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5 Attorneys for Defendants ROSEVILLE JOINT UNION  
HIGH SCHOOL DISTRICT; JAMES JOINER;  
6 R. JAN PINNEY; TONY MONETTI; STEVEN  
LAWRENCE; DONALD GENASCI; RONALD SEVERSON.  
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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA

10 LARRY CALDWELL,  
11 Plaintiff,  
12 vs.

No. 2:05-CV-00061-FCD-JFM

13 ROSEVILLE JOINT UNION HIGH SCHOOL  
DISTRICT; JAMES JOINER; R. JAN  
14 PINNEY; TONY MONETTI; STEVEN  
LAWRENCE; DONALD GENASCI;  
15 RONALD SEVERSON.  
16 Defendants.

**NOTICE OF MOTION TO DISMISS  
FOR LACK OF SUBJECT MATTER  
JURISDICTION; FOR FAILURE TO  
STATE A CLAIM; AND FOR FAILURE  
TO STATE A SHORT AND PLAIN  
STATEMENT FOR RELIEF  
[Rule 12(b)(1); Rule 12(b)(6); and Rule  
8(a)]**

**DATE: July 8, 2005  
TIME: 10:00 a.m.  
COURTROOM: 2  
TRIAL: None Set**

18  
19 **To the Honorable Frank C. Damrell, Judge, and to all Parties and Attorneys of Record:**

20 **PLEASE TAKE NOTICE** that the defendants, ROSEVILLE JOINT UNION HIGH SCHOOL  
21 DISTRICT; JAMES JOINER; R. JAN PINNEY; TONY MONETTI; STEVEN LAWRENCE;  
22 DONALD GENASCI; and RONALD SEVERSON, on July 8, 2005, at 10:00 a.m., in Courtroom #2  
23 of the United States District Court, Eastern District of California, 501 I Street, Sacramento, California will  
24 move this court for orders dismissing this action **FOR LACK OF SUBJECT MATER JURISDICTION;**  
25 **FOR FAILURE TO STATE A CLAIM; AND FOR FAILURE TO STATE A SHORT AND**  
26 **PLAIN STATEMENT FOR RELIEF**, and in the alternative, for a more definite statement of plaintiffs'  
27 claims.

28 Said motion will be based on this Notice, on the Points and Authorities filed in support of this

1 motion, on any Declarations filed in support thereof, and/or on any Judicial Notice requested herein, and  
2 such other and further evidence that may be introduced at the Hearing of the Motion.

3 The grounds of this motion are:

- 4 1. Lack of Subject Matter Jurisdiction [Rule 12(b)(1)]
- 5 1. Failure to State a Claim. [Rule 12(b)(6)];
- 6 2. Failure to State a Short and Plain Statement. [Rule 8(a)].

7 DATED: April 20, 2005

LAW OFFICE OF MATHEW D. EVANS

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BY \_\_\_\_\_  
JAMES B. CARR  
Attorneys for Defendants ROSEVILLE JOINT UNION HIGH  
SCHOOL DISTRICT; JAMES JOINER; R. JAN PINNEY;  
TONY MONETTI; STEVEN LAWRENCE; DONALD  
GENASCI; and RONALD SEVERSON.

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**DECLARATION OF SERVICE**

[Federal Rules of Civil Procedure, Rule 5(b)]  
[CCP §§1011, 1012, 1012.5, 1013 and 1013a]

I am a citizen of the United States, over the age of 18 years, and not a party to or interested in the within-entitled case. I am an employee of LAW OFFICES OF MATHEW D. EVANS and my business address is 641 Fulton Avenue, Second Floor, Sacramento, California 95825.

On this date, I served the following document:

**NOTICE OF MOTION TO DISMISS FOR LACK OF SUBJECT MATER JURISDICTION; FOR FAILURE TO STATE A CLAIM; AND FOR FAILURE TO STATE A SHORT AND PLAIN STATEMENT FOR RELIEF; and MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THERETO [Rule 12(b)(1); Rule 12(b)(6); and Rule 8(a)]**

- XX\_\_ By electronic mail/transmission.
- by placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail at Sacramento, California, addressed as set forth below.
- by personally delivering, or causing to be delivered, a true copy thereof to the person at the address set forth below.
- by causing a true copy thereof to be delivered to the party or parties at the address(es) listed below, by and/or through the services of:
  - Federal Express
  - Express Mail
  - FAX (Followed by First Class Mail)

LARRY CALDWELL  
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KEVIN SNIDER  
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kevinsnider@pacificjustice.org

I am familiar with the business practice of the LAW OFFICE OF MATHEW D. EVANS with regard to collection and processing of documents for mailing with electronic mail and the United States Postal Service. The documents described above were electronically mailed (transmitted) to the e-mail addresses listed above on the date stated below from the LAW OFFICE OF MATHEW D. EVANS , pursuant to said business practices, that same day in the ordinary course of business.

I certify by the act of filing that the original document was produced on paper purchased as recycled. (CRC, Rules 981.1, and 201.)

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed at Sacramento, California on April 25, 2005.

\_\_\_\_\_  
Phyllis J. Kendall