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13 **UNITED STATES DISTRICT COURT**  
14 **NORTHERN DISTRICT OF CALIFORNIA**

15 JACOB MANDEL, CHARLES VOLK, LIAM  
16 KERN, MASHA MERKULOVA, AARON  
17 PARKER, and STEPHANIE ROSEKIND;

18 Plaintiffs,  
19 v.

20 BOARD OF TRUSTEES of the CALIFORNIA  
21 STATE UNIVERSITY, SAN FRANCISCO  
22 STATE UNIVERSITY, et al.;

23 Defendants.

) Case No.: 3:17-CV-03511-WHO  
)  
) **NOTICE OF MOTION AND**  
) **MOTION TO STRIKE**  
) **ALLEGATIONS OF COMPLAINT**  
)  
) **(Filed concurrently with Motion to**  
) **Dismiss and [Proposed] Order)**  
)  
) Date: November 8, 2017  
) Time: 2:00 p.m.  
) Location: Courtroom 2 (17<sup>th</sup> floor)  
) Judge: William H. Orrick  
) Original Action Filed: June 19, 2017  
)  
)

24  
25 **NOTICE OF MOTION AND MOTION TO STRIKE ALLEGATIONS**

26 PLEASE TAKE NOTICE that on November 8, 2017 at 2 pm before the Honorable  
27 William H. Orrick in Courtroom 2 on the 17<sup>th</sup> Floor of the above-entitled Court, located at 450

28 NOTICE OF MOTION AND MOTION TO STRIKE ALLEGATIONS OF COMPLAINT

1 Golden Gate Avenue, San Francisco, California, RABAB ABDULHADI (“Dr. Abdulhadi”) will  
2 move pursuant to Rule 12(f) of the Federal Rules of Civil Procedure to strike various allegations  
3 of the Plaintiffs’ Complaint (“Complaint”) filed on June 19, 2017. Dr. Abdulhadi respectfully  
4 moves the Court to strike the following portions of the Plaintiffs’ Complaint pursuant to Rule  
5 12(f):  
6

7 (1) Paragraph 42 of Plaintiffs’ Complaint whereby the Plaintiffs provide the  
8 Court with a distorted version of the U.S. State Department’s definition of  
9 Anti-Semitism.  
10

11 This Motion is based upon the Memorandum of Points and Authorities included herein,  
12 the existing record in this matter, and any such additional authority and argument as may be  
13 requested in Dr. Abdulhadi’s reply and at the hearing on this Motion.

14 DATED: August 21, 2017

RESPECTFULLY SUBMITTED

15 **LAW OFFICE OF MARK ALLEN KLEIMAN**

16  
17 By: /s/ Mark Allen Kleiman, Esq.

18 Mark Allen Kleiman, Esq.

19 **LAW OFFICES OF BEN GHARAGOZLI**

20 Ben Gharagozli, Esq.

21 **GAVIN, CUNNINGHAM & HUNTER**

22 Alan F. Hunter, Esq.

23 Elizabeth Gong Landess, Esq.

24 Attorneys for Dr. Abdulhadi

25 **LAW OFFICE OF ELIOT LEE GROSSMAN**

26 Eliot Lee, Grossman, Esq.

27 Of Counsel

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NOTICE OF MOTION AND MOTION TO STRIKE ALLEGATIONS OF COMPLAINT

1 **STATEMENT OF ISSUES TO BE DECIDED**

2 1. Whether a distorted version of the U.S. State Department’s definition of Anti-Semitism  
3 should remain in the record.  
4

5 **MEMORANDUM OF POINTS AND AUTHORITIES**

6 **I) SUCCINCT STATEMENT OF THE RELEVANT FACTS**

7 In a 73-page Complaint, Plaintiffs demand legal and equitable relief for purported civil  
8 rights violations without actually naming Dr. Abdulhadi as a Defendant. The vast majority of  
9 the allegations constitute irrelevant propaganda that goes back to as far as 1968 and rely on an  
10 intentionally distorted understanding of anti-Semitism. The essence of the Plaintiffs’ grievance  
11 boils down to two claims: (1) student protest of an event where Nir Barkat, the Mayor of  
12 Jerusalem intended to speak on April 6, 2016; (2) the exclusion of Hillel from a “Know Your  
13 Rights” Fair in February 2017.  
14

15 Reprehensibly, Plaintiffs’ Complaint distorts the U.S. Department of State’s definition of  
16 anti-Semitism and otherwise calls upon this Court to adjudicate a disputed and irrelevant  
17 definition. This is a distortion at best and a misrepresentation at worse. Perhaps this was  
18 inadvertent since if it were intentional, it would be in violation of well-established ethical rules  
19 prohibiting misrepresenting material facts to the Court.  
20

21 Dr. Abdulhadi joins in the Motion Strike of the Defendant Board of Trustees  
22 of the California State University, Leslie Wong, Mary Ann Begley, Luoluo Hong, Lawrence  
23 Birello, Reginald Parson, Osvaldo del Valle, Kenneth Monteiro, Brian Stuart, Robert Nava,  
24 Mark Jaramilla, Vernon Piccinotti, and Shimina Harris. Dr. Abdulhadi writes separately to  
25 highlight Plaintiffs’ egregious misrepresentation of the Department of State’s actual position.  
26  
27

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NOTICE OF MOTION AND MOTION TO STRIKE ALLEGATIONS OF COMPLAINT

1 **II) ARGUMENT**

2 Federal Rule of Civil Procedure (“FRCP”) 12(f) provides in pertinent part that a “court  
3 may strike from a pleading ...any redundant, immaterial, impertinent, or scandalous matter”  
4 either on its own motion or upon motion by a party. The function of a 12(f) motion is “to avoid  
5 the expenditure of time and money that must arise from litigating spurious issues by dispensing  
6 with those issues prior to trial.” Whittlestone, Inc. v. Handi-Craft Co., 618 F.3d 970, 973 (9th  
7 Cir. 2010).

8  
9 **A) The Court Should Strike Plaintiffs Distortion of the Department of State’s**  
10 **Definition of Anti-Semitism.**

11 Paragraph 42 of the Plaintiffs’ Complaint urges the Court to adopt what Plaintiffs claim  
12 to be the U.S. State Department’s definition of Anti-Semitism. The definition is immaterial and  
13 impertinent for the pleading stage as there is no legal authority indicating that the State  
14 Department’s definition is binding upon this Court. What is more, paragraph 42 is a self-serving  
15 distortion of the Department of State’s definition. Specifically, Plaintiffs improperly conflate  
16 examples of Anti-Semitism that the Department of State lists with those the Department of State  
17 indicates could be instances of anti-Semitism. Indeed, Plaintiffs provide a list of eight examples  
18 of Anti-Semitism that appear on the Department of State’s website. The last three (“Using the  
19 symbols and images associated with classic anti-Semitism to characterize Israel or Israelis”;  
20 “Drawing comparisons of contemporary Israeli policy to that of the Nazis” and “Denying the  
21 Jewish people their right to self-determination, and denying Israel the right to exist”) are listed  
22  
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NOTICE OF MOTION AND MOTION TO STRIKE ALLEGATIONS OF COMPLAINT

1 separately on the Department of State’s website of examples that **could** be anti-Semitic – or  
2 could not be, “taking into account the overall context.”<sup>1</sup>

3  
4 In short, Plaintiffs urge the Court to adopt a non-binding definition of anti-Semitism and  
5 distort that very definition by conflating two different lists that the Department of State provides.

6 **III) CONCLUSION**

7 Plaintiffs have materially misstated the Department of State’s definition of anti-Semitism  
8 (as well as failing to tell this Court that the definition’s primary author entirely opposes its use in  
9 university environments.) The misstatement on an issue as fraught with controversy as this one  
10 ought not remain in the records and should be stricken.  
11

12 DATED: August 21, 2017

RESPECTFULLY SUBMITTED

13 **LAW OFFICE OF MARK ALLEN KLEIMAN**

14  
15 By:  /s/ Mark Allen Kleiman, Esq.

16 Mark Allen Kleiman, Esq.

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25 Of Counsel

26  
27 <sup>1</sup> <https://www.state.gov/s/rga/resources/267538.htm> (last accessed. August 18, 2017). This is an official United  
28 States Government web site the accuracy of which may readily be determined from sources whose accuracy may not  
be reasonably questioned. Dr. Abdulhadi respectfully requests that this Court take judicial notice of this site.