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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF ALAMEDA

10 JESSY CRUZ; BRIAN CRUZ, a minor, by
11 Jonathan Cruz, guardian ad litem; BRIANA
12 LAMB, a minor, by Ronald Lamb, guardian ad
litem; CRISTIAN GASPAR, a minor, by Guadalupe
13 Gaspar, guardian ad litem; LEE SIMMONS, a
minor, by Rhae Ray Eason, guardian ad litem;
14 MYRIAM GISELLE GONZALEZ; SAMARIA
HUDSON, a minor, by Chawmein Hudson,
guardian ad litem; TALY AH JACOBS, a minor,
15 by Katherine Jacobs, guardian ad litem;
JUMANTAE SMITH; ARNOLD GUTIERREZ, a
16 minor, by Norma Gutierrez, guardian ad litem;
ERIC FLOOD, a minor, by Nicole King, guardian
17 ad litem; EDITH QUINTERO; DAISY ROMO, a
minor, by Elizabeth Rodriguez, guardian ad litem;
18 RIANNA BROWN, a minor, by Victoria Williams,
guardian ad litem; EMMANUEL ENRIQUEZ, a
19 minor, by Olga Enriquez, guardian ad litem;
NATHAN SAUCEDA, a minor, by Olga Enriquez,
20 guardian ad litem; IGNACIA BARAJAS, a minor,
by Genoveva Barajas, guardian ad litem; and
21 LUCIA BARAJAS, a minor, by Genoveva Barajas,
guardian ad litem,,
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23 Plaintiffs,

24 v.

25 STATE OF CALIFORNIA; STATE BOARD OF
26 EDUCATION; STATE DEPARTMENT OF
EDUCATION; TOM TORLAKSON, and DOES 1-
27 100, inclusive, ,

28 Defendants.

Case No. RG14727139

[1] NOTICE OF DEMURRER OF
STATE OF CALIFORNIA TO
CLASS ACTION COMPLAINT

[2] DEMURRER OF STATE OF
CALIFORNIA TO CLASS
ACTION COMPLAINT; AND

[3] MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT OF DEMURER

Date: September 23, 2014
Time: 2:30 p.m.
Dept: 17
Judge: The Honorable George
Hernandez
Trial Date: None assigned
Action Filed: May 29, 2014

Reservation No. 1541425

1 **NOTICE OF DEMURRER TO COMPLAINT**
2 **TO THE COURT, ALL PARTIES HEREIN AND TO THEIR ATTORNEYS OF**
3 **RECORD:**

4 **PLEASE TAKE NOTICE** that on September 23, 2014, at 2:30 p.m., or as soon
5 thereafter as this matter may be heard, in Department 17 of the above-entitled Court, located at
6 1221 Oak Street, Oakland, California, 94612, defendant State of California (the State), will and
7 hereby does move this court for an order sustaining the demurrer of the State to the Class Action
8 Complaint (Complaint), without leave to amend, and to enter an order of dismissal as to the State.

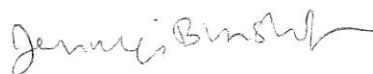
9 The State's demurrer to the Complaint is brought pursuant to Code of Civil Procedure
10 section 430.10(e), on the ground that the Complaint fails to state facts sufficient to state a cause of
11 action against the State because the State is not a necessary or proper party.

12 This demurrer is based on the pleadings and records on file herein, this notice of demurrer,
13 the attached demurrer, the attached memorandum of points and authorities, all pleadings, papers,
14 and records on file herein, the concurrently filed request for judicial notice, and such argument
15 and judicially noticeable evidence that may be presented before or at the hearing on the demurrer.

16 Dated: August 6, 2014

Respectfully Submitted,

17 KAMALA D. HARRIS
18 Attorney General of California
19 SUSAN M. CARSON
Supervising Deputy Attorney General

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21 JENNIFER A. BUNSHOFT
22 Deputy Attorney General
23 *Attorneys for State of California*
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1 Demurrer to Fifth Cause of Action: Violation of the Equal Protection Clause of the Fourteenth
2 Amendment of the United States Constitution

3 1. The Complaint fails to state facts sufficient to constitute a cause of action against the
4 State pursuant to Code of Civil Procedure section 430.10, subdivision (e), because the State is not
5 a necessary or proper party.

6 Demurrer to Sixth Cause of Action: Violation of California Government Code Section 11135

7 1. The Complaint fails to state facts sufficient to constitute a cause of action against the
8 State pursuant to Code of Civil Procedure section 430.10, subdivision (e), because the State is not
9 a necessary or proper party.

10 Demurrer to Seventh Cause of Action for Declaratory Relief

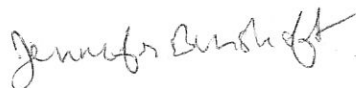
11 1. The Complaint fails to state facts sufficient to constitute a cause of action against the
12 State pursuant to Code of Civil Procedure section 430.10, subdivision (e), because the State is not
13 a necessary or proper party, and declaratory relief is a form of relief, not a cause of action.

14 This demurrer is based on the pleadings and records on file herein, the attached notice of
15 demurrer, the attached memorandum of points and authorities, the concurrently filed request for
16 judicial notice, and such argument and judicially noticeable evidence that may be presented
17 before or at the hearing on the demurrer.

18 WHEREFORE, defendant State moves this court for an order sustaining the State's
19 demurrer to the Complaint and dismissing this action in its entirety with prejudice as to the State,
20 and for such other relief as the Court may deem just and proper.

21 Dated: August 6, 2014

Respectfully Submitted,

22 

23 KAMALA D. HARRIS
24 Attorney General of California
25 SUSAN M. CARSON
26 Supervising Deputy Attorney General
27 JENNIFER A. BUNSHOFT
28 Deputy Attorney General
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10 §§ 46200 *et seq.*5

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12 § 430.10 subd. (e)3, 5
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14 Government Code

15 § 111352

16 **CONSTITUTIONAL PROVISIONS**

17 Cal. Const.,

18 Art. III, § 38

19 U.S. Const.

20 Fourteenth Amendment1, 2
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1 Amendment of the United States Constitution, a sixth cause of action for violation of
2 Government Code section 11135, and a seventh “cause of action” requesting declaratory relief.
3 (*Id.*, ¶¶ 186-203.) They seek injunctive and declaratory relief in their Complaint. (*Id.*, “Request
4 for Relief,” pp. 70-71.) Specifically, they seek an injunction “prohibiting the Defendants and
5 their officers, agents, and employees from continuing to ignore the loss of meaningful learning
6 time in Plaintiff’s schools and from continuing to operate a constitutionally inadequate
7 monitoring system that fails to: (a) monitor the meaningful learning time delivered by Plaintiffs’
8 schools, taking into account the identified factors that cause loss of meaningful learning time in
9 Plaintiffs’ schools; and (b) intervene in a timely manner when schools fall below the statewide
10 standard for meaningful learning time to restore instruction time and prevent and remedy the
11 causes of lost learning time.” (*Id.* at p. 70.) They also seek a declaratory judgment that
12 defendants’ alleged “actions and inactions” complained of in their Complaint violate their rights
13 under various provisions of the California Constitution, the Fourteenth Amendment of the U.S.
14 Constitution, and California Government Code section 11135. (*Id.* at p. 71.)

15 **B. The State Board of Education, the California Department of Education,**
16 **and State Superintendent of Public Instruction Tom Torlakson Are**
17 **Defendants**

18 Plaintiffs have separately named the relevant state education entities and public officer as
19 defendants. Specifically, they named the State Board of Education (SBE), the California
20 Department of Education (CDE), and State Superintendent of Public Instruction Tom Torlakson
21 (Torlakson) (collectively, the “State Education Defendants.”) (Complaint, ¶¶ 33-37). They
22 allege that SBE and its members “are responsible for determining the policies governing
23 California’s schools and for adopting rules and regulations for the supervision and administration
24 of all local school districts.” (*Id.*, ¶ 33.) They further allege that SBE “is required to supervise
25 local school districts to ensure that they comply with State and federal law requirements
26 concerning educational services.” (*Ibid.*) Likewise, plaintiffs contend that CDE “is the
27 department of State government responsible for administering and enforcing laws related to
28 education.” (*Id.*, ¶ 34.) They also allege that “pursuant to California Education Code Sections
33300-16, the State Department of Education is responsible for revising and updating budget

1 manuals, forms, and guidelines; cooperating with federal and state agencies in prescribing rules
2 and regulations, and instructions required by those agencies; and assessing the needs and methods
3 of collecting and disseminating financial information.” (*Ibid.*)

4 Finally, plaintiffs allege that Torlakson, as the State Superintendent of Public Instruction,
5 Secretary and Executive Officer for the State Board of Education, and Chief Executive Officer of
6 the California Department of Education, “is obligated to take all necessary steps to ensure that
7 school districts comply with the California Constitution and State laws.” (*Id.*, ¶ 35.) They also
8 contend that “pursuant to California Education Code sections 33301-03, he is the Director of
9 Education in whom all executive and administrative functions of the California Department of
10 Education are vested.” In addition, they state that “pursuant to California Education Code
11 Section 33112(a), he shall superintend the schools of this state,” and is “responsible for ensuring
12 that children within the State of California receive a free and equal public education.” (*Ibid.*)

13 STANDARD OF REVIEW

14 A complaint must state facts sufficient to justify granting the relief sought. (Code Civ.
15 Proc., § 430.10, subd. (e).) A complaint that fails to allege facts sufficient to justify relief is
16 subject to a general demurrer. (*Gong v. Fremont* (1967) 250 Cal.App.2d 568, 573.) A demurrer
17 may be based not only on the allegations in the complaint, but also on matters which may be
18 judicially noticed. (Code Civil Procedure, § 430.30, subd. (a); *Blank v. Kirwan* (1985) 39 Cal.3d
19 311, 318.) In testing the sufficiency of the complaint, a court deems true all material facts
20 properly pled and those facts that may be implied or inferred from those expressly alleged.
21 (*Marshall v. Gibson, Dunn & Crutcher* (1995) 37 Cal.App.4th 1397, 1403.) However, a court
22 will not assume the truth of contentions, deductions or conclusions of fact or law, and the court
23 may disregard allegations that are contrary to law, or are contrary to a fact of which judicial
24 notice may be taken. (*Zelig v. County of Los Angeles* (2002) 27 Cal.4th 1112, 1126.)

25 ARGUMENT

26 The State demurs to the Class Action Complaint (Complaint) because it fails to state facts
27 sufficient to constitute a cause of action against the State. (Code Civ. Proc., § 430.10, subd. (e).)

1 Plaintiffs' Complaint fails to state a claim against the State because the State is not a necessary or
2 proper party to this litigation. Accordingly, the State should be dismissed from this action.

3 **I. THE STATE IS NOT A PROPER DEFENDANT HERE BECAUSE ONLY STATE OFFICERS**
4 **AND ENTITIES WITH STATEWIDE ADMINISTRATIVE FUNCTIONS UNDER A**
5 **CHALLENGED STATUTE ARE PROPER PARTIES**

6 The State is not a proper party to this litigation. Plaintiffs' claims are based on the alleged
7 deprivation of the Constitutional rights of students at seven public schools based on the lack of
8 access to the "minimum level of learning time adequate to obtain the basic educational services to
9 which they are entitled," including the alleged failure of the existing monitoring system, set forth
10 in Education Code provisions pertaining to instructional time, to adequately ensure that
11 instructional time is "meaningful" at the seven schools that plaintiffs attend. (Complaint, ¶¶ 2-
12 20.) They seek declaratory and injunctive relief, which would require, among other things, that
13 the "Defendants and their officers, agents, and employees" cease from "continuing to operate a
14 constitutionally inadequate monitoring system" that fails to monitor "meaningful learning time"
15 and fails to "intervene" when schools fall below the "statewide standard for meaningful learning
16 time." (Complaint, at pp. 70-71.)

17 It is a "long-established rule that in actions for declaratory and injunctive relief challenging
18 the constitutionality of state statutes, state officers with statewide administrative functions under
19 the challenged statute are the proper parties defendant." (*Serrano v. Priest* (1976) 18 Cal.3d 728,
20 752; accord, *San Francisco NAACP v. San Francisco Unified School Dist.* (N.D. Cal. 1979) 484
21 F.Supp. 657, 665 ["administrative officers possess the requisite governmental interest to enable
22 them adequately to advance the position of the State"] [reversed on other grounds by *San*
23 *Francisco NAACP v. San Francisco Unified School Dist.* (9th Cir. 1990) 896 F.2d 412].) This
24 long-established rule also has been applied in actions for declaratory and injunctive relief
25 asserting the violation of a duty. (See, e.g., *San Francisco NAACP v. San Francisco Unified*
26 *School Dist.*, *supra*, 484 F.Supp. at p. 665 ["[a]lthough the case at bar does not present a
27 constitutional attack on legislation, it does, as in *Serrano*, challenge the administration of the
28 educational system by state officers. If state officers are proper defendants in a challenge to
legislation, the creation and existence of which is within the authority of the Legislature and

1 Governor, a fortiori, they are proper parties in a suit challenging the administration of law, which
2 falls within their own realm of authority”].)

3 As part of their Complaint, plaintiffs specifically allege that the Education Code provisions
4 regarding minimum instructional time and fiscal penalties to be assessed against schools that fail
5 to provide the required instructional time are constitutionally inadequate. (Complaint, ¶ 19
6 [citing Ed. Code, §§ 46200-26208].) They claim that the monitoring system set forth in these
7 Education Code provisions is “perfunctory” because the provisions do not address whether
8 instructional time is “meaningful,” and “counterproductive” for the schools because “failure to
9 deliver sufficient instruction time is penalized by the withholding of funds.” (*Ibid.*) Thus, the
10 rationale set forth in *Serrano v. Priest* applies here – the state officer and entities charged with
11 administering the Education Code provisions at issue regarding instructional time are the proper
12 state-level defendants (if any), not the “State of California.” (*Serrano v. Priest, supra*, 18 Cal.3d
13 at p. 752.)

14 The State Board of Education (SBE), California Department of Education (CDE) and
15 Superintendent of Public Instruction Tom Torlakson (Torlakson) — all parties here — are the
16 State agencies and public officer with statewide administrative functions pertaining to the state
17 education policies at issue here, including, among other things, Education Code sections 46200 *et*
18 *seq.*, regarding instructional time that schools must provide, fiscal penalties to be assessed by the
19 Superintendent of Public Instruction against districts for failure to provide the required
20 instructional time, and potential waivers of the fiscal penalty by SBE in certain circumstances.

21 Plaintiffs allege that CDE is “the department of the State government responsible for
22 administering and enforcing laws related to education.” (Complaint, ¶ 34.) They further allege
23 that “pursuant to California Education Code Sections 33300-16, the State Department of
24 Education is responsible for revising and updating budget manuals, forms, and guidelines;
25 cooperating with federal and state agencies in prescribing rules and regulations, and instructions
26 required by those agencies; and assessing the needs and methods of collecting and disseminating
27 financial information.” (*Ibid.*)
28

1 SBE is the governing and policy-making body for CDE. (*State Bd. of Education v. Honig*
2 (1993) 13 Cal.App.4th 720, 762; see also Ed. Code, §§ 33030-33031.) Among other things, CDE
3 provides staff for SBE. (*State Bd. of Education v. Honig, supra*, 13 Cal.App.4th at p. 759.)
4 Plaintiffs allege that SBE and its members “are responsible for determining the policies governing
5 California’s schools and for adopting rules and regulations for the supervision and administration
6 of all local school districts.” (Complaint, ¶ 33.) They further allege that SBE “is required to
7 supervise local school districts to ensure that they comply with State and federal law requirements
8 concerning educational services.” (*Ibid.*)

9 Finally, as CDE’s executive, the Superintendent of Public Instruction executes SBE
10 policies. (*State Bd. of Education v. Honig, supra* 13 Cal.App.4th at p. 762; Ed. Code, § 33111;
11 see also Ed. Code, §§ 33301-33303.) Plaintiffs allege that Torlakson, as the State Superintendent
12 of Public Instruction, Secretary and Executive Officer for the State Board of Education, and Chief
13 Executive Officer of the California Department of Education, “is obligated to take all necessary
14 steps to ensure that school districts comply with the California Constitution and State laws.” (*Id.*,
15 ¶ 35.) They also allege that “pursuant to California Education Code sections 33301-03, he is the
16 Director of Education in whom all executive and administrative functions of the California
17 Department of Education are vested.” In addition, they state that “pursuant to California
18 Education Code Section 33112(a), he shall superintend the schools of this state,” and is
19 “responsible for ensuring that children within the State of California receive a free and equal
20 public education.” (*Ibid.*)

21 Given their respective roles with regard to the state education provisions and policies at
22 issue here, including those pertaining to instructional time, CDE, SBE and Torlakson would be
23 the proper state-level parties, to the extent any state-level entities or officers are proper parties.

24 **II. THE STATE – AS DISTINCT FROM ITS AGENCIES OR OFFICERS – IS NOT A PROPER**
25 **DEFENDANT FROM WHICH RELIEF MAY BE GRANTED**

26 Plaintiffs have sued the “State of California” in addition to CDE, SBE, and Torlakson. The
27 California Supreme Court has held that, in claims for writ or injunctive relief, the “State” – as
28 distinct from an agency or officer – is not a proper party defendant as to which relief may be

1 granted. (*State v. Superior Court* (1974) 12 Cal.3d 237, 255.) In *State v. Superior Court*,
2 developers sued the State, the California Coastal Zone Conservation Commission, and two
3 Commission employees, seeking a writ of mandate, declaratory, and injunctive relief, based on
4 the denial of a permit and the alleged unconstitutionality of the California Coastal Zone
5 Conservation Act. (*Id.* at pp. 243-244.) The court sustained the State’s demurrer because the
6 plaintiffs made no allegations establishing any right to relief against the State “as distinguished
7 from the Commission acting as its agent.” (*Id.* at p. 255.)¹

8 Similarly, here, because the “State” can only act through its agencies and officers, it is not a
9 proper party defendant from which relief may be obtained. SBE, CDE, and Torlakson are
10 defendants, and are the agencies and officers charged with implementing and administering
11 California’s education system. Nowhere in the Complaint do plaintiffs make any allegations
12 against the State as distinct from SBE, CDE and Torlakson. Nor do they seek any remedy that
13 could only be provided by the “State” as distinct from the State Education Defendants.
14 Specifically, plaintiffs seek an injunction “prohibiting the Defendants and their officers, agents,
15 and employees from continuing to ignore the loss of meaningful learning time in Plaintiff’s
16 schools and from continuing to operate a constitutionally inadequate monitoring system that fails
17 to: (a) monitor the meaningful learning time delivered by Plaintiffs’ schools, taking into account
18 the identified factors that cause loss of meaningful learning time in Plaintiffs’ schools; and (b)

19
20 ¹ The State anticipates that plaintiffs will rely on *Butt v. State of California* (1992) 4
21 Cal.4th 668, to argue that the State is a proper defendant. But the case does not stand for the
22 proposition that the State is a proper or necessary party-defendant here. In *Butt*, parents of school
23 children enrolled in a unified school district filed a class action for injunctive relief against the
24 State and the district’s board of education, seeking to prevent the district from closing its schools
25 six weeks before the official end of the school year due to a projected revenue shortfall. (*Id.* at p.
26 674.) Although plaintiffs named the State as a party in addition to state entities, the Supreme
27 Court did not address whether the State, apart from any state-level agency or officer, was a proper
28 party in that case, nor is there any indication that the issue was ever raised. By law, a decision
does not stand for a proposition not considered by a court. (*Nolan v. City of Anaheim* (2004) 33
Cal.4th 335, 343; *Personnel Commission v. Barstow Unified School District* (1996) 43
Cal.App.4th 871, 880-881.) Thus, *Butt* does not support any contention that the State is a proper
party-defendant here. *Butt* is also inapposite because the Supreme Court’s statement that the
“State” bears the “ultimate authority and responsibility to ensure that its district-based system of
common schools provides basic equality of educational opportunity,” was meant to distinguish
between state-level and district-level responsibility, not between various state-level entities or
officers. (*Butt v. State, supra*, 4 Cal.4th at p. 685.)

1 intervene in a timely manner when schools fall below the statewide standard for meaningful
2 learning time to restore instruction time and prevent and remedy the causes of lost learning time.”
3 (*Id.* at p. 70.) Whatever plaintiffs mean by “a constitutionally inadequate monitoring system” and
4 “statewide standard for meaningful learning time,” they have named the State agencies and
5 officer with statewide responsibilities for the educational system in California. Operation of a
6 “monitoring system” regarding instructional time would be conducted by the relevant state
7 agency, not the “State” in general. Likewise, any “intervention” would need to be performed by
8 the relevant state education agency or officer, not the “State.”

9 Should plaintiffs prevail on their claim that the alleged denial of “meaningful learning
10 time” violates their constitutional rights, they would need to obtain the relief they seek from one
11 or more of these Executive Branch entities/officer, not the “State.” To the extent plaintiffs are
12 seeking any relief pertaining to the development of an “adequate” system that monitors a
13 “statewide standard for meaningful learning time” that could *not* be accomplished by SBE, CDE,
14 and Torlakson, such relief could only be accomplished through legislation. Moreover, the
15 Separation of Powers doctrine forecloses any argument that separately naming the “State” as a
16 defendant, in addition to the State Education Defendants, can bind the Legislature as a party and
17 allow the Court to force it to enact specific legislation to remedy the alleged constitutional
18 violations. (*Serrano v. Priest*, *supra*, 18 Cal.3d at p. 751 [recognizing the “well-established
19 principle, rooted in the doctrine of separation of powers (Cal. Const., art III, § 3), that the courts
20 may not order the Legislature or its members to enact or not to enact . . . specific legislation”].)
21 In sum, the “State” is both an improper and unnecessary party.

22 **III. RETAINING THE “STATE” AS A SEPARATE NAMED DEFENDANT HERE RAISES** 23 **PRACTICAL DIFFICULTIES**

24 Treating the “State” as a separate party distinct from SBE, CDE and Torlakson presents a
25 number of practical difficulties. The “State” does not maintain any records separate and apart
26 from its agencies and officers, which are responsible for maintaining their own records. (*People*
27 *ex rel. Lockyer v. Superior Court* (2004) 122 Cal.App.4th 1060, 1078-1080.) Because of state
28 agencies’ “separate organization, duties and powers,” for discovery purposes, the “State” is not

1 deemed to be in control of documents created or possessed by those agencies. (*Id.*) Here, with
2 respect to discovery, there is no one to verify responses to discovery on behalf of the “State of
3 California” or to produce as a deponent. Nor are there any documents in the possession, custody
4 or control of the “State of California,” pertaining to the matters at issue in this litigation, separate
5 and apart from any documents that may be in the possession, custody or control of a state agency
6 or officer. Given the separate representations of the “State” and the State Education Defendants,
7 there is no discovery available for the “State” to provide on its own behalf; everything is in the
8 hands of the state education entities and officer, separately represented by the law firm Remcho,
9 Johansen and Purcell, LLP. (Request for Judicial Notice, Exh. A.)

10 And this is not just a difficulty in the abstract. Plaintiffs have served notices seeking
11 documents and to depose the “person most qualified” from the “State of California.” (Request
12 for Judicial Notice, Exh. B.) As set forth the objections and response served by counsel for the
13 “State,” the “State” does not possess any of the documents sought, separate and apart from any
14 state agencies or officer. Nor does the “State,” separate and apart from any state agency or
15 officer, have any custodian of records or any individual to be deposed as the “person most
16 qualified.” (Request for Judicial Notice, Exh. C.) Plaintiffs must seek such documents from the
17 state education defendants SBE, CDE, and/or Torlakson (or through serving subpoenas to the
18 extent they seek documents from any non-party state agencies or officers), not the “State of
19 California.” (*People Ex Rel. Lockyer v. Superior Court, supra*, 122 Cal.App.4th at pp. 1078-
20 1080.) And, in fact, plaintiffs have noticed the “person most qualified” depositions of SBE and
21 CDE, which are currently scheduled to take place on September 10 and 11, 2014. (Request for
22 Judicial Notice, Exhs. C, D.) Accordingly, there is no need to retain the “State” as a defendant
23 here for discovery purposes.

24 Moreover, because the State is represented by the Attorney General’s office and the State
25 Education Defendants are separately represented by outside counsel, requiring the “State” to
26 remain in this action would create duplicative and unnecessary costs to the office, and wasteful
27 service and other administrative obligations for the parties and the court. This additional burden
28

1 and cost can easily be avoided, without any prejudice to plaintiffs, by dismissing the State as a
2 separately named defendant.

3 In sum, SBE, CDE, and Torlakson are separately represented parties here and, to the extent
4 the court issues any injunctive or declaratory relief against state-level defendants, they would be
5 the proper parties to provide such relief. Accordingly, there is no need, nor is it proper, for the
6 "State" to remain a defendant in this lawsuit.

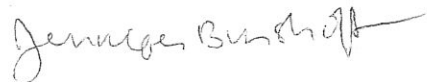
7 **CONCLUSION**

8 For the foregoing reasons, the State is not a necessary or proper defendant. This Court
9 should, therefore, sustain the State's demurrer without leave to amend and dismiss it from this
10 action.

11 Dated: August 6, 2014

Respectfully Submitted,

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15 

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DECLARATION OF SERVICE BY OVERNIGHT COURIER

Case Name: **Jessy Cruz, et al. v. State of California, et al.**
Case No.: **RG14727139**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004.

On August 6, 2014, I served the attached :

[1] NOTICE OF DEMURRER OF STATE OF CALIFORNIA TO CLASS ACTION COMPLAINT;

**[2] DEMURRER OF STATE OF CALIFORNIA TO CLASS ACTION COMPLAINT;
AND**


[3] MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEMURER

by placing a true copy thereof enclosed in a sealed envelope with the **GOLDEN STATE OVERNIGHT COURIER SERVICE** addressed as follows:

SEE ATTACHED SERVICE LIST

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 6, 2014, at San Francisco, California.

Enrico Medina
Declarant


Signature

SF2014408844
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SERVICE LIST

Case Name: **Jessy Cruz, et al. v. State of California, et al.**
Case No.: **RG14727139**

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