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(motions for admission *pro hac vice* pending)
3 Heather L. Weaver (motion for admission to the Bar of this court pending)
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12 Attorneys for Plaintiffs
13 HURST et al.

14 **UNITED STATES DISTRICT COURT**
15 **EASTERN DISTRICT OF CALIFORNIA**

16 KENNETH HURST, JOAN BALCOME,) NO. _____
17 KIRK ROGER TINGBLAD, PHILIP JONES-)
THOMAS, BARRY S. GOLDBERG, SOPHIE)
18 GOLDBERG, JEANNIE PARENT, KEN and) **PLAINTIFFS' MOTION**
JODY VALMASSY, and ANN and RICHARD) **FOR TEMPORARY RESTRAINING**
19 HOWARD,) **ORDER AND, IF NECESSARY,**
20) **PRELIMINARY INJUNCTION**
Plaintiffs,)
v.) DATE:
21) TIME:
22) COURT:

23 STEVE NEWMAN, individually and in his)
official capacity as a member of the El Tejon)
24 Unified School District Board of Trustees;)
PAULA REGAN, individually and in her)
25 official capacity as a member of the El Tejon)
Unified School District Board of Trustees;)
26 STACEY GUSTAFSON, individually and in)
her official capacity as a member of the El)
27 Tejon Unified School District Board of)
Trustees; KITTY JO NELSON, individually)
28 and in her official capacity as a member of the)
El Tejon Unified School District Board of)
Trustees; PHYLLIS THROCKMORTON,)
individually and in her official capacity as a)
member of the El Tejon Unified School District)
Board of Trustees; JOHN WIGHT, individually)

1 and in his official capacity as superintendent of)
2 the El Tejon Unified School District; DAN)
3 PENNER, individually and in his official)
4 capacity as principal of Frazier Mountain High)
5 School; and SHARON LEMBURG, individu-)
6 ally and in her official capacity as a teacher at)
7 Frazier Mountain High School,)
8)
9 *Defendants.*)

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1 Plaintiffs hereby move for a temporary restraining order and, if necessary, a preliminary
2 injunction,¹ prohibiting the defendants from continuing to teach the “Philosophy of Design” course
3 currently being offered as part of the intersession period at Frazier Mountain High School. As the
4 Memorandum accompanying this Motion makes clear, the plaintiffs have satisfied the standards
5 for the issuance of a temporary restraining order. The plaintiffs have demonstrated a strong
6 likelihood of prevailing on the merits, as the course curriculum and materials make plain that both
7 the purpose and effect of the course are to promote a religious view of the origins of life, in
8 violation of the federal and state constitutions.

9 Furthermore, in the event that the Court elects to set an evidentiary hearing on the issuance
10 of either a TRO or a preliminary injunction, the plaintiffs seek leave to immediately take the
11 depositions of Superintendent John Wight, Principal Dan Penner, and course instructor Sharon
12 Lemburg.

13 This motion is based on the accompanying complaint, attached exhibits, memorandum of
14 points and authorities, and proposed order.

15 Respectfully submitted,

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26 ^{1/} According to the website of the El Tejon Unified School District, the intersession period
27 is scheduled to continue through February 3, 2006. *See* Complaint at ¶ 1. However, the letter sent
28 by Superintendent John Wight to plaintiffs’ counsel Ayesha Khan states that the course will
terminate on January 20, 2006. *See* Ex. 3, Att. B. Federal Rule of Civil Procedure 65(b) contemplates
that a TRO can last up to 10 days. If the Court were to issue the TRO on the date that the Complaint was
filed (January 10, 2006), and the course does indeed terminate on January 20, 2006, the injunction would
cover the entire time period in question. If, however, the course extends beyond January 20, 2006, either
an extension of the TRO, or a preliminary injunction, would become necessary.

1 By: /s/ John Danos
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7 Counsel for Plaintiffs Kenneth Hurst, Joan Balcome, Kirk Roger Tingblad, Phillip Jones-
Thomas, Barry S. Goldberg, Sophie Goldberg, Jeannie Parent, Ken and Jody Valmassy, and
8 Ann and Richard Howard

9 Date: January 10, 2006
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