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JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

AMERICA UNITES FOR KIDS, et al.,
Plaintiffs,
v.
SANDRA LYON, et al.,
Defendants.

CV 15-2124 PA (AJWx)
AMENDED JUDGMENT AND
PERMANENT INJUNCTION

Pursuant to this Court’s Findings of Fact and Conclusions of Law, it is hereby
ORDERED, ADJUDGED, AND DECREED:

1. Plaintiff Public Employees for Environmental Responsibility is dismissed for lack of standing.
2. Defendants Ben Drati, in his official capacity as Superintendent of the Santa Monica-Malibu Unified School District (the “District”), Melody Canady, the District’s Assistant Superintendent, and Jon Kean, Laurie Lieberman, Craig Foster, Maria Leon-Vazquez, Richard Tahvildaran-Jesswein, Oscar De La Torre, and Ralph Mechur, in their official capacities as members of the Santa Monica-Malibu Unified School District Board of Education (collectively “Defendants”) are:

1 (A) Hereby permanently enjoined from using any office, classroom, or other
2 structure at Juan Cabrillo Elementary School (“JCES”) and Malibu
3 Middle and High School (“MHS”) (collectively the “Malibu Campus”)
4 constructed prior to 1979 in which students, teachers, administrators, or
5 staff are regularly present after December 31, 2019, unless:

- 6 (1) Caulk is applied over caulking around windows, doors, and
7 vents with known or assumed levels of PCBs over 50 ppm where
8 visible; and
9 (2) All shellac plywood walls with PCBs above 50 ppm are painted;
10 and
11 (3) Flooring in all rooms with known or assumed tiling/mastic with
12 PCBs are inspected and broken or missing tiles will be patched,
13 encapsulated, or replaced; and
14 (4) Defendants adhere to the air and wipe testing plan outlined in the
15 July 27, 2018 letter from Dr. Drati to Jennifer DiNicola (Docket
16 No. 330, Drati Decl., Ex. 4); and

17 (B) Required, as long as any office, classroom, or other structure at the
18 Malibu Campus constructed prior to 1979 is used to:

- 19 (1) Continue to employ best management practices as required by
20 the Environmental Protection Agency; and
21 (2) Retain a third party environmental professional selected jointly
22 by the District and plaintiff America Unites, to review
23 compliance and results to insure interim safeguards are being
24 maintained; and
25 (3) Continue to offer faculty and staff located in Building J with
26 alternative space; and
27 (4) Transfer classes and occupancy of facilities at the Malibu
28 Campus as the District opens or makes available modernized

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facilities so that the use of spaces that have not had window and door systems replaced is minimized as outlined in the November 28, 2018, letter from Dr. Drati to Jennifer DiNicola and Paragraph 7 of Carey Upton’s Reply Declaration (Docket No. 330, Drati Decl., Ex. 5 & Upton Decl. ¶ 7); and

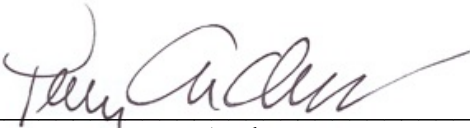
(C) Hereby permanently enjoined, after December 31, 2024, from using any office, classroom, or other structure at the Malibu Campus constructed prior to 1979 unless all building materials or substances with PCBs over 50 ppm within any such office, classroom, or other structure have been removed.

3. Plaintiffs, their officers, directors, members, supporters, employees, and anyone acting in concert with them, are permanently enjoined from sampling or testing caulk, other building materials, or any other item or location at the Malibu Campus, except with the express authorization of a court of competent jurisdiction.

4. Consistent with the December 21, 2015 Minute Order granting in part the Motion for Sanctions filed by Defendants (Dkt. No. 76), each party shall bear its own costs and attorneys’ fees.

The Clerk is ordered to enter this Judgment and Permanent Injunction.

DATED: December 20, 2018



Percy Anderson
UNITED STATES DISTRICT JUDGE