SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL

MINUTE ORDER

DATE: 07/01/2013 TIME: 09:00:00 AM DEPT: C-61

JUDICIAL OFFICER PRESIDING: John S. Meyer
CLERK: Janet Krigbaum
REPORTER/ERM: Paula Rahn CSR# 11510
BAILIFF/COURT ATTENDANT: J. Pedroza

CASE NO: **37-2013-00035910-CU-MC-CTL** CASE INIT.DATE: 02/20/2013
CASE TITLE: **Sedlock vs. Timothy Baird Superintendent [IMAGED]**
CASE CATEGORY: Civil - Unlimited CASE TYPE: Misc Complaints - Other

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EVENT TYPE: Civil Court Trial

APPEARANCES

Attorney Dean R. Broyles, of The National Center for Law & Policy appearing on behalf of the plaintiffs, Jennifer Sedlock, Stephen Sedlock, S.F. and S.J. Jennifer Sedlock is personally present. Plaintiff William Frederick Bentz is personally present. Jack M. Sleeth, Jr. and Attorney Paul Carelli, IV, of Stutz Artiano Shinoff & Holtz appearing on behalf of defendants Timothy Baird Superintendent, who is personally present, and Trustees Carol Skiljan, Emily Andrade, Gregg Sonken, Marla Strich and Maureen Muir and the Encinitas Union School District. Attorney David Peck, of Coast Law Group, LLP, appearing telephonically on behalf of intervener YES (Yoga for Encinitas Students). Attorney Livia Borak of Coast Law Group, LLC appearing on behalf of intervener YES.

9:07 am This being the time previously set for further Court trial in the above entitled cause, having been continued from 06-26-13, all parties and counsel appear as noted above and court convenes.

The court notes that this is the time for its statement of intended decision; thereafter prevailing counsel will prepare the statement of decision and judgment. The court reviewed declarations, testimony, exhibits, watched the videos, reviewed the briefs, case law and arguments. The court considered the *Lemon* case, *Brown v Woodland School District* and *Alvarado v City of San Jose.*

The court states that it appreciates counsels' thoroughness and that all counsel provided the court with erudite and a professional presentation.

The court states the chronology and facts of the case that are important. The court states the issue is the first amendment and no other things. The court states that its question is "Is yoga a religious activity?" The court states that the district says it is not and the court needs to make a determination if it is or is not.

The court reads excerpts from case law and Dr. Brown's testimony. The court determines yoga is religious. The court then needs to determine if EUSD (Encinitas Unified School District) yoga is to be taught in the school district.

The court states that the seminal case is the *Lemon* case. The court states that the "Lemon Test" is a three pronged test. The first prong is to determine whether or not the purpose of the activity is secular. The court finds the district intends to teach health and welfare, therefore the prong is not proven.

The second prong is whether to classify the primary effect of teaching yoga is to advance or prohibit religion. In this case the experts disagree. The court reads excerpts from Dr. Brown's trial testimony. The court states there needs to be a preponderance of creditable competent evidence that a student in the 2012/13 school year received a message of eastern religion or anti- western religion.

The court states that the "yes" evidence is that students would perceive endorsement of religion with a negative look of some other religion, are the non-objective declarations of parent who opted out without putting their child in the program. The court reads excerpts of the letters and notes that they are "Trial by Wikipedia" and that some of the declarations have the exact same wording which causes the court to question the declarant. The court states that Dr. Brown is not objective and not creditable and Dr. Brown is biased. The court disagrees with Dr. Brown as to the videos. The court states that Dr. Brown is petitioners' case.

The court states the "no" evidence is that there is a written curriculum and have both a physical and characteristic component. The court reads excerpts of the curriculum and finds there is nothing religious in the curriculum there are moral teachings which are universal. The court reads excerpts of the teachers' declarations and the declaration of the intervener's expert.

The court reviewed the testimony and exhibits and finds that Dr. Brown is the only declarant taking the view that the objective student would perceive religion in EUSD yoga. The court finds the objective child would not perceive that EUSD yoga advances or prohibits yoga, therefore this prong is not proven.

As to the third prong the court reads excerpts of *Lemon* and notes that in that case the district did not have control over the nuns, but in this case the district has complete control over the curriculum and the teachers. The district would take action if they felt warranted. This case is different from *Lemon.*

The court states that a troublesome issue is the influence of the Jois Foundation. It appears Jois has a mission to have the physical part of yoga in schools. The court states that Jennifer Brown does have a connection with Jois and that this is the most troublesome to the court. The court finds that the district is not in conspiracy with Jois and the district is not being duped.

The court is convinced the district has a complete separation from Jois. The testimony of the district witnesses was creditable. The court cannot control what the district does in the future. The district is not teaching a religious component in its health and welfare program.

This physical education, health and wellness, is not different except it involves EUSD yoga. The court is not determining if this is educationally sound, that is up to the district. The court finds that EUSD passes muster.

Attorney Sleeth is to prepare the statement of decision and judgment and send it to Attorney Broyles for approval.

The Court directs Attorney Sleeth to prepare the judgment.

Judge John S. Meyer