

1 **LARRY CALDWELL, SBN 88867**
2 **QUALITY SCIENCE EDUCATION FOR ALL**
3 1380 Lead Hill Boulevard, Suite 106
4 Roseville, CA 95661
5 Tel. (916)774-4667
6 Fax (916)797-4954
7 lcaldwell@qsea.org

8 **KEVIN T. SNIDER, SBN 170988**
9 **PACIFIC JUSTICE INSTITUTE**
10 P.O. Box 276600
11 Sacramento, CA 95827-6600
12 Tel. (916) 857-6900
13 Fax (916) 857-6902
14 kevinSnider@pacificjustice.org

15 Attorneys for Plaintiff

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18 **IN THE UNITED STATES DISTRICT COURT**
19 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
20

21 JEANNE E. CALDWELL,
22
23 Plaintiff,

24 v.

25 ROY L. CALDWELL, PH.D., in his
26 official capacity as Director of the
27 University Of California Museum Of
28 Paleontology; DAVID LINDBERG, in his
official capacity as Chair of the Integrative
Biology Department of the University of
California-Berkeley; and MICHAEL D.
PIBURN, in his official capacity as
Program Director for the National Science
Foundation,

Defendants.

CASE NO. C05-04166 PJH

**ORDER ON MOTION FOR
ADMINISTRATIVE RELIEF
REGARDING CLARIFICATION OF
COURT'S MARCH 13, 2006 ORDER
GRANTING THE U.C. DEFENDANTS'
MOTION TO DISMISS AND MOTION TO
STRIKE; DECLARATION OF LARRY
CALDWELL [PROPOSED]**

[Local Rule 7-11]

Date: November 20, 2006 (No Hearing)
(Opposition due by 11-17-06)

Judge: Hon. Phyllis J. Hamilton

1 The Court, having considered Plaintiff, Jeanne E. Caldwell's , Motion for
2 Administrative Relief as well as any opposition filed by defendants, rules as follows:

3 The Court grants Plaintiff's Motion for Administrative Relief by issuing the following
4 written clarification of the Court's March 13, 2006 Order granting defendants Roy L. Caldwell
5 and David Lindberg's (the "UC Defendants") Motion to Dismiss pursuant to F.R.C.P. 12(b)(6):

6 The March 13, 2006 Order is deemed amended to state that the UC Defendants' Motion
7 to Dismiss pursuant to Rule 12(b)(6) is granted with leave to Plaintiff to file an Amended
8 Complaint as against the UC Defendants within ten (10) days after the date of entry of this Order
9 on Plaintiff's Motion for Administrative Relief; [or in the alternative]

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11 The March 13, 2006 Order is deemed amended to state that the UC Defendants' Motion
12 to Dismiss pursuant to Rule 12(b)(6) is granted with leave for Plaintiff to file, within ten (10)
13 days after the date of entry of this Order on Plaintiff's Motion for Administrative Relief, a
14 Motion for Leave to File an Amended Complaint as against the UC Defendants; [or in the
15 alternative]

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17 The March 13, 2006 Order is deemed amended to include an express ruling denying
18 Plaintiff's oral motion for leave to file an Amended Complaint as against the UC Defendants that
19 was made during the oral argument on the UC Defendants' Motion to Dismiss, since inclusion of
20 the Additional Allegations described in Plaintiff's Motion for Administrative Complaint in a
21 Amended Complaint still would not satisfy Plaintiff's obligation to plead legal standing to bring
22 her Establishment Clause Claim as against the UC Defendants.

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27 ORDER ON PLAINTIFF'S MOTION FOR ADMINISTRATIVE RELIEF

IT IS SO ORDERED.

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Dated: _____, 2006

PHYLLIS J. HAMILTON,
UNITED STATES DISTRICT JUDGE

ORDER ON PLAINTIFF'S MOTION FOR ADMINISTRATIVE RELIEF