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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF ORANGE**

11
12 ORANGE COUNTY BOARD OF
EDUCATION; JADE AUSMUS, an
13 individual,

14 Plaintiff,

15 vs.

16 ORANGE COUNTY COMMITTEE ON
SCHOOL DISTRICT ORGANIZATION;
17 and DOES 1-10, inclusive,

18 Defendants.

Case No.: _____

**DECLARATION OF KEN L. WILLIAMS,
D.O.**

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1 **DECLARATION OF KEN L. WILLIAMS, D.O.**

2 I, Ken L. Williams, D.O., hereby declare as follows:

3 1. I am currently a Trustee and the Vice President of the Orange County Board of
4 Education (the “Board”). I have personal knowledge of the facts stated in this declaration, and if
5 called as a witness I could and would testify thereto.

6 2. I have served as a member of the Board since 1996. The Board is a publicly elected
7 governmental agency consisting of five Trustees that represent and are elected from five different
8 electoral districts (the “Trustee Areas”) within Orange County. Orange County Board of
9 Education Trustees are non-partisan offices elected by the voters that serve four-year terms.

10 3. The Board is one of two elected government agencies that act under the label of
11 the Orange Department of Education (the other agency being the Orange County Superintendent
12 of Schools). The Board’s authority and responsibilities include, among other things, approving
13 the budget of the Orange County Department of Education, receiving the annual audit of the
14 Department of Education, hearing and deciding appeals of expulsions and inter-district transfers,
15 and hearing and deciding appeals of denials of petitions for the establishment of charter schools.
16 Neither the Board nor the Superintendent of Schools runs or has ultimate decision-making
17 authority over the local school districts in Orange County (which have their own local school
18 boards and superintendents).

19 4. Another central aspect of the Board’s authority and responsibilities is setting and
20 establishing its electoral districts. Although authorized to do so more frequently, during my tenure
21 as a Trustee, the Board has determined and set its five Trustee Areas every ten years following
22 the federal decennial census. Accordingly, I have been a Trustee during three different 10-year
23 redistricting processes for the Board: in 2001, 2011, and most recently in 2021.

24 5. In each of the three redistricting processes over the last twenty years, the Board
25 has performed the redistricting function for itself, determining, approving, and selecting the
26 district boundaries for its five Trustee Areas. The Board has never delegated this function, effort,
27 or decision making to anyone else or any other governmental agency. To assist the Board in its
28 efforts, the Board has retained the services of third-party non-partisan demographers, and it has

1 received advice from counsel regarding legal compliance issues (for example, with respect to the
2 federal Voting Rights Act and with California’s specific requirement, under California Education
3 Code § 1002, that Trustee Areas for county boards of education be as completely population
4 balanced as possible, much as federal congressional districts must be).

5 6. Within the Orange County Department of Education, there is a governmental body
6 known as the County Committee on School District Organization (the “County Committee”).
7 This body is created by statute and consists of nine “Members,” all of whom are appointed by
8 local school district representatives and none of whom is elected by the public. One responsibility
9 of the County Committee is to serve as a redistricting authority (much like a redistricting
10 commission) with respect to the redistricting of local school districts within the county. This
11 authority of the County Committee to redistrict local school districts is set forth in the Education
12 Code (see, e.g., Cal. Ed Code § 5019). This makes sense since the County Committee consists
13 entirely of individuals selected by representatives from those local school districts.

14 7. The County Committee is not a redistricting commission for the Orange County
15 Board of Education, and the Board has never granted or delegated redistricting authority to the
16 County Committee at any time during my tenure as a Trustee or, to my knowledge, at any time
17 before then. Also during the time I have been a Trustee, and to my knowledge at all times before
18 then, the Board has never made a request to the County Committee that it engage in redistricting
19 of the Trustee Areas, either pursuant to California Education Code § 1002(a) or otherwise.

20 8. Historically, and as reflected in the Board’s Trustee Areas developed and adopted
21 in 2011, the Board has followed city lines, communities of interest, and natural boundaries in
22 setting its districts. The Board’s prior districts have not closely followed school district lines, as
23 such lines are not usually tethered to communities of interest from a voter perspective, and school
24 districts boundaries are not germane to what the Board does. Individual County Board Trustees
25 have no power to act on behalf of constituents in their districts. Only the Board as a whole is able
26 to act by majority vote, and so school districts do not represent a specific constituency for
27 individual Board members.

28 9. The Board’s decennial redistricting process for 2021 began in June of that year.

1 At the Board's June 16, 2021, regular meeting, the Board appointed two of members to serve as
2 the Board's Redistricting Committee to guide and administer the process. As part of this process,
3 the Redistricting Committee retained the services of Doug Johnson and National Demographics
4 Corporation ("NDC"), a highly-regarded non-partisan demography and redistricting consultancy.
5 NDC and Mr. Johnson had done substantial redistricting work for the local school districts in
6 Orange County as well as for other agencies within Orange County and the State of California.

7 10. The Board's and NDC's receipt of the decennial census data upon which the
8 redistricting process depended was substantially delayed due to COVID-19. Normally it would
9 be expected to be received in or around March and instead it was not received under September
10 2021, a very significant delay. This put the Board under material time pressure due to the statutory
11 deadline of December 15, 2021, to complete redistricting of any county offices participating in
12 the June 7, 2002 consolidated primary election with the Orange County Board of Supervisors.

13 11. The Board and NDC made significant efforts to conduct the necessary work,
14 analysis, public hearings, and public meetings for the timely completion of the Board's
15 redistricting process and decision making. In all, the Board discussed and addressed redistricting
16 in at least nine meetings (on 6/16/21, 7/7/21, 8/4/21, 9/1/21, 10/6/21, 11/3/21, 11/8/21, 12/12/21,
17 and 12/8/21) and conducted three public hearings (on 11/3/21, 12/1/21, and 12/8/21) on the
18 redistricting process. The Board Redistricting Committee worked closely with NDC and also
19 received legal guidance from its counsel, Gregory Rolen and Marguerite Leoni. NDC and legal
20 counsel gave presentations on the redistricting process in open session, and the Board received
21 and responded to public input on community of interest and other issues along with the
22 redistricting options being considered by the Board.

23 12. Despite the unusual circumstance of the late delivery of the census data, the
24 Board's redistricting process was substantive, thorough, and transparent. In all, the Board
25 considered ten different redistricting options, four of which were designed by NDC. After its
26 third public hearing, and at its final public meeting on redistricting conducted on December 8,
27 2021, the Board selected and approved its new Trustee Areas as reflected in the fourth map
28 prepared by NDC (which was a revised version of an earlier map to address public input), which

1 was labeled “Map 5”. A true and correct copy of that map is attached hereto as Exhibit A.

2 13. Map 5 and the three other redistricting maps created by NDC (Maps 1 through 3)
3 were particularly strong candidates for the Board’s consideration because they met the two critical
4 legal elements that are required for County Board of Education redistricting: population equality
5 between the Trustee Areas (as required by Cal. Ed. Code § 1002(a)) and compliance with the
6 federal Voting Rights Act. Other Maps did not comply with both of these requirements. The
7 maps constructed by NDC were also put together from a neutral non-partisan frame of reference,
8 following city and other usual and historical boundaries and recognized communities of interest
9 that had been used in the county for the Trustee Areas for decades.

10 14. This was not the case with all of the maps considered by the Board, including in
11 particular a map that had been submitted by a member of the public and designated “Map 9.”
12 Map 9 did not have an equal population balance (indeed, it was one of the more imbalanced maps
13 considered by the Board), and it appeared to be designed from a partisan perspective. The map
14 was submitted (presumably inadvertently) with a partisan voter analysis attached to it which
15 showed that Map 9 created three Democratic-majority districts against two Republican-majority
16 districts. A true and correct copy of Map 9 as originally submitted is attached hereto as Exhibit
17 B. Tellingly, when one of the authors submitted a proposed revised version of Map 9 to the Board
18 on December 3, 2021, the revised version omitted the partisan voter data and analysis that had
19 been included on the original. I took this as a clear effort to hide and cover up the partisan motives
20 behind Map 9 that had unwittingly been revealed by the original submission.

21 15. Also, Map 9 redrew the Trustee Areas to move my residence from Trustee Area 3
22 (for which I was elected by the voters) into Trustee Area 5. This would eliminate me as an
23 incumbent and make me ineligible to run for reelection in Trustee Area 3 when my term expires
24 in 2024, and it would force me to run against the incumbent in Trustee Area 5 if I chose to run at
25 that time. Finally, Map 9’s purported author and sponsor, Billie Joe Wright, is a Democratic Party
26 campaign activist and current President of the Hacienda La Puente Teachers Association, a labor
27 union affiliated with the California Teachers Association (CTA) and the National Education
28 Association (NEA). Document properties for the Map 9 Word and pdf files submitted by Mr.

1 Wright also show Rosa Resendiz and Claudio Gallegos as authors of the document (Ms.
2 Resendiz as the author of the Word document, and Mr. Gallegos as the author of the pdf
3 document). Ms. Resendiz and Mr. Gallegos are Facebook friends with one another, and Mr.
4 Gallegos is the District Director of U.S. Representative Lou Correa, a Democratic Party politician
5 currently representing California's 46th Congressional District in Orange County.

6 16. On December 8, 2021, the Board approved and adopted Map 5 as the new Trustee
7 Areas for the Board. This concluded the Board's redistricting process and established the new
8 electoral Trustee Areas of the Board, effective as of that date. Map 5 had been prepared by NDC
9 from a neutral non-partisan perspective, was fully population balanced (0% deviation), complied
10 with the Voting Rights Act, kept traditional district areas and boundaries intact, avoided
11 disqualifying existing Trustees or combining existing Trustees elected by the voters into the same
12 district, maintained communities of interest, and took public comment into account (such as
13 concerns raised by many members of the public that Cypress not be moved out of its current
14 Trustee Area 2). The Board passed a formal resolution memorializing this decision, a true and
15 correct copy of which is attached hereto as Exhibit C.

16 17. The Board provided the County Committee and its staff and in-house counsel with
17 the new Trustee Area documentation and data prior to the County's Committee meeting on
18 December 10, 2021. This included documentation of the Trustee Areas' dimensions, population
19 counts and balance, and characteristics. As the Board's resolution made clear, the Board provided
20 the County Committee with the new Trustee Areas so that the County Committee could conduct
21 a review and make any adjustments to the boundaries of Map 5 that were necessary to achieve
22 greater population balance, as prescribed by California Education Code § 1002(b). As the Board's
23 resolution also made the clear, the Board expressly did not request that the County Committee
24 conduct a redistricting of the county board of education or any other activity pursuant to California
25 Education Code § 1002(a). Of course, given the Board's desire, as the elected body accountable
26 to Orange County's voters, to conduct its own redistricting, and in light of the lengthy and detailed
27 process for redistricting that the Board just went through, it would have made no sense for the
28 Board, in essence, to reject all of the earlier efforts we undertook for redistricting, and ask the

1 County Committee to start over with its own independent redistricting process. Accordingly, the
2 Board was explicit that the only action to be taken by the County Committee was its limited
3 function under California's Education Code § 1002(b) to make adjustments, if any, that were
4 necessary to increase the population balance of the existing Trustee Areas set forth in Map 5.

5 18. In taking its action to approve its new districts by December 8, 2021, the Board
6 was mindful of the December 15, 2021, deadline to establish any new county electoral voting
7 districts under California Elections Code § 21501(a)(2) for consolidated county-wide elections.
8 This deadline was well-established by the Orange County Supervisors' outreach and educational
9 efforts to local government agencies, and was mentioned repeatedly at the Board's redistricting
10 meetings, which were attended by staff and counsel of the County Committee. Completing our
11 work by December 8, a week before the December 15 deadline, in a process that included multiple
12 public hearings and substantial work and effort to analyze, prepare, and consider maps and
13 alternative proposals was not easy due to the census data delay from Covid-19 that we had
14 experienced in 2021. However, the Board also wanted to provide the County Committee with
15 time to do its Section 1002(b) review ahead of the December 15, 2021, election deadline.
16 Moreover, because the Board took great effort to prepare and ultimately approve a fully
17 population balanced map as required by law, the County Committee would have had no problem
18 convening a meeting for purposes of conducting a review of Map 5 to confirm it was fully
19 population balanced, and then confirming that it would consequently have no adjustments to Map
20 5's boundaries pursuant to California Education Code § 1002(b).

21 19. The County Committee met on December 10, 2021, and I was in attendance at that
22 meeting. Through our demographer NDC and legal counsel, the Board formally presented the
23 new and established Trustee Areas as reflected by Map 5 to the County Committee at the meeting,
24 and it expressly pointed out that California law required an equal population for the Trustee Areas,
25 that the newly established Trustees Areas as set forth in Map 5 were fully population balanced,
26 that Map 5 complied with all other legal requirements, and that the Board and the County
27 Committee were under a December 15, 2021, requirement to approve the new Trustee Areas
28 (either as adopted by the Board or as adjusted to increase population balance) and then submit

1 them to the Registrar of Voters by the December 15, 2021 deadline for the June 7, 2022, election.

2 20. Because the Board had made no request that the County Committee redistrict under
3 Education Code § 1002(a), the County Committee's authority and responsibility was simply
4 limited to considering whether any adjustments to Map 5's boundaries were needed to increase
5 population balance. Unfortunately, the County Committee did not perform its duty on December
6 10, 2021, and it has not performed this duty since then as of the date of this declaration. At the
7 December 10, 2021, meeting, the County Committee simply deferred taking any action on the
8 established Trustee Areas, and it allowed the December 15, 2021, deadline to lapse.

9 21. The County Committee did not meet again for over a month. At its next meeting,
10 on Friday, January 14, 2022, the County Committee made clear that it was going to conduct a
11 whole new redistricting of the Board's Trustee Areas taking into account a range of different
12 factors. This is clearly in excess of its authority under Education Code § 1002(b), and it
13 significantly undermines, and indeed seeks to supplant, the Board's authority to do its own
14 redistricting and set the rules for its own government.

15 22. The January 14 meeting also disturbingly revealed that the County Committee, or
16 at least a number of its members and advisors, had partisan objectives behind its effort to usurp
17 and replace the Board's redistricting authority and process. At this meeting, it was disclosed that
18 the County Committee had retained its own demographer, Paul Mitchell of Redistricting Partners,
19 and that Mr. Mitchell had prepared three new redistricting maps for the County Committee
20 (designated Map A, B, and C). None of these maps had been properly and legally noticed or
21 publicly provided per the Brown Act prior to the meeting. The County Committee is also
22 operating on non-existent funds in their budget, and has not sought and obtained approval from
23 the Board to authorize the expenditure of unplanned or non-budgeted taxpayer monies. The
24 Orange County Department of Education budget passed in June 2021 does not contain the
25 unanticipated and additional legal fees, and Mr. Mitchell's and Redistricting Partners' fees.
26 Presently, the additional County Committee funding and budget increase for their partisan and
27 unlawful redistricting effort have not been requested or approved by the Board in the interim
28 budget.

1 23. News reports have confirmed that Mr. Mitchell is the primary redistricting
2 consultant to Speaker Pelosi and the California Democratic Congressional delegation. See, for
3 example attached here as Exhibit D, a true and correct copy of a ProPublica article published on
4 November 9, 2012, describing Mr. Mitchell’s role and connection to the Democratic Party. My
5 understanding is that Redistricting Partners used to be non-partisan but then in early 2020, Mr.
6 Mitchell separated ways from its Republican partner (Matt Rexroad) and replaced him with Evan
7 McLaughlin, who from 2013-2020 was Chief of Staff to then-Assemblymember Lorena
8 Gonzalez, and in 2018 was the Assembly Democratic Caucus Campaign Lead for the California
9 Democratic Party. Mr. Mitchell is Vice President and manager of another firm, Political Data
10 Inc. (“PDI”), and on February 25, 2021, PDI issued a press release announcing that, after 30 years
11 of being a “trusted non-partisan vendor,” PDI “will divest any business that does not align with
12 the organization’s Democratic values and will not work with Republican candidates or
13 campaigns.” A true and correct copy of this press release is attached as Exhibit E. In statements
14 attributed to him appearing in the publication *Capital Weekly*, Mr. Mitchell further confirmed
15 PDI’s decision only to work for “progressives” and Democrats, and he stated that doing this had
16 been “something we’ve been thinking about for years.” A true and correct copy of the March 10,
17 2021, *Capitol Weekly* article is attached hereto as Exhibit F.

18 24. Mr. Mitchell presented only one of his maps, Map C, at the January 14, 2022,
19 meeting. This map was not made available to the public in advance, nor was it noticed or
20 agendized by the County Committee for its January 14 meeting. Among other things, Map C
21 moves me out of Trustee Area 3 and into Trustee Area 5, thus prohibiting me from running for
22 reelection in the district in which I was elected, and forcing me to run as a challenger against the
23 incumbent in Trustee Area 5. The districts are also redrawn and renumbered so that current
24 incumbents Lisa Sparks, PhD (elected in Trustee Area 5) and Mari Barke (elected in Trustee Area
25 2) are both in the same newly numbered Trustee Area 3, making them both ineligible to run in the
26 June 7, 2022 election. Trustee Area 4, which the fourth conservative incumbent (Tim Shaw)
27 represents, is left as the fourth numbered district, but it is redrawn and manipulated (mainly by
28 removing Yorba Linda from the district) to create a heavily partisan pro-Democratic district. In

1 short, Map C is consistent with what one would be expect for a redistricting plan created by
2 partisan Democrats motivated and using the redistricting process to achieve partisan ends.

3 25. The Committee also gave consideration to what it called “Map 9B”, which was a
4 further revised map based on the original Map 9 that was co-authored by Billie Joe Wright, Rosa
5 Resendiz and Claudio Gallegos and which the Board considered and ultimately rejected due to its
6 clearly partisan design and intent.

7 26. The County Committee did not take any action at the January 14 meeting to adjust
8 Map 5’s boundaries pursuant to section 1002(b), nor did it otherwise purport to approve or adopt
9 any other redistricting plan. Instead, the County Committee simply asked Mr. Mitchell and
10 Redistricting Partners to prepare adjusted versions of Map 5 (not for the purpose of increasing
11 population balance but instead for the purpose of keeping Saddleback Valley more intact within
12 a single Trustee Area) for consideration at the next meeting, and it confirmed that it would also
13 consider Map 9B and Map C at the next meeting.

14 27. The County Committee met again on January 21, 2022, and while I was hopeful
15 that the County Committee would decide to follow the law that limited its authority under
16 Education Code § 1002(b) and approve the Board’s Map 5 with no adjustments (since none could
17 be made to increase population balance between Trustee Areas), it did not do so and took no
18 action to approve the Board’s Map 5 or to adjust its boundaries for the limited purpose of
19 increasing the population balance. The County Committee requested additional changes to be
20 made by its demographer to the already-revised versions of Map 5 and Map 9B, and the County
21 Committee resolved to come back for a further meeting on January 27, 2022, to further consider
22 additionally-changed versions of Map 5 and Map 9B (again, without the purpose of the changes
23 being to increase the population balance of the Board’s existing Trustee Area boundaries). The
24 County Committee’s discussion and decisions at its January 21 confirmed that the Committee
25 intended to complete a whole new redistricting process, rather than the limited review and
26 adjustment process for population balance under Education Code § 1002(b).

27 28. Throughout this process from the County Committee’s first meeting on December
28 10, 2022 through its most recent meeting, neither the County Committee nor its staff or counsel

1 has reached out to have a discussion with the Orange County Board Executive Committee or its
2 counsel about the redistricting and adjustment process, and they have not otherwise attempted to
3 collaborate with the Board on the process or even to communicate with the Board's Executive
4 Committee or counsel about the County Committee's process. Instead, the County Committee,
5 apparently through its staff and counsel, have been non-transparent and have engaged in public
6 decisions outside of the Brown Act requirements for public meetings and routine public decision
7 making. Under the veil of obscurity and behind the public's view or knowledge, the County
8 Committee hired its own partisan demographer and outside counsel at taxpayer expense without
9 public approval under the requirements of the Brown Act. Additionally, County Committee staff
10 and those retained partisan professionals undertook efforts and work to conduct a new
11 redistricting process for the trustee areas of the county board of education. These purposeful and
12 unlawful redistricting efforts become evident at the County Committee's January 14 and 21
13 meetings. I have observed that the County Committee has effectively dismissed the work of NDC,
14 and it has displayed a lack of interest in any further input from NDC, the Board, or its counsel.
15 Indeed, at the County Committee's January 21 meeting, it agendized or scheduled time on its
16 agenda for a new map, now referred to as Map 9B, to be presented at the meeting by private
17 citizen, Mr. Wright. Tragically, the board was denied a role by the County Committee to
18 participate in any planned public discussion of our previously approved and authorized Map 5. At
19 this same meeting, Board's counsel and NDC were only allowed to address the County Committee
20 in the public comment portion of the meeting, and were restricted to less than 1-2 minutes each.
21 The County Committee also arranged for its independently hired outside legal counsel and
22 demographer to attend and speak at the January 21 meeting by video conference, but it refused to
23 allow the Board to have its counsel, Marguerite Leoni, participate by video conference or even
24 have the ability of contemporaneous observation of the County Committees meeting by live video
25 conferencing or other electronic means.

26 29. The County Committee's delay and violation of the election rule deadline of
27 December 15, 2021 to perform its limited duty under Education Code § 1002(b) to approve the
28 Board's districts or adjust the Board's existing boundaries to increase population balance has

1 caused significant harm to the Board. It has created uncertainty as to the Board’s electoral districts
2 and which districts will be part of the June 7, 2022 election. It has also caused harm to the three
3 Board incumbent Trustees who are up for reelection in the June 7, 2022. These are the Trustees
4 elected from and currently representing Trustee Areas 2, 4, and 5. These Trustees currently have
5 their campaign planning, activities, and fundraising significantly disrupted by the delay and
6 uncertainty caused by the County Committee. Furthermore, the distraction, distress, and difficulty
7 it imposes, and the additional burden that it will place on any of them to file nomination papers
8 and other documents required by the Registrar’s office to run in the June 7, 2022 election,
9 harmfully affects public policy and governance during the remainder of their term on the Board.
10 Finally, the delay and uncertainty caused by the County Committee similarly has harmed, and
11 continues to harm, potential non-incumbent candidates who are considering running for the Board
12 in the June 2022 elections. For such individuals, the negative impacts on the ability to plan,
13 prepare, and fundraise for a campaign are even greater than for incumbents.

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

Executed this _____ day of January 2022, at Irvine, California.

Ken L. Williams, D.O.