South
12 Orange County Community College District, within the meaning of CAL. GOV'T.
13 CODE § 3546. SOCCCDFA is headquartered in Mission Viejo, California, and
14 conducts its business and operations in the County of Orange. Its affiliate is CCA,
15 its state affiliate is CTA, and its national affiliate is NEA.

16 19. Defendant Sanger Unified Teachers Association ("SUTA") is the
17 "recognized employee organization" in the Sanger Unified School District, within
18 the meaning of CAL. GOV'T. CODE § 3546. SUTA is headquartered in Sanger,
19 California, and conducts its business and operations in the State of California. Its
20 state affiliate is CTA and its national affiliate is NEA.

21 20. Defendant Orange Unified Education Association ("OUEA") is the
22 "recognized employee organization" in the Orange Unified School District, within
23 the meaning of CAL. GOV'T. CODE § 3546. OUEA is headquartered in Orange,
24 California, and conducts its business and operations in the County of Orange. Its
25 state affiliate is CTA and its national affiliate is NEA.

26 21. Defendant United Teachers Los Angeles ("UTLA") is the "recognized
27 employee organization" in the Los Angeles Unified School District, within the
28 meaning of CAL. GOV'T. CODE § 3546. UTLA is headquartered in Los Angeles,

1 California, and conducts its business and operations in the State of California. Its
2 state affiliate is CTA and its national affiliate is NEA.

3 22. Defendant Saddleback Valley Unified School District is a public
4 school district located in Mission Viejo, California, in the County of Orange.
5 Saddleback Valley Unified School District is an “employer” of Scott Wilford
6 within the meaning of CAL. GOV’T. CODE § 3546.

7 23. Defendant Exeter Unified School District is a public school district
8 located in Exeter, California. Exeter Unified School District is an “employer” of
9 Bonnie Hayhurst within the meaning of CAL. GOV’T. CODE § 3546.

10 24. Defendant Savanna School District is a public school district located
11 in Anaheim, California, in the County of Orange. Savanna School District is or
12 was an “employer” of Rebecca Friedrichs within the meaning of CAL. GOV’T.
13 CODE § 3546.

14 25. Long Beach Community College District is a community college
15 located in Long Beach, California. Long Beach Community College District is an
16 “employer” of Michael Monge within the meaning of CAL. GOV’T. CODE § 3546.

17 26. Defendant Coast Community College District is a community college
18 district located in Costa Mesa, California, in the County of Orange. Coast
19 Community College District is an “employer” of Michael Monge within the
20 meaning of CAL. GOV’T. CODE § 3546.

21 27. Defendant South Orange County Community College District is a
22 community college district located in Mission Viejo, California, in the County of
23 Orange. South Orange County Community College District is an “employer” of
24 Michael Monge within the meaning of CAL. GOV’T. CODE § 3546.

25 28. Defendant Sanger Unified School District is a public school district
26 located in Sanger, California. Sanger Unified School District is an “employer” of
27 Harlan Elrich within the meaning of CAL. GOV’T. CODE § 3546.

28

1 29. Defendant Orange Unified School District is a public school district
2 located in Orange, California, in the County of Orange. Orange Unified School
3 District is an “employer” of Jelena Figueroa within the meaning of CAL. GOV’T.
4 CODE § 3546.

5 30. Defendant Los Angeles Unified School District is a public school
6 district located in Los Angeles, California. Los Angeles Unified School District is
7 an “employer” of Michael Rauseo within the meaning of CAL. GOV’T. CODE §
8 3546.

9 31. Defendant school superintendents and chancellors are the executive
10 officers in charge of the school districts that employ Plaintiffs, pay Plaintiffs’
11 wages, and process all deductions therefrom, including union dues and fair share
12 service fees pursuant to agency shop arrangements authorized under Chapter 10.7
13 of Division 4 of Title I of the CAL. GOV’T. CODE and CAL. EDUC. CODE § 45061.
14 Defendant school superintendents are sued in their official capacity.

15 32. Defendant Dr. Crystal Turner (“Turner”) is the superintendent of the
16 Saddleback Valley Unified School District in the County of Orange, and is the
17 executive officer who implements the deduction of fair share service fees from the
18 paychecks of Plaintiff Scott Wilford.

19 33. Defendant Tim Hire (“Hire”) is the superintendent of the Exeter
20 Unified School District, and is the executive officer who implements the deduction
21 of fair share service fees from the paychecks of Plaintiff Bonnie Hayhurst.

22 34. Defendant Dr. Sue Johnson (“Johnson”) is the superintendent of the
23 Savanna School District in the County of Orange, and is the executive officer who
24 implemented the deduction of fair share service fees from the paychecks of
25 Plaintiff Rebecca Friedrichs.

26 35. Defendant Dr. Reagan Romali (“Romali”) is the superintendent of the
27 Long Beach Community College District in the County of Orange, and is the
28

1 executive officer who implements the deduction of fair share service fees from the
2 paychecks of Plaintiff Michael Monge.

3 36. Defendant Dr. John Weispfenning (“Weispfenning”) is the chancellor
4 of the Coast Community College District in the County of Orange, and is the
5 executive officer who implements the deduction of fair share service fees from the
6 paychecks of Plaintiff Michael Monge.

7 37. Defendant Dr. Kathleen Burke (“Burke”) is the chancellor of the
8 South Orange County Community College District in the County of Orange, and is
9 the executive officer who implements the deduction of fair share service fees from
10 the paychecks of Plaintiff Michael Monge.

11 38. Defendant Matthew Navo (“Navo”) is the superintendent of the
12 Sanger Unified School District, and is the executive officer who implements the
13 deduction of fair share service fees from the paychecks of Plaintiff Harlan Elrich.

14 39. Defendant Dr. Gunn Marie Hansen (“Hansen”) is the superintendent
15 of the Orange Unified School District in the County of Orange, and is the
16 executive officer who implements the deduction of fair share service fees from the
17 paychecks of Plaintiff Jelena Figueroa.

18 40. Defendant Austin Beutner (“Beutner”) is the superintendent of the
19 Los Angeles Unified School District, and is the executive officer who implements
20 the deduction of fair share service fees from the paychecks of Plaintiff Michael
21 Rauseo.

22 **JURISDICTION AND VENUE**

23 41. The Court has subject-matter jurisdiction under 28 U.S.C. §§ 1331,
24 1343, 1367, and 2201.

25 42. Venue is proper under 28 U.S.C. §§ 1391(b)(1) and (2) because one or
26 more of the defendants reside in this judicial district and all defendants are
27 residents of this State (within the meaning 28 U.S.C. § 1391(c)) and because a
28 substantial part of the events or omissions giving rise to the claim occurred, and a

1 substantial part of property that is the subject of this action is situated, in this
2 judicial district.

3 **GENERAL ALLEGATIONS**

4 43. Under CAL. GOV'T. CODE § 3543(a), the public school employees of
5 each of the Defendant school districts chose to be represented by the corresponding
6 Defendant labor union, which then was recognized as the exclusive representative of
7 the district's employees.

8 44. Under CAL. GOV'T. CODE § 3543(a), "public school employees who are
9 in a unit for which an exclusive representative has been selected, shall be required, as
10 a condition of continued employment, to join the recognized employee organization
11 or to pay the organization a fair share services fee, as required by Section 3546."

12 45. Under CAL. GOV'T. CODE § 3543(a), the public school employer for
13 each Plaintiff deducts the amount of the fair share service fee from that Plaintiff's
14 wages and salary and pays that amount to the Defendant union representing the
15 employees of that public school employer.

16 46. Each Plaintiff chose not to join the exclusive representative in his or her
17 school district. Nevertheless, under Chapter 10.7 of Division 4 of Title 1 of the
18 California Government Code:

19 a. Defendants Saddleback Valley Unified School District and
20 Turner have withheld from Plaintiff Scott Wilford's pay fair share service fees
21 and paid those fees to Defendant SVEA. Defendant SVEA forwarded portions
22 of these fees to Defendant CTA and either Defendant SVEA or Defendant
23 CTA forwarded portions of these fees to Defendant NEA.

24 b. Defendants Exeter Unified School District and Hire have
25 withheld from Plaintiff Bonnie Hayhurst's pay fair share service fees and paid
26 those fees to Defendant ETA. Defendant ETA forwarded portions of these
27 fees to Defendant CTA and either Defendant ETA or Defendant CTA
28 forwarded portions of these fees to Defendant NEA.

1 c. Defendants Savanna School District and Johnson have withheld
2 from Plaintiff Rebecca Friedrichs's pay fair share service fees and paid those
3 fees to Defendant SDTA. Defendant SDTA forwarded portions of these fees
4 to Defendant CTA and either Defendant SDTA or Defendant CTA forwarded
5 portions of these fees to Defendant NEA.

6 d. Defendants Long Beach Community College District and Romali
7 have withheld from Plaintiff Michael Monge's pay fair share service fees and
8 paid those fees to Defendant CHI. Defendant CHI forwarded portions of these
9 fees to Defendant CCA, either Defendant CHI or Defendant CCA forwarded
10 portions of these fees to Defendant CTA, and either Defendant CHI or
11 Defendant CCA or Defendant CTA forwarded portions of these fees to
12 Defendant NEA.

13 e. Defendants Coast Community College District and Weispfenning
14 have withheld from Plaintiff Michael Monge's pay fair share service fees and
15 paid those fees to Defendant CFE. Defendant CFE forwarded portions of
16 these fees to Defendant CFT and either Defendant CFE or Defendant CFT
17 forwarded portions of these fees to Defendant AFT.

18 f. Defendants South Orange County Community College District
19 and Burke have withheld from Plaintiff Michael Monge's pay fair share
20 service fees and paid those fees to Defendant SOCCCDFA. Defendant
21 SOCCCDFA forwarded portions of these fees to Defendant CCA, either
22 Defendant SOCCCDFA or Defendant CCA forwarded portions of these fees
23 to Defendant CTA, either Defendant SOCCCDFA or Defendant CCA or
24 Defendant CTA forwarded portions of these fees to Defendant NEA.

25 g. Defendants Sanger Unified School District and Navo have
26 withheld from Plaintiff Harlan Elrich's pay fair share service fees and paid
27 those fees to Defendant SUTA. Defendant SUTA forwarded portions of these
28 fees to Defendant CTA and either Defendant SUTA or Defendant CTA

1 forwarded portions of these fees to Defendant NEA.

2 h. Defendants Orange Unified School District and Hansen have
3 withheld from Plaintiff Jelena Figueroa’s pay fair share service fees and paid
4 those to Defendant OUEA. Defendant OUEA forwarded portions of these
5 fees to Defendant CTA and either Defendant OUEA or Defendant CTA
6 forwarded portions of these fees to Defendant NEA.

7 i. Defendants Los Angeles Unified School District and Beutner
8 have withheld from Plaintiff Michael Rauseo’s pay fair share service fees and
9 paid those to Defendant UTLA. Defendant UTLA forwarded portions of these
10 fees to Defendant CTA and either Defendant UTLA or Defendant CTA
11 forwarded portions of these fees to Defendant NEA.

12 47. Defendants SVEA, ETA, SDTA, CHI, CFE, SOCCCDFA,
13 SUTA, OUEA, and UTLA are collectively referred to as the “Local Unions.”
14 Defendants CTA, CFT, and CCA are referred to as the “State Unions.” Defendants
15 NEA and AFT are referred to as the “National Unions.”

16 48. This agency-fee scheme violates the free speech rights of Plaintiffs by
17 compelling them to subsidize private speech on matters of substantial public
18 concern, as the Supreme Court recognized in *Janus v. AFSCME*, --- U.S. ---, 2018
19 WL 312785 (June 27, 2018). No compelling or otherwise sufficient governmental
20 interest justifies the compulsory political representation imposed on teachers. *Id.* at
21 *11-14. As a result, “public-sector agency-shop arrangements” like those here
22 “violate the First Amendment.” *Id.* at *23.

23 49. The representative plaintiffs are bringing this action at this time to
24 preserve the class members’ ability to seek retrospective relief against the
25 defendants for as far back as the applicable statutes of limitations will allow.

26 **CLASS ALLEGATIONS**

27 50. The representative plaintiffs bring this class action under Fed. R. Civ.
28 P. 23(b)(1)(A), (b)(2), and (b)(3). The class comprises each individual who: (1) is

1 not a member of a union; (2) has had fair share service fees or union agency fees
2 deducted from the money paid to him/her by his/her employer, which fees have
3 been remitted to one of the Local, State, or National Unions; and (3) has not
4 affirmatively consented in writing to pay the fees. The class includes everyone who
5 comes within the class definition at any time covered by the claims and until the
6 conclusion of this action.

7 51. The representative plaintiffs also assert the following subclasses:

- 8 a. The “NEA Subclass” comprises each individual who: (1) is not a member of
9 a union; (2) has had fair share service fees or union agency fees deducted
10 from the money paid to him/her by his/her employer, which fees have been
11 remitted to NEA; and (3) has not affirmatively consented in writing to pay
12 the fees.
- 13 b. The “AFT Subclass” comprises each individual who: (1) is not a member of
14 a union; (2) has had fair share service fees or union agency fees deducted
15 from the money paid to him/her by his/her employer, which fees have been
16 remitted to AFT; and (3) has not affirmatively consented in writing to pay
17 the fees.
- 18 c. The “CTA Subclass” comprises each individual who: (1) is not a member of
19 a union; (2) has had fair share service fees deducted from the money paid to
20 him/her by his/her employer, which fees have been remitted to CTA; and
21 (3) has not affirmatively consented in writing to pay the fees.
- 22 d. The “CFT Subclass” comprises each individual who: (1) is not a member of
23 a union; (2) has had fair share service fees deducted from the money paid to
24 him/her by his/her employer, which fees have been remitted CFT; and
25 (3) has not affirmatively consented in writing to pay the fees.
- 26 e. The “CCA Subclass” comprises each individual who: (1) is not a member of
27 a union; (2) has had fair share service fees deducted from the money paid to
28 him/her by his/her employer, which fees have been remitted CCA; and

- 1 (3) has not affirmatively consented in writing to pay the fees.
- 2 f. The “SVEA Subclass” comprises each individual who: (1) is not a member
3 of a union; (2) has had fair share service fees deducted from the money paid
4 to him/her by his/her employer, which fees have been remitted to SVEA;
5 and (3) has not affirmatively consented in writing to pay the fees.
- 6 g. The “ETA Subclass” comprises each individual who: (1) is not a member of
7 a union; (2) has had fair share service fees deducted from the money paid to
8 him/her by his/her employer, which fees have been remitted to ETA; and
9 (3) has not affirmatively consented in writing to pay the fees.
- 10 h. The “SDTA Subclass” comprises each individual who: (1) is not a member
11 of a union; (2) has had fair share service fees deducted from the money paid
12 to him/her by his/her employer, which fees have been remitted to SDTA;
13 and (3) has not affirmatively consented in writing to pay the fees.
- 14 i. The “CHI Subclass” comprises each individual who: (1) is not a member of
15 a union; (2) has had fair share service fees deducted from the money paid to
16 him/her by his/her employer, which fees have been remitted to CHI; and
17 (3) has not affirmatively consented in writing to pay the fees.
- 18 j. The “CFE Subclass” comprises each individual who: (1) is not a member of
19 a union; (2) has had fair share service fees deducted from the money paid to
20 him/her by his/her employer, which fees have been remitted to CFE; and
21 (3) has not affirmatively consented in writing to pay the fees.
- 22 k. The “SOCCDFA Subclass” comprises each individual who: (1) is not a
23 member of a union; (2) has had fair share service fees deducted from the
24 money paid to him/her by his/her employer, which fees have been remitted
25 to SOCCDFA; and (3) has not affirmatively consented in writing to pay
26 the fees.
- 27 l. The “SUTA Subclass” comprises each individual who: (1) is not a member
28 of a union; (2) has had fair share service fees deducted from the money paid

1 to him/her by his/her employer, which fees have been remitted to SUTA;
2 and (3) has not affirmatively consented in writing to pay the fees.

3 m. The “OUEA Subclass” comprises each individual who: (1) is not a member
4 of a union; (2) has had fair share service fees deducted from the money paid
5 to him/her by his/her employer, which fees have been remitted to OUEA;
6 and (3) has not affirmatively consented in writing to pay the fees.

7 n. The “UTLA Subclass” comprises each individual who: (1) is not a member
8 of a union; (2) has had fair share service fees deducted from the money paid
9 to him/her by his/her employer, which fees have been remitted to UTLA;
10 and (3) has not affirmatively consented in writing to pay the fees.

11 52. The number of persons in the class and each subclass makes joinder of
12 the individual class members impractical.

13 53. There are questions of fact and law common to the class and the
14 subclasses. Factually, all class and subclass members are public employees and
15 union nonmembers compelled to pay fair share service fees or agency fees to
16 Defendants as a condition of employment. Legally, the U.S. Constitution affords
17 the same rights under the First Amendment to every member of the class as the
18 Supreme Court recently held in *Janus v. AFSCME*, --- U.S. ---, 2018 WL 3129785.
19 Among the common questions are: (1) whether the requirement of paying the fair
20 share service fee or agency fee is constitutional; (2) whether the withholding of the
21 fair share service fee or agency fee is a tort under state law; and (3) whether
22 Defendants are obligated to refund fair share service fees that have been
23 unlawfully extracted.

24 54. The representative plaintiffs’ claims are typical of other members of
25 the class and their respective subclasses because each member of the class or
26 subclass has declined to join a union, yet is forced under state law and contract
27 provisions to financially support the union and its inherently political activities.
28

1 55. The representative plaintiffs adequately represent the interests of the
2 class and their respective subclasses and they have no interests antagonistic to the
3 class. Further, the undersigned counsel is experienced in the litigation of
4 constitutional deprivations, including First Amendment claims, and class action
5 litigation.

6 56. A class action may be maintained under Rule 23(b)(1)(A) because
7 separate actions by class and subclass members would create a risk of inconsistent
8 or varying adjudications that would establish incompatible standards of conduct for
9 Defendants.

10 57. A class action may be maintained under Rule 23(b)(2) because final
11 injunctive relief and corresponding declaratory relief is appropriate respecting the
12 class and subclasses as a whole. Plaintiffs are also entitled to recover incidental
13 monetary relief that will not involve individualized determinations of each
14 plaintiff's entitlement to monetary relief.

15 58. A class action may be maintained under Rule 23(b)(3) because the
16 questions of law or fact common to class members predominate over any questions
17 affecting only individual members. In addition, a class action is superior to other
18 available methods for fairly and efficiently adjudicating the controversy. Among
19 other things, all class and subclass members are subjected to the same violation of
20 their constitutional rights but the amount of money involved in each individual's
21 claim would make it burdensome for class members to maintain separate actions.

22 59. The representative plaintiffs, by and through their counsel of record,
23 maintain that the class action could be maintained without notice to the proposed
24 class under FRCP 23(b)(1) or (2). To the extent notice is required, the
25 representative plaintiffs, by and through their counsel of record, will obtain court
26 approval of the manner and nature of the notice to be given.

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1 **CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 **Violation of 28 U.S.C. § 1983**

4 **(All Defendants)**

5 60. Plaintiffs hereby allege and incorporate by reference, as though fully
6 set forth herein, the allegations contained in Paragraphs 1 through 59.

7 61. Defendants are acting under the color of state law by causing,
8 participating in, and accepting the compulsory deduction of fair share service fees
9 from monies owed to Plaintiffs. Specifically, the defendant school districts and
10 superintendents are assisting the defendant unions in coercing Plaintiffs to finance
11 the unions' activities, and the unions are acting in concert with a public agency and
12 with authority granted by statute to deprive Plaintiffs of their constitutional rights.

13 62. Defendants, acting under color of state law have created,
14 administered, and enforced laws unlawfully requiring Plaintiffs to pay fair share
15 service fees to the Defendant unions as a condition for Plaintiffs' employment. In
16 so doing, Defendants have violated and continue to violate Plaintiffs' First
17 Amendment Rights to free speech and association as secured by the Fourteenth
18 Amendment to the U.S. Constitution and 42 U.S.C. § 1983.

19 63. State law and collective-bargaining agreements permitting and
20 imposing compulsory fair share service fees on public employees who do not wish
21 to associate or support a union are not narrowly tailored to serve a compelling
22 government interest.

23 64. By compelling the representative Plaintiffs and the class members to
24 financially support the unions, including for purposes of speaking to, petitioning,
25 and otherwise lobbying the State and its officials with respect to political matters
26 such as the negotiation and enforcement of collective bargaining rights and
27 obligations, Defendants are abridging and violating the rights of the representative
28 Plaintiffs and the class members to freedom of association and freedom of speech,

1 and to petition the government for redress of grievances under the First
2 Amendment to the United States Constitution, in violation of the Fourteenth
3 Amendment and 42 U.S.C. § 1983.

4 65. Defendants have violated Plaintiffs' First Amendment rights of
5 freedom of speech and association as secured against state infringement by the
6 Fourteenth Amendment and 42 U.S.C. § 1983.

7 66. Unless enjoined by the Court, the representative Plaintiffs and the
8 class members will continue to suffer irreparable harm, damage, and injury for
9 which there is no adequate remedy at law.

10 **SECOND CAUSE OF ACTION**

11 **Conversion**

12 **(All Defendants)**

13 67. Plaintiffs hereby allege and incorporate by reference, as though fully
14 set forth herein, the allegations contained in Paragraphs 1 through 66.

15 68. Plaintiffs, at all times relevant hereto, owned and/or had the sole right
16 to possession of the monies withheld from them in the form of fair share service
17 fees paid to the defendant unions.

18 69. Defendants wrongfully dispossessed Plaintiffs of monies by imposing
19 unlawful fair share service fees against Plaintiffs as condition for the Plaintiffs'
20 employment with the defendant school districts.

21 70. As a direct and proximate result of the above wrongful conduct of
22 Defendants, Plaintiffs have been damaged in an amount to be proven at trial, but
23 not less than the full amount of monies withheld from them in the form of fair
24 share service fees paid to the defendant unions.

1 **THIRD CAUSE OF ACTION**

2 **Restitution of Money Had and Received**

3 **(All Defendants)**

4 71. Plaintiffs hereby allege and incorporate by reference, as though fully
5 set forth herein, the allegations contained in Paragraphs 1 through 70.

6 72. The defendant unions received monies in the form of unlawful fair
7 share service fees from Plaintiffs.

8 73. Defendants' imposition and collection of the fair share service fees
9 violates Plaintiffs' First Amendment Rights and is, therefore, unconstitutional.

10 74. At all times relevant hereto, the monies the defendant unions received
11 belonged to and were for the use of Plaintiffs.

12 75. The defendant unions are indebted to Plaintiffs in the amount of the
13 fair share service fees they obtained on account of Plaintiffs.

14 76. By this Complaint, Plaintiffs demand restitution from the defendant
15 unions for all fair share service fees obtained by the defendant unions.

16 **DEMAND FOR RELIEF**

17 Plaintiffs respectfully request this Court:

18 A. Certify a class and subclasses consistent with the definitions stated in
19 this Complaint.

20 B. Issue a declaratory judgment against the defendant school districts and
21 the defendant superintendents (in their official capacities), and the defendant
22 unions providing that:

23 1. It is unconstitutional under the First Amendment, as secured
24 against state infringement by the Fourteenth Amendment and 42 U.S.C. §
25 1983, to withhold or require payment of fair share service fees or agency
26 fees from Plaintiffs and the class members;

27 2. The provisions of CAL. GOV'T CODE § 3546 that allow the
28 imposition of fair share service fees is unconstitutional under the First

1 Amendment, as secured against State infringement by the Fourteenth
2 Amendment and 42 U.S.C. § 1983, and is null and void.

3 3. Any collective bargaining agreement provision imposing fair
4 share service fees or agency fees against Plaintiffs or the class members is
5 unconstitutional under the First Amendment, as secured against State
6 infringement by the Fourteenth Amendment and 42 U.S.C. § 1983, and is
7 null and void.

8 C. Permanently enjoin Defendants, along with their officers, agents,
9 servants, employees, attorneys, and any other person or entity in active concert or
10 participation with them, from collecting fair share service fees or agency fees from
11 Plaintiffs or the class members.

12 D. Permanently enjoin the defendant school districts and superintendents,
13 along with their officers, agents, servants, employees, attorneys, and any other
14 person or entity in active concert or participation with them, from enforcing the
15 provisions of CAL. GOV'T CODE § 3546 that allow the imposition and collection of
16 fair share service fees from Plaintiffs or the class members.

17 E. Order the defendant unions to disgorge and refund all fair share
18 service fees or agency fees unlawfully withheld or collected (directly or indirectly)
19 from Plaintiffs and the class members, along with pre-judgment and post-judgment
20 interest.

21 F. Award Plaintiffs damages under 42 U.S.C. § 1983.

22 G. Award Plaintiffs their reasonable attorneys' fees, costs, and expenses
23 under 42 U.S.C. § 1988.

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H. Award any other relief this Court deems just and proper.

Dated: July 2, 2018

CLARK HILL LLP



By: _____
Bradford G. Hughes

Attorneys for Plaintiffs and Proposed Class