

1 Charles S. LiMandri, SBN 11084
2 Paul M. Jonna, SBN 265389
3 Teresa L. Mendoza, SBN 185820
4 Jeffrey M. Trissell, SBN 292480
5 FREEDOM OF CONSCIENCE DEFENSE FUND
6 P.O. Box 9520
7 Rancho Santa Fe, California 92067
8 Tel: (858) 759-9948; Fax: (858) 759-9938
9 cslimandri@limandri.com

10 Attorneys for PLAINTIFFS

11
12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 **Citizens For Quality Education**
15 **San Diego, et al.,**

16 Plaintiffs;

17 v.

18 **San Diego Unified School District, et al.,**

19 Defendants.

Case No. 3:17-cv-1054-BAS (JMA)

**PLAINTIFFS’ EX PARTE MOTION
FOR CLARIFICATION OF ORDER**

Judge: Hon. Cynthia Bashant
Magistrate: Hon. Jan Adler

20 Plaintiffs respectfully request clarification of the Court’s May 7, 2018, order (ECF
21 No. 54) granting Defendants’ ex parte request to file a sur-reply in support of their
22 opposition to Plaintiffs’ motion for preliminary injunction (ECF No. 26). Plaintiffs’
23 counsel tried in good faith to contact Defendants’ counsel regarding this request both by
24 telephone and by email, but they were unsuccessful.

25 In its order, the Court “advise[d] both parties that no additional briefing on Plain-
26 tiffs’ pending motion for a preliminary injunction [] will be permitted.” Defendants filed
27 their sur-reply on May 15, 2017. (ECF. No 55.) In addition to their sur-reply, Defendants
28

1 filed in a separate pleading (ECF No. 55-1) six objections to the evidence Plaintiffs submit-
2 ted with their reply brief. Plaintiffs have prepared brief responses to those objections, but
3 they have not filed them out of respect for the Court’s order.

4 Plaintiffs seek clarification about whether filing responses to Defendants’ eviden-
5 tiary objections would be improper. To be sure, Plaintiffs do not challenge or seek recon-
6 sideration of the Court’s order, which is clear and unambiguous as to further briefing. And
7 they do not wish to burden this Court with more papers. With that said, Plaintiffs believe
8 that they would be prejudiced if the Court considers Defendants’ evidentiary objections
9 without also having Plaintiffs’ responses on hand. This is especially a concern if the Court
10 does not hear oral argument on Plaintiffs’ motion for preliminary injunction.

11 A party who has “doubt about the lawfulness of a proposed course of action” can
12 “ask the district court for guidance.” *Infusaid Corp. v. Intermedics Infusaid, Inc.*, 756 F.2d
13 1, 2 (1st Cir. 1985). Therefore, in the interest of justice and fairness, Plaintiffs respectfully
14 request clarification of the Court’s order prohibiting further briefing, particularly regard-
15 ing Defendants’ evidentiary objections.

16
17 Dated: June 15, 2018

Respectfully submitted,
FREEDOM OF CONSCIENCE DEFENSE FUND

18
19
20 By: /s/ Charles S. LiMandri

Charles S. LiMandri
Paul M. Jonna
Teresa L. Mendoza
Jeffrey M. Trissell

21
22
23
24 Attorneys for PLAINTIFFS
25
26
27
28