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and DAVID LINDBERG

11  
12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN FRANCISCO DIVISION  
15

16 JEANNE E. CALDWELL,  
17 Plaintiff,

18 v.

19 ROY L. CALDWELL, Ph.D., in his official  
20 capacity as Director of the University of  
California Museum of Paleontology; DAVID  
21 LINDBERG, in his official capacity as Chair of  
the Integrative Biology Department of the  
22 University of California-Berkeley; and  
MICHAEL D. PIBURN, in his official capacity  
23 as Program Director for the National Science  
Foundation,

24 Defendants.  
25

Case No. C05-04166

**DEFENDANTS ROY L. CALDWELL,  
Ph.D., AND DAVID LINDBERG'S  
NOTICE OF MOTION TO STRIKE**

[Fed. R. Civ. Proc. 12(f)]

Date: January 25, 2006  
Time: 9:00 a.m.  
Judge: Hon. Phyllis J. Hamilton

26 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

27 PLEASE TAKE NOTICE that on January 25, 2006, at 9:00 a.m. or as soon thereafter as  
28

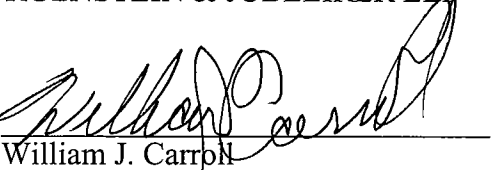
MORGENSTEIN & JUBELIRER LLP  
ATTORNEYS AT LAW  
SAN FRANCISCO

1 the matter may be heard in Courtroom 3 of the above-entitled court, defendants Roy L. Caldwell,  
2 Ph.D. and David Lindberg will and hereby do move the Court for an order striking plaintiff  
3 Jeanne E. Caldwell's prayer for nominal damages. The motion is made pursuant to Federal Rule  
4 of Civil Procedure Rule 12(f) on the grounds that the nominal damages plaintiff seeks are not  
5 recoverable as a matter of law.

6 This motion is based upon this Notice, the attached Memorandum of Points and  
7 Authorities, the Complaint on file, and any other evidence or argument accepted by the Court at  
8 or before the hearing on this motion.

9  
10 DATED: December 19, 2005

MORGENSTEIN & JUBELIRER LLP

11  
12 By 

13 William J. Carron  
14 Attorneys for Defendants  
15 ROY L. CALDWELL, Ph.D.  
16 and DAVID LINDBERG  
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