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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
12/12/2019 at 04:41:45 PM
Clerk of the Superior Court
By Vanessa Bahena, Deputy Clerk

5 Attorneys for Plaintiff
CAJON VALLEY UNION SCHOOL
6 DISTRICT

*Exempt from filing fee -
Government Code sections 6103 & 26857*

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN DIEGO - CENTRAL**

10
11 CAJON VALLEY UNION SCHOOL
DISTRICT,

12 Plaintiff,

13 v.

14 JILANNE D. BARTO,

15 Defendant.
16

Case No.: 37-2019-00066058-CU-MC-CTL

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF FOR:**

- 17
18 **1.) VIOLATION OF CAJON VALLEY
UNION SCHOOL DISTRICT'S BYLAW
9005.2;**
19 **2.) VIOLATION OF CIVIL CODE §
51.9; AND**
20 **3.) VIOLATION OF CALIFORNIA'S
BROWN ACT**

21 COMES NOW Plaintiff Cajon Valley Union School District (hereinafter "District"), alleges
22 the following causes of action against Defendant Jilanne D. Barto ("Defendant").

23 1. Petitioner District is, and at all times mentioned herein was, a public entity duly existing
24 under and by virtue of the laws of the State of California and operating as a public-school district
25 providing educational services in the County of San Diego.

26 2. District is governed by the Cajon Valley Union School District Governing Board
27 ("Governing Board"), consisting of five Board Members.

28 3. Defendant is a current Board Member of Cajon Valley Union School District
Governing Board, having served for the past 25 years, and resides in the County of San Diego.

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VENUE

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2 4. Venue in this Court is appropriate pursuant to Code of Civil Procedure section 395,
3 subdivision (a), because both the District and Defendant are located within the County of San Diego
4 and the acts and omissions described herein occurred within the County of San Diego.

5 5. The Superior Court has jurisdiction over declaratory and injunctive relief actions
6 contained herein pursuant to Civil Code section 52, Government Code section 54960, and Code of
7 Civil Procedure sections 526 & 1060.

FACTS

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9 6. In November 2018, Defendant was re-elected into the position of Board Member of the
10 District’s Governing Board.

11 7. Upon her re-election, Defendant continued to be bound by all of the District’s self-
12 governing policies, regulations, and bylaws (collectively “Bylaws”) promulgated by District’s
13 Governing Board. The Bylaws can be found at the District’s Offices or online at www.Cajonvalley.net.

14 8. In 2019, the District received a complaint from a female District employee alleging that
15 Defendant was harassing her. Because the complaint was made against Defendant, an elected Board
16 Member, the District’s Governing Board formed an Ad Hoc Committee (“Committee”) of elected
17 Board Members to investigate the employee’s complaint, and any other issues arising during the
18 investigation, pursuant to the District’s Bylaws. (“Investigation”).

19 9. During the Investigation, the Committee found evidence that two other District
20 employees and the initial complaining employee (collectively “Complaining Parties”) had suffered
21 sexual harassment, retaliation, gender discrimination, or bullying in violation of the Bylaws.

22 10. After the Defendant received notice of the complaints made by the Complaining
23 Parties, the Defendant singled out the Complaining Parties, subjecting them to further harassment,
24 retaliation, and bullying.

25 11. The District is informed and believes that since her re-election in November 2018,
26 Defendant has created a hostile work environment and retaliated against the Complaining Parties by
27 yelling and berating them for doing their duties, and in response to them openly criticizing and
28 speaking out against the Defendant’s actions.

1 12. The Brown Act prohibits the disclosure of information learned by individual during the
2 course of a closed session meeting, unless specifically authorized to disclose said information. (Gov.
3 Code, § 54963(a).)

4 13. The District is informed and believes that as far back as 2014 and continuing to present
5 day, the Defendant has disclosed, without authorization, information concerning litigation that she
6 learned during closed-session meetings.

7 14. The District is informed and believes that as far back as Spring of 2016 and continuing
8 to present day, the Defendant has disclosed, without authorization, employee information that that she
9 learned during closed session meetings.

10 15. The District is informed and believes that throughout her tenure as a member of the
11 Board of Trustees, Defendant has disclosed, without authorization, information concerning
12 confidential labor negotiations that she learned during closed session meetings.

13 16. The District is informed and believes that the Defendant has audio recorded closed-
14 session meetings, despite being told by other Board Members that it was not permitted.

15 17. Board Members have requested Defendant to leave her cell phone outside of the closed-
16 session meetings, but Defendant has refused to do so.

17 18. The District is informed and believes that as a result of Defendant's disclosure of
18 confidential information learned during closed-session meetings, Board Members are concerned and
19 hesitate to bring forth important information during closed-session meetings in fear that the Defendant
20 will disseminate the information following the closed-session meeting.

21 19. The District is informed and believes that the Defendant has abused her power under
22 the guise of going to out-of-town conferences without actually attending the conferences, and that
23 Defendant will continue to do so regardless of the District's directives.

24 20. The District is informed and believes that the Defendant has abused her power by acting
25 in a way that constitutes a conflict of interest, including agreeing to serve as a witness on behalf of
26 individuals suing the District, appearing at Individual Education Plan meetings (under special-
27 education law) as an advocate for parents whose position was adverse to the District's position, and
28 spread false rumors adverse to the District's position.

1 21. The District is informed and believes that the Defendant has further abused her position
 2 and power by taking District-owned supplies such as copier cartridges, boxes of pens, boxes of
 3 batteries, etc., from the District for her own personal use.

4 22. California law requires government officials, including the District Board Members, to
 5 annually report sources of income and gifts on a document called a Form 700 for the purpose of
 6 transparency to the public. (Political Reform Act of 1974 Gov. Code § 81000, et seq.)

7 23. The District is informed and believes that the Defendant either failed to report, or
 8 inaccurately reported, sources of income on her Form 700s in violation of Government Code section
 9 87207.

10 24. In response to the Committee’s investigation and conclusions/recommendations, the
 11 District gave specific directives to the Defendant in order to prevent her from continuing to violate the
 12 Bylaws and Government Code.

13 25. Defendant has refused to comply with the District’s directives given to her following
 14 the Committee’s investigation and conclusions/recommendations.

15 26. The District is informed and believes that without the Court’s intervention, Defendant
 16 will continue to ignore the District’s directives subjecting the District to potential liability, unless a
 17 judicial determination is made that Defendant is in violation of the Bylaws and California law, and an
 18 injunction is granted prohibiting Defendant’s illegal conduct.

19 27. The Governing Board approved the filing of this lawsuit on November 19, 2019 by a
 20 4-1 vote in which the Defendant took part, despite the clear conflict of interest.

21 28. The District has no adequate remedy at law to prevent Defendant’s misconduct.
 22 Therefore, the District requires court intervention in order to correct the Defendant’s bad acts and
 23 avoid potential liability.

24 **FIRST CAUSE OF ACTION**

25 (Violation of Cajon Valley Union School District Board of Trustees’ Bylaw 9005.2)

26 29. The District re-alleges and incorporates Paragraphs 1-28 of the Complaint as though
 27 fully set forth herein.

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1 30. The Governing Board is the governing body of the District existing under and by virtue
2 of the laws of the State of California, specifically, Education Code § 35010, with its principal place of
3 business located at 750 E. Main St., El Cajon, CA 92020 (“District Offices”).

4 31. Defendant is a duly elected member of the District

5 32. The District, acting by and through its Governing Board, brings this action under the
6 authority set forth in Education Code section 35162 and under the authority set forth in Education
7 Code section 35010 to create its own governing laws.

8 33. The California Legislature requires a school district to adopt a policy against
9 discrimination, harassment, intimidation and bullying. (Educ. Code, § 234.1.) In accordance with
10 Education Code section 234.1, District Bylaw 9005.2 states:

11 Politeness and civility in interpersonal relations are critical to the
12 effective operation of the Governing Board. The District invites
13 discussion and the exchange of alternative opinions in a continuing
effort to improve the District and the outcomes for students. But
disagreements must be addressed politely.

14 Board members shall treat others, including other Board Members,
15 administrators, employees, students, and members of the public, with
16 respect, politeness and consideration in all contacts with others, whether
17 in person, in writing or in electronic media. The District finds that fear,
18 hostility and abusive conduct are not acceptable methods of
19 management. Board Members are prohibited from engaging in any form
20 of abusive conduct with other Board Members, administrators,
21 employees, students, or members of the public. “Abusive conduct” is
22 defined by Government Code section 12950.1, subdivision (I)(2) as,
“conduct of an employer or employee in the workplace, with malice,
that a reasonable person would find hostile, offensive, and unrelated to
an employer’s legitimate business interests. Abusive conduct may
include repeated infliction of verbal abuse, such as the use of derogatory
remarks, insults, and epithets, verbal or physical conduct that a
reasonable person would find threatening, intimidating, or humiliating,
or the gratuitous sabotage or undermining of a person’s work
performance.”

23 Board Members engaging in abusive conduct shall be warned by Board
24 action that the conduct is not acceptable. A single act shall not constitute
25 abusive conduct, unless especially severe and egregious. Repeated acts
26 of abusive conduct will subject the Board Member to additional
progressive discipline, as permitted by law, including accusation to the
Grand Jury for removal from office under Government Code section
3060.

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1 34. The District is informed and believes that Defendant’s conduct, as alleged in this
2 Complaint, violates Bylaw 9005.2.

3 35. The District is informed and believes that Defendant refuses to acknowledge her
4 misconduct and reform her behavior to comply with Bylaw 9005.2.

5 36. The District is informed and believes that without a judicial determination and court
6 order enjoining Defendant’s conduct that is in violation of Bylaw 9005.2, Defendant will continue to
7 violate District Bylaws, thus subjecting the District to potential liability.

8 37. The District requests a judicial determination that Defendant’s conduct as alleged in
9 this Complaint is in violation of Bylaw 9005.2

10 38. The District requests an injunction prohibiting Defendant from harassing and/or
11 retaliating against any of the District’s employees in violation of By Law 9005.2.

12 39. The District requests an injunction prohibiting Defendant from interacting with the
13 Complaining Parties except for those reasons that are necessary for Defendant to fulfill her duties as
14 an elected official.

15 **SECOND CAUSE OF ACTION**

16 (Violation of Civil Code § 51.9)

17 40. The District re-alleges and incorporates Paragraphs 1-39 of the Complaint as though
18 fully set forth herein.

19 41. Civil Code section 51.9 prohibits sexual harassment by an elected official against any
20 person with whom the official has a business, service, or professional relationship. (Civ. Code, §51.9,
21 subd. (a)(1)(F).)

22 42. Civil Code section 52, is the enforcing provision for section 51.9. Section 52,
23 subdivision (c) states, in pertinent part:

24 Whenever there is reasonable cause to believe that any person or group
25 of persons is engaged in conduct of resistance to the full enjoyment of
26 any of the rights described in this section, and that conduct is of that
27 nature and is intended to deny the full exercise of those rights, the
28 Attorney General, any district attorney or city attorney, or any person
 aggrieved by the conduct may bring a civil action in the appropriate
 court by filing with it a complaint.

1 43. Civil Code section 52, subdivision (c)(3) requires a party filing a complaint pursuant
2 to Civil Code, section 52, subdivision (c) to include a request for injunctive relief.

3 44. Defendant has a business, service, and/or professional relationship with the
4 Complaining Parties.

5 45. In addition, the District is an employer with a duty to take all reasonable steps necessary
6 to prevent discrimination and harassment of its employees from occurring on the basis of a protected
7 classification, under the California Fair Employment and Housing Act [FEHA]. (Gov. Code, §
8 12940(k).)

9 46. Defendant's conduct, as alleged within this Complaint, rises to the level of harassment
10 and retaliation because of gender, and is a violation of Civil Code section 51.9.

11 47. The District is informed and believes that without this Court's intervention the
12 Defendant will continue to conduct herself in a way that will amount to harassment and retaliation
13 against District employees.

14 48. The District is an aggrieved party because without the Court's intervention it is open
15 to potential liability due to Defendant's past and continuing misconduct.

16 49. In order to fulfill its duty to protect its employees, District requests a judicial
17 determination that the Defendant is in violation of Civil Code section 51.9, and an injunction prohibit
18 Defendant's misconduct.

19 50. This determination is necessary and proper because Defendant refuses to acknowledge
20 that her misconduct constitutes harassment and retaliation against the District's employees, and
21 therefore is in violation of Civil Code section 51.9.

22 51. The District is informed and believes that without a judicial determination that
23 Defendant's conduct constitutes harassment and retaliation against the District's employees in
24 violation of Civil Code section 51.9, the Defendant will continue to engage in this misconduct, thus
25 subjecting the District to potential liability.

26 52. The District requests an injunction prohibiting Defendant from harassing and/or
27 retaliating against any of the District's employees in violation of Civil Code section 51.9.

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1 53. The District further requests an injunction prohibiting Defendant from interacting with
2 the Complaining Parties for any reason other than those interactions that are necessary for Defendant
3 to fulfill her duties as an elected official.

4 **THIRD CAUSE OF ACTION**

5 (Prevent Violations of the California Brown Act, Gov. Code §§ 54950, *et seq.*)

6 54. The District re-alleges and incorporates Paragraphs 1-53 of the Complaint as though
7 fully set forth herein.

8 55. Pursuant to Government Code section 54960, any interested person may institute
9 proceedings for injunctive or declarative relief to enforce the Brown Act.

10 56. Code of Civil Procedure section 1060 provides:

11 Any person interested under a written instrument, excluding a will or a
12 trust, or under a contract, or who desires a declaration of his or her rights
13 or duties with respect to another, or in respect to, in, over or upon
14 property, or with respect to the location of the natural channel of a
15 watercourse, may, in cases of actual controversy relating to the legal
16 rights and duties of the respective parties, bring an original action or
17 cross-complaint in the superior court for a declaration of his or her rights
18 and duties in the premises, including a determination of any question of
19 construction or validity arising under the instrument or contract. He or
20 she may ask for a declaration of rights or duties, either alone or with
21 other relief; and the court may make a binding declaration of these rights
22 or duties, whether or not further relief is or could be claimed at the time.
23 The declaration may be either affirmative or negative in form and effect,
24 and the declaration shall have the force of a final judgment. The
25 declaration may be had before there has been any breach of the
26 obligation in respect to which said declaration is sought.

27 57. Under Government Code section 54963, subdivision (a), “a person may not disclose
28 confidential information that has been acquired by being present in a closed session...to a person not
entitled to receive it...”

58. The District brings this action on its own behalf, on behalf of the general public, the
constituents of the Cajon Valley Union School District, and other California citizens similarly
concerned about proper local governance by local and state legislative and administrative bodies,
which are matters of public interest and statewide concern.

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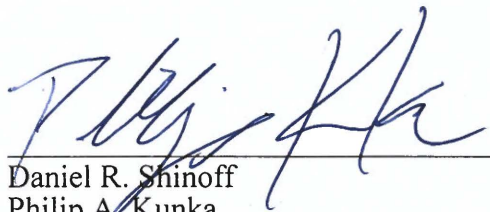
ARTIANO SHINOFF

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- 4. For an injunction prohibiting Defendant from harassing and/or retaliating against any of the District’s employees;
- 5. For a judicial determination that the Defendant is in violation of Civil Code section 51.9;
- 6. For an injunction prohibiting Defendant from harassing and/or retaliating against any of the District’s employees in violation of Civil Code section 51.9;
- 7. For a judicial determination that Defendant has violated the Brown Act and likely will continue to violate the Brown Act;
- 8. For an injunction prohibiting Defendant from disclosing confidential information learned during closed-session meetings of the Governing Board;
- 9. For an injunction prohibiting the Defendant from recording of any closed-session meeting of the Governing Board or portion thereof.

Dated: December 12, 2019

ARTIANO SHINOFF

By: 

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Philip A. Kunka
Attorneys for Plaintiff CAJON VALLEY UNION
SCHOOL DISTRICT