

FILED
Superior Court of California
County of Los Angeles
11/04/2025

David W. Slayton, Executive Officer / Clerk of Court
By: A. Morales Deputy

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

GRAEME BLAIR, SALIH CAN AÇIKSÖZ,
BENJAMIN KERSTEN, and CATHERINE
WASHINGTON,

Plaintiff,

v.

REGENTS OF THE UNIVERSITY OF
CALIFORNIA, MICHAEL V. DRAKE,
DARNELL HUNT, MICHAEL BECK,
MONROE GORDEN, JR., RICK BRAZIEL,
and SCOTT SCHEFFLER,

Defendants.

Case No.: 24STCV27623

ORDER ON DEFENDANTS' DEMURRER
AND MOTION TO STRIKE

Hearing Date: October 22, 2025
Hearing Time: 2:15 p.m.
Dept.: 7

Defendants The Regents of the University of California, Michael V. Drake, Darnell Hunt, Michael Beck, Monroe Gorden, Jr., Rick Braziel, and Scott Scheffler (collectively, "Defendants") demur to, and move to strike portions of, the First Amended Complaint of plaintiffs Graeme Blair, Salih Can Açiksöz, Benjamin Kersten, and Catherine Washington (collectively, "Plaintiffs"). Plaintiffs oppose the demurrer and the motion to strike.

1 For the reasons explained below, the Court OVERRULES Defendants' demurrer.
2 Additionally, the Court DENIES Defendants' motion to strike Plaintiffs' requests for
3 injunctive relief but otherwise GRANTS the motion to strike.

4 I. Introduction

5 On April 25, 2025, students, faculty, and staff of the University of California Los
6 Angeles (UCLA) began a protest on campus in the form of an encampment, called the
7 Palestine Solidarity Encampment. (First Amended Complaint (Dec. 9, 2024) ¶¶ 40-41.)
8 The goal of the encampment was to "stop the Israeli state's campaign of violence in Gaza
9 and the West Bank, to make certain demands of the university about its relationship to
10 Israel, and to host political, social, and religious programming for university community
11 members on a range of topics related to Palestine." (*Id.* at ¶ 41.) All four Plaintiffs in this
12 case routinely visited the encampment to express their support of its goals. (*Id.* at ¶¶ 64,
13 70, 72, 77.)

14 In the evening of April 30, a violent mob attacked the encampment. (First Amended
15 Complaint, ¶ 98.) Twenty-five pro-Palestine protestors were hospitalized as a result. (*Id.*
16 at ¶ 106.)

17 Following the attack, UCLA allegedly decided to "forcibly clear students from the
18 encampment" and "shut down their expressive activities." (First Amended Complaint, ¶
19 112.) At 5:50 p.m. on May 1, at the direction of UCLA leadership and the UC Office of the
20 President, the UCLA Police Department (UCPD) allegedly declared the encampment an
21 unlawful assembly and issued a dispersal order, even though, at the time, there was no
22 criminal activity taking place. (*Id.* at ¶¶ 121, 124-125.)

23 Following the issuance of the dispersal order, plaintiff Kersten, a UCLA graduate
24 student, and plaintiff Açıksöz, a UCLA professor, allegedly left the encampment for fear
25 of arrest. (First Amended Complaint, ¶¶ 16-17, 131.) The two other plaintiffs — plaintiff
26 Blair, a UCLA professor, and plaintiff Washington, a UCLA law student — were allegedly
27 arrested. (*Id.* at ¶¶ 14-15, 138, 141.) Because of their arrests, UCLA alleged initiated
28 disciplinary proceedings against them for violations of university rules. (*Id.* at ¶¶ 187-228.)
29

1 In this case, Plaintiffs allege the UCPD's May 1 dispersal order violated their
2 freedom of speech guaranteed by article I, section 2 of the California Constitution. They
3 seek declaratory and injunctive relief (counts 2-3, 6), as well as compensatory relief under
4 the Bane Act, Civil Code section 52.1 (count 7). Additionally, plaintiffs Washington and
5 Blair challenge the constitutionality of their alleged arrests (count 1) and disciplinary
6 proceedings (counts 4-5).

7 Defendants are the Regents of the University of California, a public agency
8 charged with administration of UCLA, and various individuals who are administrators of
9 the university, including defendant Dr. Michael V. Drake, President of the University of
10 California; Darnell Hunt, Interim Chancellor of UCLA; Michael Beck, Administrative Vice
11 Chancellor of UCLA; Monroe Gordon, Jr., Vice Chancellor of Student Affairs of UCLA;
12 Rick Brazier, Director of the UCLA Office of Campus Safety; and Scott Scheffler, Acting
13 UCPD Chief. (First Amended Complaint, ¶¶ 18-24.) They now demur to and move to
14 strike portions of Plaintiff's operative First Amended Complaint.

15 II. Legal Standard: Demurrer

16 A demurrer raises legal objections to an opposing party's pleading. The Code of
17 Civil Procedure recognizes eight legal objections to a complaint or a cause of action within
18 a complaint. (§§ 430.10; 430.50, subd. (a).) The grounds for an objection must be based
19 on matter included within the complaint's four corners or "any matter of which the court is
20 required to or may take judicial notice." (§ 430.30, subd. (a).)

21 III. Analysis

22 Plaintiffs assert four general categories of claims: (A) claims that Defendants
23 violated their constitutional freedom of speech; (B) claims, by plaintiffs Blair and
24 Washington, that their arrests violated their constitutional right to freedom from
25 unreasonable seizure; (C) a claim under the Bane Act for damages for the alleged
26 constitutional violations; and (D) claims, by plaintiffs Blair and Washington, challenging
27 the constitutionality of the alleged disciplinary proceedings initiated against them by the
28 university.
29

1 Defendants demur on the ground the operative First Amended Complaint does not
2 state facts sufficient to constitute any of Plaintiffs' causes of action. (Code Civ. Proc., §
3 430.10, subd. (e).) Additionally, Defendants bring (E) a motion to strike various parts of
4 Plaintiffs' pleading.

5 A. Freedom of Speech

6 Under article I, section 2 of the California Constitution, "Every person may freely
7 speak, write and publish his or her sentiments on all subjects, being responsible for the
8 abuse of this right." Here, Plaintiffs contend Defendants violated their freedom of speech
9 by retaliating against them for exercising their freedom (count 2) and by enforcing a
10 heckler's veto (count 3). (First Amended Complaint, ¶¶ 247-257.) Defendants demur on
11 the ground that Plaintiffs' First Amended Complaint fails to state facts sufficient to
12 constitute either of the two theories.

13 Retaliation (Count 2)

14 Plaintiffs' first theory is that Defendants retaliated against them for exercising their
15 freedom of speech. They allege that by declaring an unlawful assembly, causing plaintiffs
16 Kersten and Açıksöz to leave, by forcibly clearing the encampment, and by arresting
17 plaintiffs Blair and Washington, Defendants prevented them from "expressing themselves
18 freely and associating with others in the encampment, which are protected activities under
19 the California Constitution." (First Amended Complaint, ¶ 249.)

20 Under federal law, there are three elements to a plaintiff's claim that she was
21 retaliated against for exercising her constitutional right. The plaintiff must prove "(1) he or
22 she was engaged in constitutionally protected activity, (2) the defendant's retaliatory
23 action caused the plaintiff to suffer an injury that would likely deter a person of ordinary
24 firmness from engaging in that protected activity, and (3) the retaliatory action was
25 motivated, at least in part, by the plaintiff's protected activity." (*Tichinin v. City of Morgan*
26 *Hill* (2009) 177 Cal.App.4th 1049, 1062-1063, page number omitted.) The parties agree
27 these elements apply here as well, to Plaintiffs' claim under California law that Defendants
28 retaliated against them for exercising their rights under the California Constitution.

1 Defendants argue that Plaintiffs do not state facts sufficient to constitute either
2 element (1) or element (3) of their retaliation claim. Defendants first argue that Plaintiffs
3 do not plead they were (1) engaged in a constitutionally protected activity because the
4 UCPD “properly issued an unlawful assembly declaration and ordered protestors to
5 disperse, after which UCPD could lawfully arrest anyone who chose to remain at the
6 encampment.” (Memorandum, 16:23-26.)

7 An unlawful assembly is “two or more persons assemble[d] together to do an
8 unlawful act, or do a lawful act in a violent, boisterous, or tumultuous manner....” (Pen.
9 Code, § 407.) Every person who “participates” in an unlawful assembly is guilty of a
10 misdemeanor, as is “[e]very person remaining present at the place of any riot, rout, or
11 unlawful assembly, after the same has been lawfully warned to disperse, except public
12 officers and persons assisting them in attempting to disperse the same....” (§§ 408, 409.)
13 Section 407 thus has two prongs: persons assembled to an *unlawful* act, on the one hand,
14 and persons assembled to do a *lawful* act albeit in a violent, boisterous, or tumultuous
15 manner, on the other hand.

16 Defendants focus on the unlawful-act prong of section 407, arguing they were
17 justified in declaring an unlawful assembly on May 1, 2024, because two or more persons
18 were gathered to do an unlawful act. The unlawful act, Defendants argue, was to lodge
19 on the UCLA campus in violation of Penal Code section 647, subdivision (e). Section 647
20 prohibits disorderly conduct; subdivision (e) describes a type of disorderly conduct as
21 “lodging” “in a building, structure, vehicle, or place, whether public or private, without the
22 permission of the owner or person entitled to the possession or in control of it.”

23 Plaintiffs respond that Defendants were not justified in declaring an unlawful
24 assembly, arguing that the campus encampment does not qualify as “lodging” within the
25 meaning of Penal Code section 647.

26 Defendants’ argument — and this case more broadly — strikes at the intersection
27 between the constitutional right of free speech and the crime of unlawful assembly. The
28 parties cite caselaw dealing with the intersection of free speech and the lawful-act prong
29 of unlawful assembly, that is, a gathering of two or more persons to “do a *lawful act* in a

1 violent, boisterous, or tumultuous manner.” (Emphasis added.) To harmonize the crime
2 of unlawful assembly with the constitutional right of free speech, the California Supreme
3 Court has narrowed the lawful-act prong of the statute. “[T]he proscriptions of sections
4 407 and 408 on assemblies to do a *lawful act* must be limited to assemblies which are
5 violent or which pose a clear and present danger of imminent violence.” (*In re Brown*
6 (1973) 9 Cal.3d 612, 623, emphasis added.)

7 This case, in contrast, involves the interaction between the right of free speech
8 and the unlawful-act prong of unlawful assembly, a group that is purportedly assembled
9 to do an unlawful act. Neither side cites an authority on this precise issue. On the one
10 hand, the right of free speech arguably does not extend to criminal behavior. On the other
11 hand, what might be called an “unlawful act” might also qualify as constitutionally
12 protected speech. Particularly in this case, Defendants maintain that two or more people
13 were gathered on campus to illegally lodge in violation of Penal Code section 647,
14 subdivision (e). Assuming Defendants are factually correct, was the lodging itself not a
15 form of protected speech or protest? Should the unlawful-act prong of an unlawful
16 assembly be limited, like the lawful-act prong, to unlawful acts that are “violent or which
17 pose a clear and present danger of imminent violence” per *In re Brown*? Moreover, what
18 about the individuals who were on campus and squarely engaged in protected speech
19 activity — plaintiff Blair, for example, was allegedly arrested while holding a sign that read,
20 “UCLA Faculty and Staff Support Our Students” — and might not have had any intention
21 of lodging there in violation of Penal Code section 647? Lastly, what about a declaration
22 of an unlawful assembly that is arguably a pretext for suppressing speech? Can the
23 police, for example, declare that any group protest is an unlawful assembly because the
24 group is assembled to litter, for example, or to commit some other minor crime? The Court
25 sees potential for abuse of the rule that so long as a group is assembled to do some
26 unlawful act, no matter how minor, then the group can be declared an unlawful assembly
27 and its speech suppressed.

28 Furthermore, even if Defendants’ legal argument is correct — even if a declaration
29 of unlawful assembly is per se constitutional, so long as a group was assembled to do

1 some unlawful act, no matter how minor — the Court cannot decide, based on the
2 pleadings alone, whether the protestors on campus or, more specifically, the Plaintiffs in
3 this case were, in fact, gathered on campus to unlawfully “lodge” there in violation of Penal
4 Code section 647. While some allegations, as Defendants note, suggest that individuals
5 were indeed gathered to lodge on campus, the question of whether a group of persons
6 was assembled on May 1, 2024, to lodge on the UCLA campus is ultimately a question
7 of fact that cannot be answered on demurrer.

8 Ultimately, the Court is not persuaded that the constitutional inquiry ended once
9 police declared that a group of people were gathered together on the UCLA campus to
10 do the unlawful act of lodging there, even if the police correctly concluded that lodging
11 was, in fact, the purpose of the assembly. In other words, the Court cannot conclude that
12 a declaration that people are assembled together to do an unlawful act per Penal Code
13 section 407 is constitutional per se.

14 As to element (3) of a claim of retaliation, retaliatory action that was motivated, at
15 least in part, by the plaintiff’s protected activity, Plaintiffs allege Defendants were
16 “substantially motivated” to declare an unlawful assembly and to clear the encampment
17 by their disfavor of Plaintiffs’ expression of support for the encampment’s goals. (First
18 Amended Complaint, ¶ 250.) The Court must accept this factual allegation as true.

19 At the motion hearing, Defendants elaborated on their argument that Plaintiffs do
20 not state facts sufficient to constitute element (3) of their claim of retaliation. Defendants
21 argued that Plaintiffs allegation (paragraph 250 of the First Amended Complaint) is a bare
22 legal conclusion that the Court should disregard. Other allegations, Defendants maintain,
23 point to but one alleged motivation for their decision to declare an unlawful assembly: the
24 prevention of further violence on campus.

25 An authority cited by Defendants holds that the motivation element of a retaliation
26 claim “may be met with either direct or circumstantial evidence” but ultimately “involves
27 questions of fact that normally should be left for trial.” (*Index Newspapers LLC v. United*
28 *States Marshals Service* (9th Cir. 2020) 977 F3d 817, 827.) Here, aside from Plaintiffs’
29 express allegation that Defendants were motivated to declare an unlawful assembly by

1 Plaintiffs' speech, other allegations support the inference that Plaintiffs' speech did, in
2 fact, motivate Defendants to declare an unlawful assembly on the UCLA campus. In
3 particular, Plaintiffs allege the encampment existed for several days on the UCLA campus
4 before it was attacked by counter-protestors overnight from April 30 to May 1. (First
5 Amended Complaint, ¶¶ 40, 101.) Defendants allegedly allowed the attack to "continue
6 unimpeded" for several hours. (*Id.* at ¶ 101.) Eventually, law enforcement and campus
7 security stopped the violence, but they allegedly arrested no one. (*Id.* at ¶¶ 101-102.) It
8 was not until the evening of May 1, nearly 24 hours after the attack on the encampment,
9 that Defendants allegedly declared an unlawful assembly and cleared the encampment,
10 even though "there was no criminal activity at the encampment in the late afternoon or
11 early evening of May 1." (*Id.* at ¶ 121.)

12 These allegations, if true, support an inference that had Defendants been
13 motivated by the threat of violence to declare an unlawful assembly, then they would have
14 declared an unlawful assembly on the night of April 30, when there was actual alleged
15 violence at the encampment. The fact they did not declare an unlawful assembly while
16 there was alleged violence occurring at the encampment, but instead waited nearly 24
17 hours until the violence had ended, is circumstantial evidence that Defendants were
18 motivated not by public safety but rather by, at least in part, Plaintiffs' protected speech
19 activity. Defendants' argument that they were in fact motivated to declare an unlawful
20 assembly for reasons of public safety raises an issue of fact that cannot be resolved on
21 demurrer.

22 In sum, the Court overrules Defendants' demurrer to count (2).¹

23 Heckler's Veto (Count 3)

24 Plaintiffs' second theory is that Defendants' declaration of an unlawful assembly
25 enforced a heckler's veto (count 3). (First Amended Complaint, ¶¶ 253-257.) A heckler's
26

27
28 ¹ At the motion hearing, Defendants argued that Plaintiffs' retaliation theory is essentially the same
29 as their heckler's veto theory. Even if Defendants are right — a point the Court does not decide here —
Plaintiffs are allowed to plead alternative theories of recovery, even if the theories are duplicative or
inconsistent. (*Dubin v. Robert Newhall Chesebrough Trust* (2002) 96 Cal.App.4th 465, 477.)

1 veto occurs when the government “silence[s] speech based on the reaction of a hostile
2 audience....” (*O’Toole v. Superior Court* (2006) 140 Cal.App.4th 488, 508.) A heckler’s
3 veto is unconstitutional unless there is a “clear and present danger” of “grave and
4 imminent harm.” (*Ibid.*)

5 Plaintiffs allege that Defendants’ decision to declare an unlawful assembly on
6 campus was partly “motivated by the actions of the counter-protestors and members of
7 the mobs that attacked the encampment in the days preceding the encampment’s
8 clearing.” (First Amendment Complaint, ¶ 254.) Defendants argue Plaintiffs fail, for two
9 reasons, to allege facts sufficient to state a claim of a heckler’s veto: first, a heckler’s veto
10 does not occur if the government is responding to violence on both sides of a controversy,
11 and two, Plaintiffs’ “expressive activity” was not constitutionally protected. (Memorandum,
12 18:5-6.)

13 Defendants’ first argument, even assuming it is supported by California law, is not
14 supported by Plaintiffs’ First Amended Complaint. Plaintiffs do not allege the encampment
15 was violent; allegedly, it was a group of counter-protestors who, on April 28, “broke into
16 the encampment and physically attacked students.” (First Amended Complaint, ¶ 87.)
17 The Court cannot conclude otherwise at this stage of proceedings.

18 Defendants’ second argument is that Plaintiffs were not engaged in constitutionally
19 protected activity because of the declaration of unlawful assembly. As discussed above,
20 Defendants’ argument is incomplete. The question here is whether the declaration of
21 unlawful assembly — even if it was motivated by a group assembled to do something
22 unlawful — was unconstitutional.

23 The Court overrules Defendants’ demurrer to count (3).

24 * * * *

25 The Court overrules Defendants’ demurrer to Plaintiffs’ claims that Defendants
26 violated their freedom of speech (counts 2 and 3). Count (6), a claim by Plaintiffs as
27 taxpayers to enjoin what they contend is unlawful expenditure of public funds, is partly
28 based on Plaintiffs’ claims that Defendants violated their freedom of speech. Thus, the
29 Court also overrules Defendants’ demurrer to count (6).

1 B. Freedom from Unreasonable Seizure

2 Plaintiffs Blair and Washington were both arrested at the encampment on May 2,
3 2024. (First Amended Complaint, ¶¶ 138, 141.) Both were issued arrest citations that
4 cited Penal Code section 409, the misdemeanor of “remaining at the place of any riot,
5 rout, or unlawful assembly, after [having been] lawfully warned to disperse....” (*Id.* at ¶
6 142.) They contend their arrests violated their constitutional rights against unreasonable
7 seizures under article I, section 13 of the California Constitution. On this theory, they
8 assert a claim against Defendants of false arrest (count 1). (First Amended Complaint, ¶¶
9 237-246.)

10 Defendants argue Plaintiffs fail to state a claim of false arrest because the
11 declaration of unlawful assembly was “lawful” and Plaintiffs were “lawfully” arrested for
12 allegedly violating it, even assuming they themselves “were not *personally* involved in any
13 underlying criminal activity.” (Memorandum, 15:5-6.)

14 Defendants’ arguments, as with their previous arguments, do not squarely address
15 Plaintiffs’ contention. Regardless of whether the declaration of unlawful assembly was
16 lawful per Penal Code section 407, the question here is whether it was unconstitutional.
17 The Court remains unpersuaded by the implication of Defendants’ argument: that a
18 declaration of unlawful assembly, so long as it complies with the Penal Code, is
19 constitutional per se. There must be more to the *constitutional* analysis than the question
20 of whether an unlawful assembly was declared *lawfully*.

21 At the motion hearing, Defendants suggested two legal limits on the right of free
22 expression that could apply here — either of which, in their view, defeats Plaintiffs’ claim.
23 The first limit on a person’s constitutional right to free speech is a restriction on the time,
24 place, or manner of the speech. (*Clark v. Community for Creative Non-Violence* (1984)
25 468 U.S. 288, 293 (*Clark*).) To be constitutional, a time, place, and manner restriction
26 must be “reasonable,” meaning “justified without reference to the content of the regulated
27 speech,” “narrowly tailored to serve a significant governmental interest,” and “leav[ing]
28 open ample alternative channels for communication of the information.” (*Ibid.*)
29

1 Time, place, and manner restrictions are typically regulations and rules established
2 before the speech that they affect has taken place. In *Clark*, for example, the time, place,
3 and manner restriction was a rule that prohibited camping in certain parks in Washington,
4 D.C.; it had been in force well before the plaintiffs applied for, and were denied, a permit
5 to camp in a park, activity they contended constituted protected speech and expression.
6 (*Clark, supra*, 468 U.S. at pp. 290-291.) Here, the purported time, place, and manner
7 restriction — the declaration of an unlawful assembly — was, at least in Plaintiffs’ view, a
8 direct response to their exercise of their freedom of speech, not an extant regulation or
9 rule that their speech happened to violate. Assuming Defendants’ declaration of an
10 unlawful assembly qualifies as a time, place, and manner restriction, Defendants do not
11 attempt to justify the restriction as reasonable, that is, as justified without reference to the
12 content of the regulated speech, narrowly tailored to serve a significant governmental
13 interest, and leaving open ample alternative channels for communication of the
14 information. The Court is not at this stage of the proceedings persuaded the limit on
15 Plaintiffs’ speech was a constitutionally justified time, place, and manner restriction.

16 The second limit on a person’s freedom of speech is probable cause that justifies
17 the arrest of the speaker. More specifically, probable cause to make an arrest defeats a
18 claim that the arrest was in retaliation for speech protected by the First Amendment —
19 especially given that “protected speech is often a legitimate consideration when deciding
20 whether to make an arrest....” (*Nieves v. Bartlett* (2019) 587 U.S. 391, 397-398, 402.)
21 There is one exception to the rule: objective evidence the plaintiff was arrested when
22 “otherwise similarly situated individuals not engaged in the same sort of protected speech
23 had not been.” (*Id.* at p. 407.) The exception addresses the risk that “some police officers
24 may exploit the arrest power as a means of suppressing speech.” (*Id.* at p. 406.)

25 The *Nieves* rule applies to claims of retaliatory arrest asserted under federal law.
26 Assuming the rule applies to claims asserted under California law, the Court is not yet
27 persuaded the rule should apply here, where the purported probable cause for Blair and
28 Washington’s arrests was probable cause to suspect they had violated the Penal Code
29 sections dealing with unlawful assemblies. The issue here is not so much whether the

1 arresting officers violated the constitutional rights of plaintiffs Blair and Washington;
2 rather, the issue is whether Defendants violated the constitutional rights of plaintiffs Blair
3 and Washington by declaring an unlawful assembly on the UCLA campus, a result of
4 which was the arrests of the two plaintiffs. This issue is not resolved by a finding that the
5 arresting officers, acting pursuant to Defendants' declaration, had probable cause to
6 arrest the plaintiffs under the law against unlawful assemblies. In other words, assuming
7 that the arresting officers did, in fact, have probable cause to arrest Blair and Washington,
8 the issue remains whether the declaration of unlawful assembly itself violated their
9 freedom from unreasonable seizures under article I, section 13 of the California
10 Constitution.

11 The issue here was somewhat more squarely addressed in the decision of *People*
12 *v. Uptgraft* (1970) 8 Cal.App.3d Supp. 1, a decision by the appellate department of this
13 Court. "The fact that people assert First Amendment rights," the court wrote, "does not
14 place them above the law and immunize them from obeying state laws, so long as such
15 state laws are enforced fairly and without discrimination." (*Id.* at p. 5.) The court applied
16 this principle to a declaration of unlawful assembly on a college campus, a declaration
17 that resulted in the arrest of several students who had been protesting there. The court
18 described its inquiry as "whether the trial judge was justified in holding that the assembly
19 had convened that morning, not just to talk and not just to provoke acts but to act, to act
20 in violation of the law." (*Id.* at p. 6.)

21 Although subsequent caselaw might have since honed the applicable legal
22 standard, *Uptgraft*, in the Court's view, more squarely wrestled with the issue here by
23 focusing on the declaration of unlawful assembly, rather than an individual plaintiff's arrest
24 pursuant to the declaration. In answering this question, the *Uptgraft* court considered the
25 overall circumstances on the college campus at the time the declaration was made.
26 Ultimately a similar analysis here would require the Court to consider the circumstances
27 on the UCLA campus at the time Defendants decided to declare an unlawful assembly —
28 an analysis that cannot be undertaken based on the pleadings alone.

29 The Court overrules Defendants' demurrer to count (1).

1 C. Bane Act Violation

2 Plaintiffs assert a claim under the Bane Act for damages caused by Defendants'
3 alleged violations of their constitutional rights (count 7). (First Amended Complaint, ¶¶
4 278-286.)

5 Under the Bane Act, “[a]ny individual whose exercise or enjoyment of rights
6 secured by the Constitution or laws of the United States, or of rights secured by the
7 Constitution or laws of this state, has been interfered with, or attempted to be interfered
8 with, as described in subdivision (b), may institute and prosecute in their own name and
9 on their own behalf a civil action for damages....” (Civ. Code, § 52.1, subd. (c).)
10 Subdivision (b) describes the following conduct: “a person or persons, whether or not
11 acting under color of law, interferes by threat, intimidation, or coercion, or attempts to
12 interfere by threat, intimidation, or coercion, with the exercise or enjoyment by any
13 individual or individuals of rights secured by the Constitution or laws of the United States,
14 or of the rights secured by the Constitution or laws of this state....” (§ 52.1, subd. (b).)

15 Defendants argue Plaintiffs’ First Amended Complaint fails, for two reasons, to
16 state facts sufficient to constitute a claim under the Bane Act. First Plaintiffs, Defendants
17 argue, do not allege that Defendants had the required specific intent to violate their
18 constitutional rights. Plaintiffs respond that they do not need to allege that Defendants
19 acted with specific intent.

20 The requirement of specific intent does not appear in the language of the Bane
21 Act. To the extent specific intent is required to prove a claim under the Act, the
22 requirement serves a practical purpose. A defendant cannot be liable under the Act for
23 interfering with a plaintiff’s constitutional rights negligently; the Act prohibits interference
24 with rights only by “threat, intimidation, or coercion....” (*Cornell v. City & County of San*
25 *Francisco* (2017) 17 Cal.App.5th 766, 802.) The question of threats, intimidation, or
26 coercion becomes muddled in cases of allegedly unconstitutional arrests, given that many
27 if not most arrests involve at least coercion, if not threats and intimidation. In *Cornell*, the
28 authority cited by Defendants, the court held that the arresting officer must have had
29 “specific intent” to “violate the arrestee’s right to freedom from unreasonable seizure,” a

1 holding that, again, “ensures ordinary negligence is not cognizable under Section 52.1.”
2 (*Id.* at pp. 801-802.)

3 In this case, Defendants’ alleged violations of Plaintiffs’ right to freedom from
4 unreasonable seizure is but one of two bases for their Bane Act claim. They also base
5 their claim on Defendants’ alleged violations of their freedom of speech, a constitutional
6 right they allege Defendants violated by threats — the threat of arrest, which allegedly
7 caused plaintiffs Kersten and Açıksöz to leave the encampment — and by coercion —
8 the arrests of plaintiffs Blair and Washington. Because Plaintiffs allege facts sufficient to
9 support at least one basis for a Bane Act claim, the Court cannot on demurrer reach
10 Defendants’ arguments regarding the second basis for the claim.

11 The Court overrules Defendants’ demurrer to count (7).

12 D. Disciplinary Proceedings

13 Plaintiff Blair, a UCLA professor, and plaintiff Washington, a UCLA law student,
14 allege that, because of their arrests, the university initiated disciplinary proceedings
15 against them. (First Amended Complaint, ¶¶ 187-228.) They contend their disciplinary
16 proceedings violated their constitutional right to due process (count 4) and the
17 constitutional prohibition on ex post facto laws (count 5). (*Id.* at ¶¶ 258-266.)

18 Blair alleges that on June 1, 2024, he received a notice from the Committee on
19 Charges, a committee of the UCLA Academic Senate that investigates complaints lodged
20 against faculty for alleged violations of the Faculty Code of Conduct. (First Amended
21 Complaint, ¶¶ 208-209.) Although the UCLA administration initiates disciplinary
22 proceedings against a faculty member by notifying the Committee, it is not bound by the
23 Committee’s decisions; “[t]he university retains ultimate authority over faculty discipline
24 notwithstanding the work of the Committee on Charges.” (*Id.* at ¶ 211.)

25 In short, the Committee allegedly found no probable cause that Blair violated the
26 Faculty Code of Conduct and considers his case closed, whereas UCLA administration
27 has not closed his disciplinary file, writing, on August 1, 2024, that it intends to “continue
28 to investigate and record new information” and “may consider filing new and/or revised
29 charges.” (First Amended Complaint, ¶ 217.) “As a result, [Blair’s] current disciplinary

1 record includes ... unsubstantiated charges” and allegations that he “fears ... have
2 impacted and will negatively impact future personnel decisions made by the university.”
3 (*Id.* at ¶¶ 222-223.)

4 Plaintiff Washington alleges that on May 24, 2024, she received notice from the
5 Assistant Dean of Students that the Office of Student Conduct was initiating disciplinary
6 proceedings against her for alleged violations of the UCLA Student Conduct Code. (First
7 Amended Complaint, ¶ 187.) Following a meeting with the author of the notice, Bryan
8 Murotake, Assistant Dean of Students, Washington received a document titled,
9 “Agreement of Resolution.” (*Id.* at ¶ 199.) In the Agreement, UCLA essentially promised
10 not to subject her to “additional sanction” if she agreed, in turn, to not again violate the
11 Student Conduct Code. (*Id.* at ¶ 199). But UCLA stated that its investigation into the
12 events of May 1 and 2 was ongoing and left open the possibility that Washington might
13 be disciplined were the university to find “additional evidence” of misconduct — a term
14 Washington calls misleading, given UCLA never actually presented her with any evidence
15 of alleged misconduct. (*Id.* at ¶¶ 200-202.) She alleges the Agreement of Resolution is
16 now part of her student record, and that she “faces the possibility that her disciplinary file
17 could be reopened at any time.” (*Id.* at ¶ 205.)

18 In this case, Blair and Washington challenge their disciplinary proceedings as
19 unconstitutional in two respects: as a violation of their right to due process under article
20 I, section 7 (count 4), and as a violation of the prohibition on ex post facto laws under
21 article I, section 9 of the California Constitution (count 5). (First Amended Complaint, ¶¶
22 258-266.) The alleged due process violation and ex post facto law is a guideline that was
23 allegedly issued by defendant and UC Chancellor Michael Drake on May 9, 2024, several
24 days after the declaration of unlawful assembly. Previously, the decision whether to
25 discipline students or faculty for violations of university policy or for arrests for unlawful
26 behavior was left to the discretion of “local campus administrators.” (*Id.* at ¶ 175.) Under
27 the May 9 guideline, local campus administrators *must* initiate disciplinary proceedings
28 for alleged violations of university policy or arrests for unlawful behavior. (*Id.* at ¶¶ 176-
29 177.) “This new decree [also] eliminated UCLA administrators’ ability to offer amnesty to

1 the encampment demonstrators, an offer that administrators were [allegedly] mulling prior
2 to the May 9 policy.” (*Id.* at ¶ 179.)

3 Defendants argue that Plaintiffs’ First Amended Complaint fails to state facts
4 sufficient to constitute either claim, violation of due process or the prohibition on ex post
5 facto laws. Defendants first attack both claims on jurisdictional grounds, namely that
6 Plaintiffs have not exhausted their administrative remedies. Defendant further argue that
7 both claims fail as a matter of law.

8 Exhaustion of Administrative Remedies

9 A plaintiff must exhaust her administrative remedies before she asks a court to
10 review an administrative decision. (*AIDS Healthcare Foundation v. State Dept. of Health*
11 *Care Services* (2015) 241 Cal.App.4th 1327, 1337 (*AIDS Healthcare Foundation.*)
12 Administrative remedies are deemed exhausted “only upon termination of all available
13 administrative review procedures.” (*Ibid.*)

14 At least two factors complicate the question of whether Plaintiffs in this case have
15 exhausted their administrative remedies. First, it is more difficult to determine here, on a
16 pleadings challenge, what remedies, if any, remain available to them than it is in cases in
17 which the Administrative Procedures Act (APA) prescribes the available administrative
18 procedures and remedies. Application of the APA makes it easier for the court to
19 determine whether the plaintiff has exhausted the APA’s procedures and remedies. (See
20 *AIDS Healthcare Foundation, supra*, 241 Cal.App.4th at pp. 1338-1340.)

21 Second, the alleged administrative decision in this case was essentially a decision
22 to not make a final decision — UCLA’s decision to defer a final disciplinary decision
23 regarding Plaintiffs to an unspecified date in the future. Plaintiff Washington allegedly
24 signed an Agreement of Resolution that allows UCLA to continue investigating the events
25 of May 1-2 and to re-open its case against her based on these events. (First Amended
26 Complaint, ¶¶ 200-203.) Blair alleges UCLA has essentially decided to keep open his
27 disciplinary file indefinitely. (*Id.* at ¶ 217.) Both alleged actions amount to a decision to not
28 make a final decision. But the decision to not make a final decision nonetheless can
29 qualify as a final decision.

1 For these reasons, the Court concludes, based on the pleadings alone, that
2 Plaintiffs have exhausted their administrative remedies.

3 Due Process and Ex Post Facto

4 Defendants argue Plaintiffs' claims fail because they do not allege a violation of
5 either the constitutional right to due process or prohibition on ex post facto laws.

6 Plaintiffs' claims overlap to some degree. Due process is "the opportunity to be
7 heard at a meaningful time and in a meaningful manner." (*Burrell v. City of Los Angeles*
8 (1989) 209 Cal.App.3d 568, 576.) A person's due process rights can be violated by the
9 retroactive application of a law, meaning "new legal consequences" for an event that was
10 completed before the law was enacted. (*Landgraf v. USI Film Products* (1994) 511 U.S.
11 244, 270.) Similarly, there are four types of ex post facto laws: laws that "(1) criminalize
12 conduct that was innocent when done"; laws that "(2) aggravate or make greater a crime
13 than when committed"; laws that "(3) change and increase the punishment"; and laws that
14 "(4) alter the rules of evidence to reduce the legal sufficiency necessary to support a
15 finding of guilt." (*Wilmot v. Contra Costa County Employees' Retirement Assn.* (2021) 60
16 Cal.App.5th 631, 664-665.) Plaintiffs here contend the May 9, 2024 guideline was an
17 example of (3), a law that changed and increased the punishment for an act ex post, that
18 is, after the act had occurred.

19 Tentatively the Court disagreed, concluding that the guideline did not qualify as an
20 ex post facto law because it did not necessarily increase the punishment that Plaintiffs
21 faced as a result of their disciplinary proceedings. Rather, it eliminated the discretion of
22 campus administrators, the Court reasoned, to decide to not initiate disciplinary
23 proceedings in the first place.

24 At the motion hearing, Plaintiffs analogized the challenged guideline to sentencing
25 guidelines for federal crimes. Under federal law, the standard for determining whether a
26 law unconstitutionally changed and increased a punishment is whether the law created a
27 "sufficient risk" of "increasing the measure of punishment attached to the covered crimes."
28 (*Peugh v. U.S.* (2013) 569 U.S. 530, 539.) Sentencing guidelines that increase a
29 defendant's recommended sentence can qualify as an ex post facto law, according to the

1 U.S. Supreme Court, even if a sentencing court retains its discretion to deviate from the
2 recommended sentencing range. (*Id.* at p. 541.) Sentencing guidelines that “cabin the
3 exercise of discretion” necessarily “steer district courts” to impose sentences within the
4 new guidelines. (*Id.* at p. 543.)

5 Plaintiffs allege that like a sentencing guideline, the May 9, 2024, guideline
6 increased their potential punishment by eliminating the possibility of amnesty. Following
7 *Peugh*, the Court agrees.

8 One particular challenge for Plaintiffs will be to connect an alleged harm to the
9 application of the May 9, 2024 disciplinary guideline. In *Peugh*, for example, there was
10 clear harm to the plaintiff from the application of the ex post facto law — he was sentenced
11 under new sentencing guidelines for a crime he committed before the guidelines were
12 promulgated, harm that could be remedied by resentencing on remand. (*Peugh, supra*,
13 569 U.S. at p. 533.) It is less clear to the Court whether plaintiffs Blair and Washington
14 can establish whether they were harmed by the application of the May 9 guideline.
15 However, this issue remains to be addressed at a later date; Defendants do not raise it
16 here.

17 Plaintiffs state claims for violations of due process and the prohibition on ex post
18 facto laws. The Court overrules Defendants’ demurrer to counts (4) and (5).

19 E. Motion to Strike

20 Additionally, Defendants move the Court to strike several provisions from Plaintiffs’
21 First Amended Complaint. First, they move to strike the six individual defendants from the
22 complaint to the extent the individuals are redundant of defendant The Regents of the
23 University of California (“Regents”), and to the extent the individuals are not alleged to
24 have been personally involved in the constitutional violations. Second, Defendants move
25 to strike Plaintiffs’ requests for damages, both compensatory and punitive. Third and
26 lastly, Defendants move to strike Plaintiffs’ requests for injunctive relief.

27 “The court may, upon a motion made pursuant to [Code of Civil Procedure] Section
28 435 ... [s]trike out all or any part of any pleading not drawn or filed in conformity with the
29 laws of this state...” (Code Civ. Proc., § 436, subd. (b).) “The grounds for a motion to strike

1 shall appear on the face of the challenged pleading or from any matter of which the court
2 is required to take judicial notice.” (§ 437, subd. (a).) Although a motion to strike can be
3 used to “reach defects in a pleading which are not subject to demurrer,” including a portion
4 of a cause of action, its use “should be cautious and sparing” and not as a “procedural
5 ‘line item veto’ for the civil defendant.” (*Pierson v. Sharp Memorial Hospital, Inc.* (1989)
6 216 Cal.App.3d 340, 342; *PH II, Inc. v. Superior Court* (1995) 33 Cal.App.4th 1680,
7 1683.)

8 (1) Individual Defendants

9 Plaintiffs have sued the six individual defendants both in their official and individual
10 capacities. (First Amended Complaint, ¶¶ 19-24.) Defendants first move to strike from
11 Plaintiffs’ complaint the individual defendants as named in their official capacities, arguing
12 that Plaintiffs’ suit against the individual defendants in their official capacities is redundant
13 of the suit against defendant Regents.

14 “[A] suit against a state official in his or her official capacity is not a suit against the
15 official but rather is a suit against the official’s office. [Citation.] As such, it is no different
16 from a suit against the State itself.” (*State of California ex rel. Dockstader v. Hamby* (2008)
17 162 Cal.App.4th 480, 490.)

18 Plaintiffs do not disagree. (Opposition Brief, 11.) Therefore, the Court grants
19 Defendants’ motion to strike references to the individual defendants in their official
20 capacities.

21 Defendants also move to strike allegations against the individual defendants in
22 their individual capacities. Specifically, Defendants move to strike all claims asserted
23 against defendants Braziel, Scheffler, and Gorden, Jr., in their individual capacities
24 (counts 1-7), and to strike the claims regarding the alleged disciplinary proceedings
25 against plaintiffs Blair and Washington asserted against defendants Hunt, Drake, and
26 Beck, in their individual capacities (counts 4 and 5). Defendants argue that Plaintiffs do
27 not allege these defendants were acting in their individual capacities when they
28 purportedly violated Plaintiffs’ constitutional rights.

1 Plaintiffs, again, do not disagree. (Opposition Brief, 11-12.) Therefore, the Court
2 grants Defendants' motion to strike all claims against defendants Braziel, Scheffler, and
3 Gorden, Jr., in their individual capacities (counts 1-7), and to strike the claims of
4 unconstitutional disciplinary proceedings against defendants Hunt, Drake, and Beck
5 (counts 4 and 5).

6 Defendants' unopposed motion to strike reduces the number of individual
7 defendants from six to three; remaining are defendants Drake (University of California
8 President), Hunt (UCLA Chancellor), and Beck (UCLA Administrative Vice Chancellor).
9 Defendants' motion also reduces the number of claims against these three defendants in
10 their individual capacities from seven to five; remaining are the claims of declaratory and
11 injunctive relief for alleged false arrest (counts 1 and 6) and violations of free speech
12 (counts 2, 3, and 6), and the claim for money damages under the Bane Act (count 7).

13 (2) Immunities from Liability for Damages

14 The remaining defendants — Drake, Hunt, Beck, and Regents — move the Court
15 to strike Plaintiffs' claims for damages both compensatory and punitive. These defendants
16 argue that the Government Claims Act, Government Code section 810 et seq., immunizes
17 them from liability for damages.

18 Drake, Hunt, and Beck

19 Drake, Hunt, and Beck, in their individual capacities, argue that section 820.2 of
20 the Government Code immunizes them from liability for damages under the Bane Act.
21 Section 820.2 states, "[e]xcept as otherwise provided by statute, a public employee is not
22 liable for an injury resulting from his act or omission where the act or omission was the
23 result of the exercise of the discretion vested in him, whether or not such discretion be
24 abused." Defendants argue the alleged clearing of the encampment on May 2, 2024, was
25 the result of the exercise of discretion vested in Drake, as UC President, Hunt, as UCLA
26 Chancellor, and Beck, as UCLA Administrative Vice Chancellor.

27 In response, Plaintiffs cite the legal distinction between the "planning" and
28 "operational" functions of government, which determines whether an act or omission
29 resulted from an exercise of discretion within the meaning of section 820.2. The planning

1 function, on the one hand, refers to “basic policy decisions” that are “deliberate and
2 considered,” decisions made following a “[conscious] balancing [of] risks and
3 advantages.” (*Caldwell v. Montoya* (1995) 10 Cal.4th 972, 981.) These decisions qualify
4 as discretionary acts within the meaning of section 820.2; it would be “unseemly” for the
5 courts to second-guess them. (*Ibid.*) The operational function of government, in contrast,
6 refers to “lower-level” and “ministerial” decisions by public employees that are made
7 pursuant to an already-formulated government policy. (*Ibid.*) Ministerial decisions do not
8 qualify as discretionary acts within the meaning of section 820.2; public employees are
9 not immunized from liability for injury resulting from the exercise of ministerial decisions.

10 Plaintiffs concede that “some” of the alleged conduct by defendants Drake, Hunt,
11 and Beck — “including the ultimate decision to clear the encampment” — qualify as
12 planning decisions that qualify for immunity under section 820.2. (Opposition Brief, 14:9-
13 11.) Plaintiffs point to two examples, however, of what they contend constitute operational
14 decisions that do not qualify for immunity. First is Defendants’ alleged enforcement of the
15 disciplinary guideline issued by defendant and UC Chancellor Michael Drake on May 9,
16 2024. Whereas the decision to issue the guideline was likely a policy decision, Plaintiffs
17 argue, the decision to enforce the guideline retrospectively was a ministerial decision, the
18 results of which do not qualify for immunity under section 820.2. However, as Defendants
19 point out, Plaintiffs do not oppose Defendants’ motion to strike the allegations against
20 Drake, Hunt, and Beck regarding university disciplinary proceedings (counts 4-5).
21 (Opposition Brief, 11-12.)

22 The second operational decision, Plaintiffs contend, was Defendants’ alleged
23 decision to “end[] the encampment by force.” (First Amended Complaint, ¶ 90.) Plaintiffs
24 allege the decision to end the encampment by force conflicted with a 2012 publication
25 called the Robinson-Edley Report, which included recommendations that UCLA “formally
26 adopted.” (*Id.* at ¶ 91.) The Report recommended, among other things, that campus
27 administration discourage responding with police to protest activity on campus and
28 instead make “every reasonable effort to engage demonstrators in a dialogue that
29 addresses the substance of the demonstrators’ concerns and aims, with the goal of de-

1 escalating any situation such that police involvement becomes unnecessary.” (*Id.* at ¶
2 91.)

3 Plaintiffs, as noted, write that “Defendants may be correct that some of the alleged
4 conduct by Defendants Drake, Hunt, and Beck, including the ultimate decision to clear
5 the encampment, were the type of ‘basic policy decisions’ that warrant Section 820.2
6 immunity.” (Opposition Brief, 14:9-11.) In light of Plaintiffs’ statement, Defendants argue
7 that Plaintiffs’ distinction between the decision to clear the encampment and the decision
8 to clear the encampment *with force* is “paper thin.” (Reply Brief, 8:20-21.) The Court
9 agrees with Defendants’ sentiment that Drake, Hunt, and Beck’s alleged decision to clear
10 the encampment is one and the same as their alleged decision to clear the encampment
11 with force. Given that Plaintiffs acknowledge the decision by Drake, Hunt, and Beck to
12 clear the encampment with force qualifies as a planning, policy decision, Drake, Hunt,
13 and Beck are immunized from liability for injury resulting from their policy decision by
14 Government Code section 820.2.

15 In sum, the Court grants Defendants’ motion to strike from the First Amended
16 Complaint Plaintiffs’ requests for damages against the remaining individual defendants,
17 Drake, Hunt, and Beck.

18 Regents

19 Regents too argues it is immune from liability for damages, citing Government
20 Code section 815. “A public entity is not liable for an injury, whether such injury arises out
21 of an act or omission of the public entity or a public employee or any other person.” (Govt.
22 Code, § 815, subd. (a).) The only exception to a public entity’s immunity is “[e]xcept as
23 otherwise provided by statute.” (§ 815.)

24 Plaintiffs do not dispute that Regents qualifies as a “public entity” within the
25 meaning of section 815. Instead, they contend a statutory exception applies, namely
26 Government Code section 815.2, subdivision (a), which states,

27 A public entity is liable for injury proximately caused by an act or omission of an
28 employee of the public entity within the scope of his employment if the act or
29

1 omission would, apart from this section, have given rise to a cause of action
2 against that employee or his personal representative.

3 The parties agree that this exception to Regents's immunity is essentially an exception
4 for liability imposed on Regents vicariously.

5 Defendants argue the immunity exception for vicarious liability does not apply here
6 for two reasons. First, Plaintiffs do not plead the theory that defendant Regents is
7 vicariously liable for the acts of agents, namely Drake, Hunt, and Beck; instead, they
8 plead that Regents is directly liable under the Bane Act. And second, even if Plaintiffs did
9 plead that Regents is vicariously liable, the theory would fail because Drake, Hunt, and
10 Beck are themselves immunized from liability for damages by Government Code section
11 820.2, as discussed above.

12 Defendants' second point relies on the rule of subdivision (b) of section 815.2.
13 "Except as otherwise provided by statute, a public entity is not liable for an injury resulting
14 from an act or omission of an employee of the public entity where the employee is immune
15 from liability." (Govt. Code, § 815.2, subd. (b).) As discussed above, Government Code
16 section 820.2 immunizes defendants Drake, Hunt, and Beck from liability for damages
17 under the Bane Act. Regents therefore cannot be liable vicariously for damages under
18 the Bane Act for the alleged acts or omissions of defendants Drake, Hunt, and Beck. The
19 section 815.2 exception to Regents's immunity does not apply.

20 * * * *

21 The Court grants Defendants' motion to strike from the First Amended Complaint
22 Plaintiffs' requests, under the Bane Act, for compensatory damages against the remaining
23 defendants, Drake, Hunt, Beck, and Regents.

24 Statutory Penalties

25 Defendants move to strike Plaintiffs' request, under the Bane Act, for statutory
26 penalties against defendant Regents. Defendants argue that Government Code section
27 818 immunizes Regents from liability for statutory penalties.

28 The Bane Act authorizes a civil action "for damages, including, but not limited to,
29 damages under [Civil Code] Section 52...." Section 52 provides, in relevant part,

Whoever denies the right provided by [Civil Code] Section 51.7 or 51.9, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, the following: ... [¶] (2) A civil penalty of twenty-five thousand dollars (\$25,000) to be awarded to the person denied the right provided by Section 51.7 in any action brought by the person denied the right....

(Civ. Code, § 52, subd. (b)(2).) Confusingly, section 51.7 refers not to the Bane Act but to the Ralph Civil Rights Act of 1976, which, in very general terms, prohibits violence, or intimidation by threat of violence, against a person based on that person's personal, protected characteristics. The reference to 51.9 refers to claims of sexual harassment.

As Defendants point out, this case does not involve an alleged violation of the Ralph Civil Rights Act or a claim of sexual harassment. Thus, under the plain terms of section 52, subdivision (b)(2), the civil penalty of \$25,000 is not available, and the Court need not reach Defendants' argument regarding immunity. (See *Center for Bio-Ethical Reform, Inc. v. Irvine Co., LLC* (2019) 37 Cal.App.5th 97, 115-116.)

The Court grants Defendants' motion to strike from the First Amended Complaint Plaintiffs' request for a civil penalty.

Punitive Damages

As part of their Bane Act claim (count 7), Plaintiffs seek an award of punitive damages against defendant Regents. Defendants move to strike Plaintiffs' request for punitive damages, citing a public entity's immunity to punitive damages under section 818 of the Government Code. Plaintiffs do not disagree with Defendants' argument that defendant Regents is immune from punitive damages. (Opposition Brief, 16.)

The Court grants Defendants' motion to strike from the First Amended Complaint Plaintiffs' requests for punitive damages against Defendants.

(3) Injunctive Relief

Third and lastly, Defendants move to strike Plaintiffs' requests for injunctive relief. Essentially, Defendants argue the injunctions that Plaintiffs request are overbroad and

1 vague. Plaintiffs respond that even if Defendants are right — a point Plaintiffs do not
2 concede — than the injunctive relief can be reformulated later on in the case.

3 Although Defendants dispute that Plaintiffs’ constitutional rights were violated, they
4 cannot dispute that if they are wrong — if Plaintiffs do ultimately prevail — then Plaintiffs
5 might be entitled to injunctive relief. “Courts routinely impose injunctive relief to remedy
6 unconstitutional or otherwise unlawful actions by government agencies.” (*Shaw v. Los*
7 *Angeles Unified School Dist.* (2023) 95 Cal.App.5th 740, 770.) If injunctive relief is
8 ultimately warranted, the Court will address the scope of the relief at that time, rather than
9 now, on the pleadings alone.

10 The Court denies Defendants’ motion to strike Plaintiffs’ requests for injunctive
11 relief.

12 IV. Conclusion

13 The Court OVERRULES Defendants’ demurrer. Additionally, the Court DENIES
14 Defendants’ motion to strike Plaintiffs’ requests for injunctive relief but otherwise
15 GRANTS the motion to strike.

16 For purposes of clarity, Plaintiffs shall, within 30 days of the date of this order, file
17 a Second Amended Complaint that reflects the rulings made herein (that essentially
18 “cleans up” the pleadings in light of the court’s rulings and plaintiff’s clarifications in its
19 opposition and during the hearing). Defendants shall file an answer within 30 days of the
20 service date of the Second Amended Complaint.

21
22
23
24 Dated: 11/04/2025



A handwritten signature in black ink, appearing to read "Samantha Jessner".

Samantha Jessner / Judge

SAMANTHA P. JESSNER
JUDGE OF THE SUPERIOR COURT