

1 Charles Avrith (SBN 96804)
2 NAGLER & ASSOCIATES
3 2300 S. Sepulveda Boulevard
4 Los Angeles, California 90064-1911
5 Telephone: (310) 473-1200
6 Facsimile: (310) 473-7144
7 Email: cavrith@nagler.com

8 *Attorneys for Plaintiffs America Unites for Kids and*
9 *Public Employees for Environmental Responsibility*

10 Paula Dinerstein (admitted Pro Hac Vice)
11 Public Employees for Environmental Responsibility
12 2000 P. Street NW, Ste. 240
13 Washington, DC 20036
14 Telephone: (202) 265-7337
15 Email: pdinerstein@peer.org

16 *Attorneys for Plaintiff Public Employees for Environmental Responsibility*

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18 UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT
19 OF CALIFORNIA – WESTERN DIVISION

20 AMERICA UNITES FOR KIDS, et al.,
21 Plaintiffs,
22 v.
23 SANDRA LYON, et al.,
24 Defendants.

25 CASE NO. 2:15-cv-02124-PA-AJW
26 **PLAINTIFFS' FIRST REQUEST**
27 **TO ENTER LAND PURSUANT TO**
28 **FED. R. CIV. P. 34(a)(2)**

Complaint filed: March 23, 2015

1 Pursuant to Fed. R. Civ. P. 34(a)(2), Plaintiffs America Unites for Kids and
2 Public Employees for Environmental Responsibility, request that Defendants,
3 Sandra Lyon, Superintendent, Santa Monica Malibu Unified School District
4 (SMMUSD or District), Jan Maez, Associate Superintendent and Chief Financial
5 Officer of SMMUSD, and Laurie Lieberman, Dr. Jose Escarce, Craig Foster, Maria
6 Leon-Vazquez, Richard Tahvildaran-Jesswein, Oscar De La Torre, and Ralph
7 Mechur, Members of the Board of Education of the SMMUSD, allow Plaintiffs and
8 their agents to enter onto the land of Malibu Middle and High School and Juan
9 Cabrillo Elementary School (collectively, the School) to inspect, photograph, test, or
10 sample the property or an object on the property:

11 Locations

12 Malibu Middle and High School
13 30215 Morning View Drive,
14 Malibu, California

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16 Juan Cabrillo Elementary School
17 30237 Morning View Drive,
18 Malibu, California

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20 When

21 May 15, 2015, beginning at three p.m. through Sunday May 17, 2015.

22 If the inspection and sampling sought cannot be completed in that time
23 period, it will continue on May 22, 2015, starting at three p.m., through Sunday May
24 24, 2015, or at some other mutually-convenient time.

25 If sampling reveals the presence of polychlorinated biphenyls (PCBs) in
26 building materials other than caulk above legal limits under the Toxic Substances
27 Control Act, Plaintiffs will return for additional inspection and sampling of such
28 materials at a mutually convenient time when school is not in session.

1 Manner of Inspection

2 Plaintiffs intend to employ the services of a firm which has expertise in the
3 field of PCB identification, sampling and remediation to visually inspect all of the
4 regularly occupied rooms in the School which were constructed before 1980, on the
5 inside and outside, for potentially PCB-containing materials. These consultants will
6 take one to four small samples of caulk for each of these pre-1980 regularly
7 occupied rooms in the School. They will also take samples of other building
8 materials in some of the rooms or on the outside of the School buildings which
9 appear to potentially contain PCBs because of their proximity to caulk or other
10 PCB-containing materials, or because they are materials which were sometimes
11 manufactured containing PCBs at the time the school buildings were constructed.

12 The samples of caulk and other building materials will be removed and placed
13 in sealed containers for shipment for laboratory analysis. All activities will be
14 conducted when school is not in session, and there will be no disruption to the
15 operation of the School or damage to its premises.

16
17 Dated: April 9, 2015

NAGLER & ASSOCIATES

18
19 By: 

Charles Avrith

*Attorneys for Plaintiffs America Unites for Kids and
Public Employees for Environmental Responsibility*

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23 Dated: April 9, 2015

PAULA DINERSTEIN

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*Attorneys for Plaintiff Public Employees for
Environmental Responsibility*

