

1 Mark L. Javitch (CA SBN 323729)
Javitch Law Office
2 3 East 3rd Ave. Ste. 200
San Mateo, CA 94401
3 Telephone: (650) 781-8000
4 Facsimile: (650) 300-0343
mark@javitchlawoffice.com

5 *Attorney for Plaintiff*

6
7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**

9 LEE MILLER,

10
11 Plaintiff,

12 v.

13 SAN FRANCISCO UNIFIED SCHOOL
DISTRICT; DR. MARIA SU, individually and in
14 her official capacity as Superintendent; UNITED
EDUCATORS OF SAN FRANCISCO; FRANK
15 LARA, individually and in his official capacity as
UESF Vice President; PEDRO CONCEICAO;
16 JEYKEL MAIRENA; and DOES 1-50, inclusive,

17 Defendants.

Case No.: 3:26-cv-03284-TLT

**FIRST AMENDED COMPLAINT FOR
DAMAGES AND INJUNCTIVE RELIEF;
DEMAND FOR JURY TRIAL**

INTRODUCTION

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2 1. On two separate occasions, Plaintiff Lee Miller—a Jewish public school teacher employed
3 by the San Francisco Unified School District (“SFUSD”) at Aptos Middle School—was physically
4 assaulted while peacefully exercising his constitutional right to protest. In April 2025, Pedro Conceicao,
5 a Field Organizer employed by the United Educators of San Francisco (“UESF”), physically accosted
6 Plaintiff at a union rally. In February 2026, Jeykel Mairena, an SFUSD teacher and UESF member,
7 physically accosted Plaintiff again while he was protesting during the SFUSD teacher strike. Both
8 assaults were acts of retaliation: they were committed because Plaintiff, a Jewish man, had the temerity
9 to publicly oppose his union’s antisemitic conduct.
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11 2. The antisemitic conduct that triggered these assaults began on October 4, 2024, when UESF,
12 through its Vice President Frank Lara, transmitted through official workplace communication channels a
13 poster bearing the slogans “One Year of Genocide” and “One Year of Resistance.” The poster depicted a
14 militant from Hamas, an organization with the stated goal of killing all Jews, celebrating an
15 “International Day of Action” on the eve of the first anniversary of the October 7, 2023 Hamas massacre
16 of approximately 1,200 Jewish people. The poster was transmitted to every SFUSD teacher in the
17 bargaining unit, including Plaintiff, through the same employment channel used to communicate about
18 collective bargaining agreements and workplace conditions.
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20 3. When Plaintiff complained to UESF, the union stonewalled him for over a week and then
21 doubled down, asserting it could send whatever it wished. When Plaintiff complained to SFUSD
22 administrators—including Superintendent Dr. Maria Su—he was met with complete silence.
23 Superintendent Su has not responded to a single email or call from Plaintiff about this matter, despite
24 SFUSD’s documented practice of responding promptly to harassment complaints from employees of
25 other protected groups. After the first assault, Plaintiff again reported the attack to Superintendent Su
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1 and Assistant Superintendent Jennifer Steiner by email. Both ignored him. After the second assault,
2 Plaintiff filed a complaint with SFUSD's Human Resources department. No action was taken.

3 4. The hostility Plaintiff's opposition provoked did not remain confined to the union's
4 leadership or to the two individuals who assaulted him. Over the course of the 2025–2026 school year, a
5 substantial portion of Plaintiff's colleagues—approximately forty percent of the coworkers with whom
6 he regularly interacted—stopped speaking to him because of his perceived support for Israel and his
7 opposition to antisemitism. This ostracism included two colleagues whose professional collaboration is
8 essential to Plaintiff's ability to serve his students: the head of the physical education department and the
9 school's speech therapist. The resulting breakdown in collaboration has materially impaired Plaintiff's
10 working conditions and harmed the students in his charge. This hostile environment continued through
11 the end of the 2025–2026 school year and into the limitations period applicable to Plaintiff's claims.
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13 5. Most recently, on June 5, 2026—less than two months after Plaintiff filed this action and
14 while it was pending—SFUSD issued Plaintiff a formal written reprimand threatening termination,
15 purportedly for a student's having briefly walked away during an outside break that was supervised by
16 paraeducators. The reprimand was retaliation for Plaintiff's protected opposition to antisemitism and for
17 filing this lawsuit.
18

19 6. Plaintiff brings this action under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 1983,
20 and the California Fair Employment and Housing Act ("FEHA"), Cal. Gov't Code § 12900 et seq., for
21 physical assault, religious and national origin discrimination, retaliation, and denial of equal protection.
22 Plaintiff seeks compensatory and punitive damages, injunctive relief, and attorneys' fees.
23

24 JURISDICTION AND VENUE

25 7. This Court has original jurisdiction pursuant to 28 U.S.C. § 1331 over Plaintiff's claims
26 arising under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq.; and 42 U.S.C. §§
27 1983 and 1988.
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1 **B. SFUSD Defendants**

2 12. Defendant SAN FRANCISCO UNIFIED SCHOOL DISTRICT (“SFUSD”) is a public
3 school district organized and existing under California law, with its principal administrative offices at
4 555 Franklin Street, San Francisco, California 94102. SFUSD employs more than fifteen (15) persons
5 and is an “employer” within the meaning of Title VII, 42 U.S.C. § 2000e(b), and FEHA, Cal. Gov’t
6 Code § 12926(d). SFUSD receives federal financial assistance. At all relevant times, SFUSD acted
7 under color of state law.
8

9 13. Defendant DR. MARIA SU is, and at all relevant times was, the Superintendent of SFUSD.
10 She is sued in her individual capacity for damages on all applicable claims, and in her official capacity
11 for prospective injunctive relief pursuant to *Ex parte Young*, 209 U.S. 123 (1908).
12

13 **C. Union Defendants**

14 14. Defendant UNITED EDUCATORS OF SAN FRANCISCO (“UESF”) is a public sector
15 labor union that serves as the exclusive collective bargaining representative for certificated employees of
16 SFUSD, including Plaintiff, pursuant to California’s Educational Employment Relations Act (“EERA”),
17 Cal. Gov’t Code § 3540 et seq. UESF maintains its principal place of business in San Francisco,
18 California. UESF is a “labor organization” within the meaning of Title VII, 42 U.S.C. § 2000e(d), and
19 FEHA, Cal. Gov’t Code § 12926(i).
20

21 15. Defendant FRANK LARA is, and at all relevant times was, the Vice President of UESF.
22 He is sued in both his individual capacity and his official capacity as a UESF officer. On information
23 and belief, Lara authorized, directed, approved, or ratified the conduct alleged herein, including the
24 distribution of the Hamas terrorist poster to all SFUSD union members.
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1 **D. Individual Tortfeasors**

2 16. Defendant PEDRO CONCEICAO is a Field Organizer employed by UESF. He is sued in
3 his individual capacity for the battery he committed upon Plaintiff in approximately April 2025 while
4 Plaintiff was engaged in protected protest activity against UESF's antisemitic conduct.

5 17. Defendant JEYKEL MAIRENA is, on information and belief, a teacher employed by
6 SFUSD at Hoover Middle School in San Francisco. She is sued in her individual capacity for the battery
7 she committed upon Plaintiff in approximately February 2026 while Plaintiff was engaged in protected
8 protest activity during the SFUSD teacher strike.

9 18. Defendants DOES 1 through 50, inclusive, are individuals and/or entities whose true names
10 and capacities are presently unknown to Plaintiff. Upon information and belief, DOES 1 through 50
11 participated in, directed, authorized, ratified, or otherwise contributed to the unlawful conduct alleged
12 herein. Plaintiff will seek leave to amend upon the completion of discovery.

13 19. At all times relevant herein, each Defendant was the agent, employee, representative, or co-
14 conspirator of each other Defendant and was acting within the course and scope of that agency,
15 employment, or conspiracy with the knowledge and ratification of each other Defendant.

16 **FACTUAL ALLEGATIONS**

17 **A. Background**

18 20. Plaintiff Lee Miller is a Jewish man employed as an Education Specialist at Aptos Middle
19 School, a school within SFUSD. Plaintiff is Jewish by religion and national origin and is a member of
20 the collective bargaining unit exclusively represented by UESF.

21 21. October 7, 2023 was the date of the deadliest terrorist attack against Jewish people in
22 modern history, in which Hamas terrorists killed approximately 1,200 people—the overwhelming
23 majority of them Jewish civilians—and took over 250 hostages.

B. The UESF Hamas Terrorist Poster (October 2024)

22. On or about October 4, 2024, UESF, through its leadership including Defendant Lara, sent a mass email to all SFUSD union members—including Plaintiff—through the employment-connected communications channel used to convey collective bargaining information, workplace policies, and terms and conditions of employment. The email contained a promotional poster titled “Palestine Solidarity Action” bearing the slogans “One Year of Genocide” and “One Year of Resistance.”

23. The poster depicted a militant from Hamas, an organization with the stated goal of killing all Jews, marking the first anniversary of the October 7, 2023 Hamas massacre of approximately 1,200 Jewish people.

24. The poster promoted an “International Day of Action” and characterized Hamas’s attacks as “resistance,” thereby glorifying an act of mass murder directed at Jewish people.

25. The email was received by Plaintiff in the context of his employment, through the same channel UESF uses to communicate about bargaining agreements and workplace conditions. No reasonable Jewish employee could receive such a communication from his exclusive workplace representative—glorifying the massacre of Jewish people and depicting what is plainly a Hamas militant—without experiencing the terms and conditions of his employment as hostile, discriminatory, and threatening.

26. As a direct result of the UESF email and poster, Plaintiff suffered severe emotional distress, anxiety, inability to concentrate on his professional duties, sleep disruption including waking at 1:00 a.m. unable to return to sleep, and interference with his capacity to give his students his full attention and energy.

C. UESF’s Refusal to Address Plaintiff’s Complaints

27. On or about October 7, 2024, Plaintiff called UESF to report his complaint that the poster was antisemitic and harmful to Jewish union members and SFUSD employees. Despite leaving multiple

1 messages, UESF failed to respond for over one week. When UESF finally responded by email, it did not
2 acknowledge the harm caused to Plaintiff. Instead, UESF asserted that it could send whatever
3 communications it wished to union members without restriction. UESF's refusal to engage with or
4 remediate Plaintiff's complaint constituted a deliberate rejection of his right to a workplace free from
5 religious and national origin discrimination.

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7 **D. SFUSD's Complete Failure to Act**

8 28. Plaintiff reported the hostile work environment created by the UESF poster to SFUSD
9 administrators, including directly to Superintendent Dr. Su and Assistant Superintendent Jennifer
10 Steiner. Plaintiff sent numerous emails to Superintendent Su's office. She has not responded to a single
11 one. Assistant Superintendent Steiner met with Plaintiff on one occasion and was initially responsive,
12 but ceased responding to Plaintiff's emails entirely approximately one year before the filing of this
13 Complaint—on this matter and on unrelated matters concerning Plaintiff's students. On November 9,
14 2024, Assistant Superintendent Steiner wrote to Plaintiff that she would be "reaching out to Aptos
15 Leadership and our legal/equity department to figure out the next steps around how our admin
16 regulations impact union propaganda," and acknowledged in writing, "I know this is impacting your
17 mental health." No corrective action followed. In January 2025, Plaintiff again wrote to Steiner, with
18 Principal Dimitric Roseboro copied, asking why Mexican, Ukrainian, and Palestinian flags were
19 acceptable in the District's schools while an Israeli flag was not, and proposing an in-person meeting to
20 address antisemitism in the schools and the union. The school's principal, Dimitric Roseboro, responded
21 to Plaintiff's concerns in person and expressed personal support, but no formal investigation or
22 corrective action resulted.

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25 29. SFUSD's failure to investigate or remediate constituted ratification of the hostile work
26 environment and a denial of Plaintiff's right to equal treatment in his employment. Had a union
27 communication glorified mass violence against a different religious or ethnic group—African
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1 Americans, Muslims, Latinos—Plaintiff is informed and believes SFUSD would have taken swift
2 corrective action. SFUSD’s failure to act here reflects differential treatment of Jewish employees.

3 **E. The April 2025 Physical Assault by Pedro Conceicao**

4 30. Following his complaints, Plaintiff continued to exercise his First Amendment rights by
5 publicly protesting UESF’s antisemitic conduct. In or about April 2025, while Plaintiff was peacefully
6 protesting against a UESF union rally, Defendant Pedro Conceicao, a UESF Field Organizer, physically
7 accosted and assaulted Plaintiff. Conceicao’s conduct was committed in direct response to Plaintiff’s
8 exercise of his First Amendment rights and because of Plaintiff’s Jewish identity and his opposition to
9 UESF’s antisemitic conduct, with the intent to silence and intimidate him.
10

11 31. Plaintiff reported the April 2025 assault directly to Superintendent Dr. Su and Assistant
12 Superintendent Steiner by email. Both ignored his reports. No investigation was conducted and no
13 disciplinary action was taken.
14

15 **F. Plaintiff’s Small Claims Action Against UESF and Lara**

16 32. In or about the spring of 2025, Plaintiff, proceeding pro se, filed a small claims action in
17 the Superior Court of California, County of San Francisco, against UESF and Defendant Frank Lara
18 individually, captioned *Miller v. Lara and United Educators of San Francisco*, seeking reimbursement
19 of union dues and damages for emotional distress arising from UESF’s distribution of the Hamas
20 militant poster. The filing of this small claims action was itself protected activity opposing UESF’s
21 discriminatory workplace communications.
22

23 33. On or about August 2025, following a small claims trial, the Superior Court entered
24 judgment in Plaintiff’s favor and against UESF and Lara in the amount of \$7,702.62. UESF and Lara
25 appealed the judgment to the Superior Court for a trial de novo pursuant to California Code of Civil
26 Procedure § 116.770.
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34. Following a trial de novo on August 20, 2025, the Hon. Samuel K. Feng issued a ruling on September 3, 2025 reversing the small claims judgment in Superior Court Case No. CSM-25-869536. A copy of the ruling is attached hereto as Exhibit B. The ruling was narrow: the court rejected Plaintiff's dues-reimbursement claim solely on the contractual ground that Plaintiff "was never denied benefits provided by his union membership," and rejected Plaintiff's emotional distress claim solely on the ground that Plaintiff had not produced medical records, therapist evaluations, or psychological documentation sufficient to establish the "serious emotional harm" element required for a standalone California emotional distress tort. Judge Feng expressly acknowledged that "[t]he flyer is seen as offensive and cruel." The ruling addressed only the standalone California tort elements as applied in the small claims forum; it did not adjudicate, and could not have adjudicated, Plaintiff's rights under Title VII, FEHA, or 42 U.S.C. § 1983, each of which requires different elements and provides different remedies than the state tort standards applied below.

G. The February 2026 Physical Assault by Jeykel Mairena

35. In or about February 2026, during a teacher strike by SFUSD employees represented by UESF, Plaintiff again exercised his First Amendment right to protest by demonstrating against the strike and against UESF's ongoing antisemitic conduct. While peacefully engaged in this constitutionally protected activity, Defendant Jeykel Mairena, a SFUSD teacher and UESF member, physically accosted and assaulted Plaintiff because of his Jewish identity and in retaliation for his opposition to antisemitic conduct. Although Plaintiff repeatedly asked Mairena to give him space and held out his arm to maintain distance, Mairena persisted in aggressively advancing on Plaintiff, and in the course of doing so spat on Plaintiff's face. Being spat upon was degrading and offensive to Plaintiff.

36. Plaintiff reported the February 2026 assault to Jeremy Balli in SFUSD's Human Resources department immediately after it occurred, and, at the direction of Human Resources, filed a workers' compensation claim concerning the incident, in connection with which he was evaluated by a

1 psychologist. No investigation was conducted and no disciplinary action was taken against Mairena.
2 Both assaults were committed by persons acting within the scope of their union membership and/or at
3 the direction, with the authorization, or with the ratification of UESF and Defendant Lara. Despite being
4 on notice of the physical threats to Plaintiff's safety, SFUSD took no action to protect him.

5 **H. The Pervasive Ostracism of Plaintiff by His Colleagues**

6 37. The ostracism of Plaintiff by his colleagues began immediately. The day after UESF
7 distributed the poster, Plaintiff sent an email to all staff asking them to condemn the communication and
8 Hamas. He became a pariah at once. The shunning worsened after Plaintiff protested at a union rally,
9 and worsened again when colleagues learned of his small claims action. A substantial portion of
10 Plaintiff's colleagues at Aptos Middle School stopped speaking to and collaborating with him because of
11 his Jewish identity and his perceived support for Israel. Plaintiff is informed and believes, and on that
12 basis alleges, that approximately forty percent of the colleagues with whom he regularly interacted
13 ceased communicating with him. One of Plaintiff's teaching assistants, who is friendly with much of the
14 staff, confirmed to Plaintiff that colleagues "hate" him because of his perceived "zionist colonizer
15 sympathies."

16 38. This ostracism included two colleagues whose professional collaboration is essential to
17 Plaintiff's ability to perform his duties as an Education Specialist and to serve his students: the head of
18 the physical education department and the school's speech therapist. The speech therapist, formerly a
19 close personal friend of Plaintiff, ceased communicating and collaborating with him and visited his
20 classroom only once during the entire school year. The head of the physical education department
21 likewise ceased communicating with Plaintiff.

22 39. In January 2025, Plaintiff posted on his classroom door an anti-bullying poster stating
23 "Everybody is welcome in this classroom," displaying an American flag and an Israeli flag. In
24 approximately March or April 2025, Principal Roseboro told Plaintiff he had to take the poster down.

1 When Plaintiff asked why, Roseboro stated that “if I have two flags up, I have to have all flags.”
 2 Plaintiff responded that he would take his poster down when other teachers stopped wearing pro-
 3 Palestinian apparel and displaying “from the river to the sea, Palestine will be free” posters. Roseboro
 4 asked Plaintiff to name the teachers. Plaintiff named the head of the physical education department, who
 5 stopped wearing his pro-Palestinian items the very next day and has not worn them since. The District
 6 thus acted promptly to address the conduct of the colleague Plaintiff identified, while directing Plaintiff
 7 to remove his own display and taking no comparable action to address the pro-Palestinian and
 8 antisemitic displays throughout the school that Plaintiff had identified as creating a hostile environment.
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10 40. The loss of collaboration with these colleagues has materially impaired the working
 11 conditions under which Plaintiff performs his job and has caused tangible harm to the students in
 12 Plaintiff’s charge, who depend on the coordinated services of the Education Specialist, the physical
 13 education staff, and the speech therapist. Because integration of special-education students with their
 14 general-education peers is a core function of Plaintiff’s role and requires close collaboration with
 15 general-education teachers, the breakdown in collaboration caused all five of Plaintiff’s students to lose
 16 opportunities to participate in activities and lessons alongside general-education students. The hostile
 17 environment thus created and perpetuated continued through the end of the 2025–2026 school year.
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19 **I. The June 5, 2026 Retaliatory Reprimand**

20 41. On June 5, 2026—less than two months after Plaintiff filed this action and while it was
 21 pending—SFUSD, through the principal of Aptos Middle School, issued Plaintiff a formal written
 22 reprimand. The reprimand purported to discipline Plaintiff in connection with a student who briefly
 23 walked from the play area during an April 2025 outside break and was immediately returned by a
 24 paraeducator. The outside break was staffed with one adult for each student, and at the moment in
 25 question Plaintiff was briefly preparing an activity for the students while the paraeducators supervised
 26 them. By the reprimand’s own account, paraeducators were present and supervising students and a
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1 paraeducator—not Plaintiff—notified the parent. This was the first discipline of any kind Plaintiff had
2 received in his career as an educator. The reprimand threatened Plaintiff with further disciplinary action
3 “to include termination.”

4 42. The reprimand was issued in retaliation for Plaintiff’s protected activity, including his
5 opposition to UESF’s antisemitic conduct, his complaints to SFUSD, and his filing of this lawsuit. The
6 reprimand attributed to Plaintiff an admission he never made, asserting that he was “forthright with
7 admitting” that he “usually” takes his prep time during students’ outside breaks; in fact, Plaintiff
8 ordinarily spent that period with his students and used it for preparation only on rare occasions, always
9 with paraeducators supervising. The permission-slip requirement the reprimand faulted Plaintiff for not
10 following did not exist at the time of the April 2025 outside break; the District adopted it only afterward,
11 in response to the very incident for which it disciplined Plaintiff. Plaintiff’s supervisors were aware, and
12 acknowledged, that the complaining parent had been prepared to seek money from the District before his
13 child ever enrolled at Plaintiff’s school, yet the District issued the reprimand to Plaintiff notwithstanding
14 that knowledge. Before the reprimand issued, the matter had been addressed through several
15 conversations between Plaintiff and the vice principal and principal, a meeting with Plaintiff’s
16 paraeducators, and an individualized education program meeting with the parent, at which the parent
17 praised Plaintiff as a teacher before later turning against him. At the conclusion of that process, the
18 principal informed Plaintiff that, going forward, students would require a parent-signed permission form
19 to go outside, and Plaintiff reasonably understood that directive to be the resolution of the matter. Only
20 weeks later, and without any offer of union representation or a genuine investigatory interview, did the
21 District issue the written reprimand. The proximity of the reprimand to the filing of this action, the fact
22 that it was the first discipline of Plaintiff’s career, its reliance on an admission Plaintiff never made and
23 on a rule invented after the fact, its issuance despite the District’s knowledge of the complaining
24 parent’s motivations, and its recharacterization of Plaintiff’s practices as misconduct support the
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1 inference that the reprimand was retaliatory rather than a bona fide exercise of the District's disciplinary
2 authority.

3 43. On July 14, 2026, Plaintiff, through counsel, formally responded to the reprimand, disputed
4 it as retaliatory and factually unfounded, demanded its rescission and removal from his personnel file,
5 and placed the District on notice to preserve evidence. This response was further protected activity
6 opposing the District's retaliatory conduct.
7

8 **K. Impact on Plaintiff**

9 44. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered and
10 continues to suffer severe emotional distress, including disrupted sleep, chronic anxiety, and difficulty
11 concentrating on his teaching responsibilities. Plaintiff has been forced to work in an environment
12 permeated with antisemitism and to fear for his physical safety when exercising his constitutional rights.
13 Plaintiff's ability to serve his students at full professional capacity has been materially compromised by
14 the hostile work environment Defendants created and perpetuated and by SFUSD's deliberate
15 indifference to Plaintiff's repeated pleas for assistance.
16

17 **FIRST CAUSE OF ACTION** 18 **Battery — California Common Law**

19 **(Against Defendants Pedro Conceicao, Jeykel Mairena, UESF, and Frank Lara)**

20 45. Plaintiff realleges and incorporates by reference each of the preceding paragraphs as
21 though fully set forth herein.

22 46. In approximately April 2025, Defendant Pedro Conceicao intentionally made harmful and
23 offensive contact with Plaintiff's person without Plaintiff's consent, with the intent to harm and
24 intimidate him. In approximately February 2026, Defendant Jeykel Mairena intentionally made harmful
25 and offensive contact with Plaintiff's person without Plaintiff's consent, with the intent to harm and
26 intimidate him. Plaintiff did not consent to either physical contact.
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1 47. Conceicao committed the April 2025 assault while acting in his capacity as a UESF Field
 2 Organizer—a paid agent of UESF—and in the course of union activity at a union rally he was present to
 3 organize and support, such that his conduct was within the scope of his agency for UESF. Mairena, a
 4 UESF member, committed the February 2026 assault in the course of union strike activity organized by
 5 UESF. UESF and Lara authorized and ratified this conduct: they were notified of Conceicao’s assault
 6 and took no action to discipline him, disavow his conduct, or prevent its recurrence, and instead
 7 continued to employ him as a Field Organizer, thereby ratifying the assault with actual knowledge.
 8 UESF and Frank Lara are therefore vicariously liable for the tortious conduct of Conceicao and Mairena.

10 48. As a direct and proximate result of the batteries, Plaintiff suffered physical injury,
 11 emotional distress, and other compensatory damages in amounts to be proven at trial. The conduct of
 12 Conceicao, Mairena, UESF, and Lara was willful, malicious, oppressive, and despicable, committed
 13 with conscious disregard for Plaintiff’s rights, safety, and dignity. Plaintiff is entitled to punitive
 14 damages in an amount sufficient to punish and deter.

16 **SECOND CAUSE OF ACTION**

17 **Hostile Work Environment Based on Religion and National Origin** 18 **Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-2(a), (c);** 19 **California Fair Employment and Housing Act, Cal. Gov’t Code §§ 12940(a), (i)** 20 **(Against Defendants SFUSD, UESF, and Frank Lara)**

21 49. Plaintiff realleges and incorporates by reference each of the preceding paragraphs as
 22 though fully set forth herein.

23 50. As set forth in the Factual Allegations above, UESF transmitted through official workplace
 24 channels a poster bearing the slogans “One Year of Genocide” and “One Year of Resistance,” depicting
 25 a Hamas militant marking the first anniversary of the October 7, 2023 massacre of approximately 1,200
 26 Jewish people. The poster was received by Plaintiff in the context of his employment, causing severe
 27 emotional distress, sleep disruption, anxiety, and interference with his professional duties. SFUSD
 28 received direct written notice of the hostile environment and took no action. The hostile environment

escalated to physical violence: in April 2025, Defendant Pedro Conceicao physically assaulted Plaintiff while he was protesting UESF's antisemitic conduct; and in February 2026, Defendant Jeykel Mairena physically assaulted Plaintiff again while he was protesting during the teacher strike. The hostile environment was further perpetuated by the pervasive ostracism of Plaintiff by approximately forty percent of his regularly-interacting colleagues, including two colleagues whose collaboration was essential to Plaintiff's job, which continued through the end of the 2025–2026 school year. Each of these events was connected to Plaintiff's Jewish identity and his opposition to antisemitic conduct, and SFUSD failed to take any corrective action despite receiving notice.

A. Title VII — Employer Liability (Against SFUSD)

51. Title VII makes it unlawful for an employer to discriminate against an employee with respect to the terms, conditions, or privileges of employment because of religion or national origin. Plaintiff's Jewish religion and Jewish national origin are each independently protected. An employer is liable for hostile work environment harassment by third parties—including unions—where it knew or should have known of the harassment and failed to take prompt corrective action. The poster, the physical assaults by Conceicao and Mairena, the pervasive ostracism of Plaintiff, and SFUSD's deliberate indifference collectively establish a hostile work environment sufficiently severe and pervasive to alter the conditions of Plaintiff's employment. Plaintiff's claim does not rest on the viewpoint expressed in the poster, but on a course of conduct directed at Plaintiff because of his Jewish identity—including two physical assaults upon his person and pervasive, targeted ostracism by his colleagues—that goes well beyond protected expression on a matter of public concern.

B. Title VII — Labor Organization Liability (Against UESF and Lara)

52. Title VII, 42 U.S.C. § 2000e-2(c), makes it unlawful for a labor organization to discriminate against any individual based on religion or national origin, to limit or classify its membership in a way that would deprive any individual of employment opportunities, or to cause or

1 attempt to cause an employer to discriminate against an individual. By distributing the Hamas militant
2 poster through workplace channels to all SFUSD members it represents, UESF discriminated against
3 Plaintiff based on his religion and national origin, classified him as less worthy of equal treatment, and
4 caused SFUSD's workplace to become hostile to Jewish employees. Furthermore, Defendant Pedro
5 Conceicao physically assaulted Plaintiff in April 2025 while acting in his capacity as a UESF Field
6 Organizer and within the scope of his union role, further demonstrating UESF's direct participation in
7 the campaign of harassment against Plaintiff. Defendant Frank Lara, as a UESF officer, personally
8 authorized and directed the dissemination of the hostile communication.
9

10 **C. FEHA — Employer and Labor Organization Liability (Against SFUSD and UESF)**

11 53. FEHA, Cal. Gov't Code § 12940(a), prohibits employers from harassing or discriminating
12 against employees based on religion or national origin. FEHA, Cal. Gov't Code § 12940(i), prohibits
13 labor organizations from discriminating against members based on religion or national origin. Under
14 FEHA, Cal. Gov't Code § 12940(j)(1), an employer is liable for third-party harassment where it knew or
15 should have known of the conduct and failed to take immediate corrective action. The same facts
16 described in paragraph 50 establish liability under each of these provisions.
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18 54. Plaintiff has satisfied all applicable administrative prerequisites under both Title VII and
19 FEHA pursuant to the CRD/EEOC worksharing agreement, as set forth in paragraph 10. The conduct
20 alleged constitutes a continuing violation extending into the limitations period. As a direct and
21 proximate result of Defendants' conduct, Plaintiff has suffered emotional distress, loss of enjoyment of
22 life, humiliation, and other compensatory damages in amounts to be proven at trial. Plaintiff is entitled
23 to compensatory and punitive damages under both statutes.
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THIRD CAUSE OF ACTION

Retaliation

**Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-3;
California Fair Employment and Housing Act, Cal. Gov't Code § 12940(h)
(Against Defendants SFUSD and UESF)**

55. Plaintiff realleges and incorporates by reference each of the preceding paragraphs as though fully set forth herein.

56. As set forth in the Factual Allegations above, Plaintiff engaged in protected activity by: (a) calling UESF on October 7, 2024 to report that the Hamas militant poster was antisemitic and harmful to Jewish employees; (b) reporting the hostile work environment to Superintendent Su, Assistant Superintendent Steiner, and SFUSD HR by email and in person; (c) filing a small claims action in 2025 against UESF and Lara seeking redress for the antisemitic workplace communications, and obtaining a judgment in his favor; (d) publicly protesting UESF's antisemitic conduct at union rallies and during the February 2026 teacher strike; and (e) filing this lawsuit on April 17, 2026.

57. In direct response to this protected activity, Defendant SFUSD took materially adverse action against Plaintiff. Independent of the physical assaults, SFUSD, with direct written and Human Resources notice that Plaintiff had been physically assaulted because of his protected activity, deliberately refused to investigate or respond—conduct that would dissuade a reasonable worker from making or supporting a charge of discrimination. SFUSD further issued Plaintiff a formal written reprimand threatening termination on June 5, 2026, less than two months after Plaintiff filed this action. These actions were materially adverse and causally connected to Plaintiff's protected activity.

A. Title VII Retaliation

58. Title VII prohibits employers and labor organizations from retaliating against any individual who has opposed a practice made unlawful by Title VII. The materially adverse actions described above—SFUSD's deliberate refusal to investigate or respond to the assaults on Plaintiff, and its issuance of a termination-threatening reprimand shortly after Plaintiff sued—were materially adverse

actions that would deter a reasonable employee from continuing to engage in protected activity. There is a direct causal nexus between Plaintiff's protected activity and these retaliatory acts.

B. FEHA Retaliation

59. FEHA prohibits employers and labor organizations from retaliating against any person who has opposed any practice prohibited under FEHA. The same protected activity and retaliatory conduct described above establish FEHA retaliation liability. The retaliatory conduct, evaluated under the totality of the circumstances and in the context of the hostile work environment, materially affected the terms, conditions, and privileges of Plaintiff's employment. There is a direct causal nexus between Plaintiff's protected activity and the retaliatory conduct.

60. Plaintiff has satisfied all applicable administrative prerequisites under both Title VII and FEHA pursuant to the CRD/EEOC worksharing agreement, as set forth in paragraph 10. As a direct and proximate result of Defendants' retaliatory conduct, Plaintiff has suffered emotional distress, humiliation, loss of enjoyment of life, and other compensatory damages in amounts to be proven at trial.

FOURTH CAUSE OF ACTION

First Amendment Retaliation and Equal Protection

42 U.S.C. § 1983

**(Against Defendant Dr. Maria Su in her individual capacity for damages,
and in her official capacity for prospective injunctive relief only)**

61. Plaintiff realleges and incorporates by reference each of the preceding paragraphs as though fully set forth herein.

62. Defendant Dr. Su, as Superintendent of SFUSD, is the final policymaker for SFUSD and at all relevant times acted under color of state law within the meaning of 42 U.S.C. § 1983.

63. First Amendment Retaliation. The First Amendment, made applicable to state and local governments through the Fourteenth Amendment, protects public employees against retaliation for speech on matters of public concern and for petitioning the government for redress of grievances. Plaintiff's opposition to the dissemination of antisemitic materials, his complaints regarding the hostile

1 work environment, his small claims action, and the filing of this lawsuit constituted protected speech
2 and petitioning activity on matters of significant public concern. Defendant Dr. Su, with direct written
3 notice of Plaintiff's protected activity and of the escalating harassment against him, deliberately
4 disregarded his complaints and permitted and ratified retaliatory action against him, including the June
5 5, 2026 reprimand threatening termination issued shortly after Plaintiff filed this action. This conduct
6 would chill a person of ordinary firmness from continuing to exercise his First Amendment rights.
7

8 64. Equal Protection. The Equal Protection Clause of the Fourteenth Amendment prohibits
9 state actors from intentionally treating similarly situated individuals differently on the basis of religion
10 or national origin. Plaintiff's Jewish religion and Jewish national origin are each independently protected
11 classifications. Dr. Su denied Plaintiff equal protection of the laws by failing and refusing to take any
12 action in response to the hostile work environment and physical assaults directed at Plaintiff as a Jewish
13 employee, despite receiving direct written notice of each incident. When several African American
14 teachers reported receiving racist text messages from an unknown sender, the District responded
15 promptly, notwithstanding that the sender's identity was unknown. By contrast, although the source of
16 the antisemitic communication directed at Plaintiff was known—it was UESF itself—the District never
17 issued any condemnation of it, and Dr. Su never responded to a single one of Plaintiff's complaints of
18 antisemitic harassment. The District likewise permitted and supported identity-affirming and political
19 displays for other groups—including Palestinian, Mexican, and Ukrainian flags and a poster depicting a
20 girl in a hijab urging an end to Islamophobia—while directing Plaintiff to remove his American-and-
21 Israeli-flag anti-bullying poster and maintaining no comparable materials addressing antisemitism. Dr.
22 Su's prompt response to materially similar complaints from employees of other protected groups,
23 contrasted with her complete disregard of Plaintiff's complaints, constituted intentional differential
24 treatment of Plaintiff on the basis of his Jewish religion and national origin.
25
26
27
28

66. Prospective Injunctive Relief. Plaintiff seeks prospective injunctive relief against Dr. Su in her official capacity as Superintendent of SFUSD pursuant to *Ex parte Young*, 209 U.S. 123 (1908), to remedy the ongoing violation of Plaintiff's constitutional rights, including by compelling SFUSD, through Dr. Su, to implement policies and procedures ensuring that complaints of antisemitism and harassment directed at Jewish employees are investigated and remediated on equal terms with comparable complaints from employees of other protected religious or ethnic groups, and protecting Plaintiff from further retaliation.

67. As a direct and proximate result of Dr. Su's conduct, Plaintiff has suffered physical injury, severe emotional distress, violation of his constitutional rights, and other compensatory damages in amounts to be proven at trial. Plaintiff is also entitled to attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

WHEREFORE, Plaintiff Lee Miller respectfully requests that this Court enter judgment in Plaintiff's favor and against Defendants, jointly and severally where applicable, as follows:

A. Compensatory damages, including but not limited to damages for physical injury, emotional distress, lost wages and benefits, and loss of enjoyment of life, in amounts to be

1 proven at trial (provided that, as to Defendant Su in her official capacity, Plaintiff seeks only
2 prospective injunctive relief and not damages);

3 B. Punitive damages against individual Defendants, UESF, and other Defendants where
4 permitted by law, in an amount sufficient to punish and deter future misconduct;

5 C. Injunctive relief ordering SFUSD and UESF to take all steps necessary to ensure Plaintiff's
6 physical safety when exercising his constitutional rights, including prohibiting further acts of
7 physical retaliation against Plaintiff by any employee, agent, or member of SFUSD or UESF;

8 D. Injunctive relief ordering UESF to cease and desist from distributing communications that
9 create a hostile work environment for Jewish employees and members, and to implement anti-
10 discrimination policies;

11 E. Injunctive relief ordering SFUSD to: (1) conduct a prompt and thorough investigation of
12 Plaintiff's complaints; (2) implement comprehensive anti-discrimination and anti-harassment
13 policies addressing antisemitism; (3) provide mandatory training for all employees and
14 administrators; (4) rescind the June 5, 2026 reprimand; and (5) take all steps necessary to ensure
15 a workplace free from religious and national origin discrimination and retaliation;

16 F. Reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988, Title VII, FEHA, and
17 any other applicable statute or rule;

18 G. Pre- and post-judgment interest as permitted by law; and

19 H. Such other and further relief as this Court deems just and proper.

20 DEMAND FOR JURY TRIAL

21 68. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a
22 trial by jury on all issues so triable.

23 By: /s/ Mark L. Javitch
24 Mark L. Javitch (California SBN 323729)
25 Javitch Law Office
26 3 East 3rd Ave. Ste. 200
27 San Mateo CA 94401
28 Tel: (650) 781-8000
Fax: (650) 300-0343
mark@javitchlawoffice.com

Attorney for Plaintiff

EXHIBIT A

Civil Rights Department Notice of Case Closure and Right to Sue



Civil Rights Department

KEVIN KISH, DIRECTOR

651 Bannan Street, Suite 200 | Sacramento | CA | 95811
1-800-884-1684 (voice) | 1-800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

April 13, 2026

Mark Javitch
3 East 3rd Ave. Ste. 200
San Mateo, CA 94401

RE: **Notice to Complainant's Attorney**
CRD Matter Number: 202604-34549713
Right to Sue: Miller / SAN FRANCISCO UNIFIED SCHOOL DISTRICT et al.

Dear Mark Javitch:

Attached is a copy of your complaint of discrimination filed with the Civil Rights Department (CRD) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue.

Pursuant to Government Code section 12962, CRD will not serve these documents on the employer. You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the CRD does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Civil Rights Department



Civil Rights Department

651 Bannan Street, Suite 200 | Sacramento | CA | 95811
 1-800-884-1684 (voice) | 1-800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

April 13, 2026

RE: Notice of Filing of Discrimination Complaint

CRD Matter Number: 202604-34549713

Right to Sue: Miller / SAN FRANCISCO UNIFIED SCHOOL DISTRICT et al.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Civil Rights Department (CRD) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

This matter may qualify for CRD's Small Employer Family Leave Mediation Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Reproductive Loss Leave, or Bereavement Leave (Government Code sections 12945.2, 12945.6, or 12945.7) has the right to participate in CRD's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in CRD's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. You may contact CRD's Small Employer Family Leave Mediation Pilot Program by emailing DRDOnlineRequests@calcivilrights.ca.gov and include the CRD matter number indicated on the Right to Sue notice.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to CRD is requested or required.

Sincerely,

Civil Rights Department



Civil Rights Department

KEVIN KISH, DIRECTOR

651 Bannan Street, Suite 200 | Sacramento | CA | 95811
 1-800-884-1684 (voice) | 1-800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

April 13, 2026

Lee Miller

RE: **Notice of Case Closure and Right to Sue**
 CRD Matter Number: 202604-34549713
 Right to Sue: Miller / SAN FRANCISCO UNIFIED SCHOOL DISTRICT et al.

Dear Lee Miller:

This letter informs you that the above-referenced complaint filed with the Civil Rights Department (CRD) has been closed effective April 13, 2026 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

This matter may qualify for CRD's Small Employer Family Leave Mediation Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Reproductive Loss Leave, or Bereavement Leave (Government Code sections 12945.2, 12945.6, or 12945.7) has the right to participate in CRD's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in CRD's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. Contact CRD's Small Employer Family Leave Mediation Pilot Program by emailing DRDOnlineRequests@calcivilrights.ca.gov and include the CRD matter number indicated on the Right to Sue notice.



Civil Rights Department

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After receiving a Right-to-Sue notice from CRD, you may have the right to file your complaint with a local government agency that enforces employment anti-discrimination laws if one exists in your area that is authorized to accept your complaint. If you decide to file with a local agency, you must file before the deadline for filing a lawsuit that is on your Right-to-Sue notice. Filing your complaint with a local agency does not prevent you from also filing a lawsuit in court.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this CRD Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Civil Rights Department

**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
Civil Rights Department
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

Lee Miller

CRD No. 202604-34549713

Complainant,

vs.

SAN FRANCISCO UNIFIED SCHOOL DISTRICT

,

UNITED EDUCATORS OF SAN FRANCISCO

,

Respondents

1. Respondent **SAN FRANCISCO UNIFIED SCHOOL DISTRICT** is an **employer** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant is naming **UNITED EDUCATORS OF SAN FRANCISCO** business as Co-Respondent(s).

3. Complainant **Lee Miller**, resides in the City of , State of .

4. Complainant alleges that on or about **February 2, 2026**, respondent took the following adverse actions:

Complainant was harassed because of complainant's national origin (includes language restrictions), religious creed - includes dress and grooming practices, race (includes hairstyle and hair texture).

Complainant was discriminated against because of complainant's national origin (includes language restrictions), religious creed - includes dress and grooming practices, race (includes hairstyle and hair texture) and as a result of the discrimination was other adverse action(s).

Complainant experienced retaliation because complainant reported or resisted any form of discrimination or harassment and as a result was other adverse action(s).

-1-

Complaint – CRD No. 202604-34549713

Date Filed: April 13, 2026

Additional Complaint Details: after reporting an anti-Jewish poster, he was physically attacked by two union members, and the school failed to investigate his complaints.

1 VERIFICATION

2 I, **Mark Javitch**, am the **Attorney** in the above-entitled complaint. I have read the
3 foregoing complaint and know the contents thereof. The matters alleged are based on
4 information and belief, which I believe to be true. The matters alleged are based on
information and belief, which I believe to be true.

5 On April 13, 2026, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

7 **San Mateo, California**

EXHIBIT B

Small Claims Appeal Judgment (Superior Court No. CSM-25-869536)

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
400 MCALLISTER STREET, SAN FRANCISCO, CA 94102

FRANK LARA

FILED

San Francisco County Superior Court
APPELLANT(S)

Superior Court Case Number

CSM-25-869536

SEP 03 2025

Small Claim Case Number

VS.

CLERK OF THE COURT

LEE MILLER

BY: *[Signature]*

Deputy Clerk

Court Judgment-Small Claims Appeal

RESPONDENT(S)

This cause came on regularly for trial on August 20, 2025 in Department 503
before the Honorable Samuel K. Feng Judge Pro Tem Presiding.
The Appellant appearing Frank Lara, United Educators of San Francisco, the
Respondent appearing Lee Miller
and evidence having being introduced, the cause was submitted for decision.

[] AFFIRMED

[X] REVERSED

JUDGMENT IS ORDERED in favor of (name) FRANK LARA, UNITED EDUCATORS
and against (name) LEE MILLER OF SAN FRANCISCO

in the amount of :

\$ 0

PRINCIPAL

\$ 0

ATTORNEY FEES

\$ 0

COSTS

\$ 0

OTHER _____ SPECIFY

TOTAL

TERMS/OTHER ORDERS

SEE ATTACHED

The judgment on appeal is final and replaces the small claims judgment of \$ 7,702.62.

Exhibits are ordered returned pursuant to CCP 1952. The case is remanded back to Small Claims Court.

DATED: 09/03/2025

JUDGE PRO TEM OF THE SUPERIOR COURT

SAMUEL K. FENG

SHORT TITLE: Miller vs. Lara and United Educators of San Francisco	CASE NUMBER: CSM-25-869536
---	-------------------------------

ATTACHMENT (Number): 1

(This Attachment may be used with any Judicial Council form.)

TERMS/OTHER ORDERS

Respondent is not entitled to reimbursement of his union dues as respondent was never denied benefits provided by his union membership during that time period. For emotion distress to be considered in small claims court, the emotional harm must be serious that an ordinary, reasonable person would be unable to cope with it. The flyer is seen as offensive and cruel by respondent, however, the claim of emotional damages fails as there was no evidence to support this claim such as medical records, evaluations from therapists, psychologists, or psychiatrists. There was no documentation or evidence of how this flyer impacted his life.

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 1 of 1

(Add pages as required)