

Students Matter

Defending students' rights through impact litigation

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***Vergara v. California* Plaintiffs Oppose Motions for Summary Judgment**

Plaintiffs Submit Compelling Evidence that the State of California Is Knowingly Forcing School Districts to Keep Ineffective Teachers in the Classroom, Harming Their Students

LOS ANGELES, CA – Today, Plaintiffs in *Vergara v. California* filed their summary judgment opposition in the Los Angeles Superior Court, asking the court to reject Defendants' baseless efforts to avoid a trial. [*Vergara v. California*](#) is a groundbreaking lawsuit that seeks to strike down five statutes in California's Education Code that prevent California's public schools from providing a quality education to all of their students.

"Over the past thirteen months, we have uncovered a wealth of evidence that the challenged statutes deprive students of their Constitutional right to equal access to a quality education," said Plaintiffs' co-lead counsel Theodore J. Boutros. "We have thousands of documents, hours of testimony from Superintendents and human resources officials across the state, and compelling data from leading education experts. The evidence clearly demonstrates that the statutes prevent California school districts from prioritizing the best interests of their students when making decisions about teacher employment and retention. Plaintiffs deserve the opportunity to present their evidence at trial."

The Defendants, including the State of California, the State Superintendent, the California Department of Education, and the State Board of Education, asked the court in September to summarily dismiss Plaintiffs' claims without a trial. State Defendants were joined by the California Teachers Association and the California Federation of Teachers, who intervened in the case to defend the statutes.

But Plaintiffs—nine public schoolchildren from all over California ranging in age from eight to seventeen years old—have amassed a mountain of evidence demonstrating that the statutes violate the Equal Protection Clause by forcing school districts to keep failing teachers in the classroom year after year, with devastating consequences for the students assigned to their classrooms. Highlights from the evidence include:

- **Ineffective teachers are entrenched in California's public school system.** The Superintendents of many school districts affirm that their districts are beleaguered by grossly ineffective teachers and attribute the continued employment of these teachers to the challenged statutes. Both the State

Defendants and the teachers' unions concede that students in California are being taught by ineffective teachers.

- **Minority and low-income students are disproportionately likely to be taught by grossly ineffective teachers.** Education experts, school districts, the State Defendants, and the teachers' unions all recognize that minority and low-income students are far more likely to have ineffective teachers. School districts say this has devastating consequences for the students who are most in need of effective teachers.
- **The Permanent Employment Statute does not give school districts enough time to make critical tenure decisions.** Many school districts say they are unable to determine whether a teacher is effective before the deadline mandated by the statute, and thus have granted tenure to ineffective teachers. If a district is unable to reach a decision by the deadline, the teacher is *automatically* reelected for the next school year as a *permanent* employee of the district. Even the State Defendants agree that the probationary period should be longer.
- **The Dismissal Statutes have forced school districts throughout California to continue employing grossly ineffective tenured teachers.** School districts across California view the dismissal process as unworkable and unusable. The process takes an inordinate amount of time and costs the districts precious funds that should be spent directly on students—and often still doesn't succeed. In the past 10 years, the Commission on Professional Competence has allowed California's 1,052 school districts to dismiss only 91 teachers in total—less than 10 per year out of nearly 275,000 teachers statewide. The State Defendants admit that dismissing a tenured teacher in California is “impossible.”
- **The Last-In, First-Out (LIFO) Statute requires school districts to leave grossly ineffective teachers in the classroom while laying off exceptional teachers.** School districts say that LIFO's mandated reverse-seniority layoffs prevent them from considering teachers' effectiveness or the impact the layoffs will have on the well-being of students. The State Defendants agree that extensive layoffs of excellent teachers is a significant problem in California.

The hearing on the motions for summary judgment will take place on December 13, 2013. [Read Plaintiffs' opposition to the motions for summary judgment.](#)

[Read the press kit for the motion](#), including highlights from individual districts' experiences with the Challenged Statutes, a summary of Plaintiffs' stories, and declarations from key expert witnesses.

The month-long trial for *Vergara v. California* begins on January 27, 2014. Plaintiffs' legal team is led by Theodore B. Olson and Theodore J. Boutrous, who recently argued *Hollingsworth v. Perry* in front of the U.S. Supreme Court, successfully invalidating California's ban on same-sex marriage, Proposition 8.

To speak with a member of the Students Matter legal team, contact Danielle Kelton at DKelton@griffinschein.com or (323) 892 - 2080.

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Students Matter is a national nonprofit organization dedicated to sponsoring impact litigation to promote access to quality public education. Learn more at studentsmatter.org.