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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT FOR
 THE CENTRAL DISTRICT OF CALIFORNIA**

MATTHEW BRACH, et al.

Plaintiffs,
 v.

GAVIN NEWSOM, et al.

Defendants.

Case No.: 2:20-CV-06472-SVW-AFM

**PLAINTIFFS RESPONSE TO
 NOTICE OF RELATED CASE (ECF
 NO. 53); DECLARATION OF HOLLY
 TOSCHI**

Judge: Hon. Stephen V. Wilson
 Courtroom: 10A

TO THE COURT:

On August 25, 2020, proposed Amicus Curiae Educators for Safe School Opening filed a Notice of Related Case advising the Court and the parties of the prior similar case, *Brach, et al., v. Newsom, et al.*, No. 2:20-cv-06469.

Brach v. Newsom, Case No. 2:20-cv-06469 and *Brach v. Newsom*, 2:20-cv-06472 are not related because case number 2:20-cv-06469 was never a properly filed case. Decl. Toschi ¶ 3. Case number 2:20-cv-06469 had several deficiencies in the filing process that resulted in plaintiffs needing to refile the complaint within an hour after the original filing, and this new case was automatically assigned the number 2:20-cv-06472. *Id.*, at ¶ 5, and 10.

Plaintiffs immediately refiled the complaint in the case of *Brach v. Newsom. Id.*, at ¶ 5. They were directed by the ECF help desk to voluntarily dismiss case 2:20-cv-06469. *Id.*, at ¶ 7-8. Due to attorneys' schedule and the remote nature of COVID-19 work, the notice of voluntarily dismissal was not filed until after the clerk of the court had already assigned case 2:20-cv-06469 to Hon. Consuelo B. Marshall. ¶ 9-11.

At the time Plaintiffs dismissed case 2:20-cv-06469, the clerk had not yet assigned a judge to case 2:20-cv-06472. *Id.*, at ¶ 11-12. Hon. Dean Pregerson was later assigned to the case, and was then replaced by Hon. Steven V. Wilson.

At no time did attorneys for the proposed Amicus Curiae Educators for Safe School Opening, nor the attorneys for the Defendants contact the Plaintiffs' attorneys to inquire as to why there were two separate cases of *Brach, et al., v. Newsom, et al.* Had they done so, they would have been informed of the aforementioned facts.

Respectfully submitted,

Date: August 27, 2020

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By: /s/ Harmeet K. Dhillon

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