

Students Matter

Defending students' rights through impact litigation

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Plaintiffs File Merits Brief in Appeal of Historic *Vergara v. California* Ruling

Plaintiffs' Brief Asks the California Court of Appeal to Affirm the Trial Court's Judgment and Vindicate Students' Fundamental Right to Education

LOS ANGELES — Today, the nine students who successfully challenged the constitutionality of California's harmful teacher tenure, dismissal and layoff laws filed their appeal brief in the historic education equality lawsuit, *Vergara v. California*. The brief was filed with the California Court of Appeal, the appellate court in which the State and the State's two largest teachers unions have appealed the *Vergara* decision. On appeal, the State and teachers unions have asked the Court to overturn last summer's decision in *Vergara*, in which the trial court struck down five laws that create substantial and unjustifiable disparities in the educational opportunities that are being provided to California's students, in violation of the equal protection guarantees of the California Constitution. The trial court's ruling is stayed pending appellate review.

In the 121-page brief filed today, Plaintiffs argue that the trial court's order was correct and should be affirmed, in order to protect every child's right to equal educational opportunities — a *fundamental* right enshrined in California's constitution. Plaintiffs directly confront many of the flawed and baseless arguments made by the State and teachers unions in their appeal briefs. Specifically, Plaintiffs argue that:

- The trial court correctly employed a well-settled legal standard for striking down the laws in their entirety;
- The evidence overwhelmingly demonstrated that the five laws at issue, by hamstringing school districts and preventing them from placing effective teachers in front of *all* of their students, (1) have a real and appreciable impact on students' fundamental right to equal educational opportunity, *and* (2) impose a disproportionate burden on poor and minority students, thus triggering strict (*i.e.*, heightened) judicial scrutiny;
- Plaintiffs — as California students with a unique interest in their education — have standing to bring their claims;
- The teacher dismissal statutes, even though they were amended last year by a set of window-dressing reforms sponsored by the teachers unions themselves, are just as harmful today as they were at trial; and
- Governor Brown, as the State's chief executive officer, is a proper defendant in this lawsuit.

As a matter of process, the trial court's ruling is presumed to be correct on appeal. The Court of Appeal will not retry the facts or weigh additional evidence. Instead, it will largely confine its review of the case to the questions of law that are implicated by the trial court's ruling. Students Matter, the national education nonprofit organization that has supported Plaintiffs throughout this case, is continuing its supportive efforts on appeal. In response to today's filing, the organization's founder Dave Welch said, "We're excited to present our case to the courts once again and are confident that the Court of Appeal will affirm the Superior Court's decision. The evidence presented over the two-month trial was overwhelming. No one can deny the adverse impact these onerous statutes are having on our students and teachers every day. The harm they inflict is unconscionable, and — as the Superior Court correctly ruled — a violation of our kids' rights."

The trial court found Plaintiffs' evidence to be "extensive" and "compelling," and held that the "Challenged Statutes cause the potential and/or unreasonable exposure of grossly ineffective teachers to all California students in general and to minority and/or low income students in particular, in violation of the equal protection clause of the California Constitution."

"By striking down the harmful and irrational laws that govern California's education system, the Superior Court took a significant step toward ensuring that *all* students receive the quality education they deserve," said Theodore J. Boutrous, Jr. of Gibson, Dunn & Crutcher LLP, who served as Plaintiffs' lead co-counsel in the trial court and is leading Plaintiffs' legal team on appeal. "As the Superior Court found, the inevitable and predictable consequence of the statutes is that the constitutional promise of equal educational opportunity is being broken in classrooms across California. As we lay out in our brief, the Superior Court correctly found that striking down these laws was necessary to vindicate the constitutional rights of our nine Plaintiffs and the thousands of other California schoolchildren who are harmed by these laws every year."

Now that Plaintiffs have filed their brief on appeal, the State and teachers unions will have 20 days to file additional reply briefs (unless the court grants an extension). *Amicus curiae* briefs — or "friend of the court" briefs from individuals and organizations with a special or unique interest in this case — are also expected.

Once the case has been fully briefed, three justices from the California Court of Appeal will hear oral argument in the case. The Court of Appeal likely will issue its decision within three months after hearing oral arguments.

To review the Respondents Brief submitted to the Court of Appeal of the State of California, Second Appellate District, Division 2, click here: <http://goo.gl/fXOd6R>.

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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.