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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
10

11 PLANS, Inc.,

12 Plaintiff,

13 v.

14 SACRAMENTO CITY UNIFIED  
SCHOOL DISTRICT, TWIN RIDGES  
15 ELEMENTARY SCHOOL DISTRICT,  
DOES 1-100,

16 Defendants.  
17

CASE NO. CIV.S-98-0266 FCD PAN

**OBJECTIONS BY DEFENDANT  
SACRAMENTO CITY UNIFIED SCHOOL  
DISTRICT TO PORTIONS OF THE  
PRETRIAL CONFERENCE ORDER FILED  
FEBRUARY 18, 2005**

18 Defendant Sacramento City Unified School District presents the following  
19 objections to the Court's Pretrial Conference Order filed February 18, 2005 ("Pretrial Order").  
20

**OBJECTION NO. 1: Regarding punitive damages provision**

21 Defendant Sacramento City Unified School District objects to the inclusion of Item "XVI.  
22 SEPARATE TRIAL OF ISSUES" contained on page 13 of the Pretrial Order filed February 18,  
23 2005, which item states:

24 "Trial on issues solely related to the punitive damage claim will  
25 immediately follow trial of the other issues if the jury finds such  
26 damages are recoverable."

27 This item appears to have been included merely by clerical error, since there will be a bench trial  
28 in this matter and no damages of any kind are sought. Instead, apart from fees and costs, Plaintiff

1 seeks only injunctive and declaratory relief. See Pretrial Order, Section VI. RELIEF SOUGHT,”  
2 page 5, line 21 through page 6, line 2; see also Plaintiff’s Complaint filed February 11, 1998,  
3 pages 3 and 4.

4 **OBJECTION NO. 2: Regarding Plaintiff’s improper and untimely listing of four experts**

5 Defendant Sacramento City Unified School District objects to Plaintiff’s inclusion of  
6 witnesses numbered one through four on its Witness List (Exhibit C to the Pretrial Order filed  
7 February 18, 2005). This objection is made on the ground that Plaintiff did not timely or properly  
8 disclose these witnesses (see discussion in Defendants’ Motion in Limine No. 13, set for hearing  
9 on April 1, 2005). These four witnesses (No. 1, Dr. Chrystal [sic] Olsen; No. 2, Robert L.  
10 Anderson; No. 3, Betty Staley, and No. 4, Dr. Douglas Sloan) were designated as past or current  
11 witnesses *by the Defendants*, not the Plaintiff. As discussed in Motion in Limine No. Thirteen, the  
12 time for Plaintiff to disclose expert witnesses for use in its *own case in chief* has long since come  
13 and gone. In fact, Section V of the Pretrial Order itself shows that Defendants’ *Daubert/Khumo*  
14 motions were already heard in April 2001 regarding expert witnesses and that all of Plaintiff’s  
15 expert witnesses were excluded or withdrawn, with the exception of Dr. James Morton. See  
16 Pretrial Order, page 5, lines 14 through 17. The names of these four *different* witnesses, Nos. 1  
17 through 4, on Plaintiff’s Witness List must be stricken accordingly. Plaintiff will, of course,  
18 retain the right to cross-examine any witness on Defendant’s list who is called to testify by the  
19 Defendants during the presentation of their case.

20 Dated: March 14, 2005

Respectfully submitted,

21 KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
22 A Professional Corporation

23  
24 By       /S/        
25 Susan R. Denious  
26 Attorneys for Defendant SACRAMENTO CITY  
27 UNIFIED SCHOOL DISTRICT  
28

1 **PROOF OF SERVICE**

2 I, Lorraine Lippolis, declare:

3 I am a resident of the State of California and over the age of eighteen years, and  
4 not a party to the within action; my business address is 400 Capitol Mall, 27th Floor, Sacramento,  
CA 95814-4416. On March 14, 2005, I served the within documents:

5 Objections by Defendant Sacramento city Unified School District to Portions of  
6 the Pretrial Conference Order Filed on February 18, 2005

- 7  by transmitting via facsimile from (916) 321-4555 the above listed document(s)  
8 without error to the fax number(s) set forth below on this date before 5:00 p.m. A  
9 copy of the transmittal/confirmation sheet is attached.
- 10  by placing the document(s) listed above in a sealed envelope with postage thereon  
11 fully prepaid, in the United States mail at Sacramento, California addressed as set  
12 forth below.
- 13  by causing personal delivery by \_\_\_\_\_ of the document(s) listed above  
14 to the person(s) at the address(es) set forth below.
- 15  by placing the document(s) listed above in a sealed \_\_\_\_\_ envelope  
16 and affixing a pre-paid air bill, and causing the envelope to be delivered to a  
17 \_\_\_\_\_ agent for delivery
- 18  by personally delivering the document(s) listed above to the person(s) at the  
19 address(es) set forth below.

16 Frederick J. Dennehy  
17 PRO HAC VICE  
18 Wilentz Goldman and Spitzer  
90 Woodbridge Center Drive  
Woodbridge, NJ 07095

19 I am readily familiar with the firm's practice of collection and processing  
20 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal  
21 Service on that same day with postage thereon fully prepaid in the ordinary course of business. I  
am aware that on motion of the party served, service is presumed invalid if postal cancellation  
date or postage meter date is more than one day after date of deposit for mailing in affidavit.

22 I declare that I am employed in the office of a member of the bar of this court at  
23 whose direction the service was made.

24 Executed on March 14, 2005, at Sacramento, California.

25 /s/  
26 Lorraine Lippolis